

**CONTRACT FOR
CONSULTANCY SERVICES**

THE PUBLIC IS INFORMED:

This Contract is executed between:

BASES CONVERSION AND DEVELOPMENT AUTHORITY, a government instrumentality vested with corporate powers created by virtue of Republic Act (RA) No. 7227, as amended, with principal office address at the BCDA Corporate Center, 2/F Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City, Metro Manila, represented herein by its President and CEO, **AILEEN ANUNCIACION R. ZOSA**, duly authorized for this purpose as provided in Section IV. 19, Page 11 of the BCDA's Revised Manual of Approval dated 22 November 2017, a copy of which is hereto attached as Annex "A" and made an integral part hereof;

- and -

MYRVIN S. CORTES, Filipino citizen, of legal age, and a resident of [REDACTED] and hereinafter referred to as the "**CONSULTANT**";

(BCDA and the CONSULTANT are individually referred to as the "Party" and collectively as the "Parties".)

ANTECEDENTS:

BCDA is mandated by law to transform former military bases and properties into premier centers of economic growth.

BCDA requires the services of a consultant who has the technical expertise to do work where trust and confidence are of paramount consideration and has the full trust and confidence of the BCDA President and CEO and the BCDA Executive Vice President.

CONSULTANT is willing to perform the required services.

The services to be provided by CONSULTANT is highly technical and/or primarily confidential or policy determining where trust and confidence is the primary consideration.

NOW, THEREFORE, for and in consideration of the foregoing premises, and of the mutual covenants and stipulations hereinafter set forth, the Parties agree as follows:

1. DESCRIPTION OF THE ENGAGEMENT

CONSULTANT is engaged to provide expertise on matters where trust and confidence are of paramount consideration in connection with the National Fiber Backbone Project and the various ICT Projects for the New Clark City and other ICT needs of BCDA and its subsidiaries.

2. TERM

This Engagement shall be effective for a period of six (6) months renewable at the option of the BCDA President and CEO, but in no case shall exceed six (6) months, in accordance with the 2016 Revised Implementing Rules and Regulations (RIRR) of R.A. No. 9184.

3. OBLIGATIONS OF THE CONSULTANT

CONSULTANT shall perform the following tasks and responsibilities for the duration of the contract:

3.1. National Fiber Backbone Project

3.1.1. Advise BCDA on matters relating to the implementation of the National Fiber Backbone Project;

[REDACTED SIGNATURE]

- 3.1.2. Assist in the resolution of technical issues, conduct of extensive review of the documentations (plans and reports) for the project and assessment of the technical requirements (i.e., product specifications, possible variations);
- 3.1.3. Assist in the review of the Terms and Reference (TOR) for the procurement of the other phases of the National Fiber Backbone Project, if any;
- 3.1.4. Assist in the conduct of market research related to the project; and
- 3.1.5. Assist in the evaluation of technical proposals for the procurement of the other phases of the NFBP and sit as a Provisional Member of the Technical Working Group for the procurement of the other phases of the NFBP.

3.2. Various ICT Projects for New Clark City (NCC)

- 3.2.1. Provide technical advice on the following NCC ICT Projects:
 - 3.2.1.1. Master planning of NCC Utilities particularly the ICT network;
 - 3.2.1.2. Establishment of Digital Government Platform for NCC locators; and
 - 3.2.1.3. Development of the NCC Smart City Guidelines.
- 3.2.2. Assist BCDA Representatives in the evaluation of reports submitted by other technical advisors, such as:
 - 3.2.2.1. Asian Development Bank (ADB) - for the Common ICT Infrastructure Project of NCC; and
 - 3.2.2.2. Philippine Japan Initiative for Clark (PJIC) / Keio University - for the NCC Smart City Urban Design Guidelines.
- 3.2.3. Collaborate with and provide technical advice to the Information and Communications Technology Department (ICTD) on the overall NCC ICT Strategy;
- 3.2.4. Assist in the evaluation of Unsolicited Proposals received by the BCDA for the NCC Digital Government Platform; and
- 3.2.5. Prepare high-level design as input to the Terms of Reference for the Data Center Colocation Project.

3.3. Various ICT Initiatives of BCDA and its subsidiaries

- 3.3.1. Provide technical assistance on the last mile connectivity for BCDA subsidiaries;
 - 3.3.2. Evaluate third-party ICT related proposals; and
 - 3.3.3. Provide consulting services in the areas of Smart City development, Data Center Facilities, Network and Security Infrastructure, Big Data, Cloud Computing, Technology Infrastructure, Disaster Recovery, Business Continuity Management, Colocation and Hosting Services, Managed Services and System Integration, and all ICT related projects of BCDA.
- 3.4. Submit monthly accomplishment reports to the BCDA President and Chief Executive Officer (PCEO) as may be necessary; and
 - 3.5. Perform other functions related to ICT as may be directed by the BCDA PCEO.

4. DELIVERABLES

The Consultant is expected to submit the deliverables as required based on the aforementioned scope of services and as directed by the BCDA PCEO.

The Consultant shall report directly to the BCDA PCEO and shall closely coordinate with the ICTD, Business Development Department (BDD), and other departments as may be instructed by the BCDA PCEO.

5. KNOWLEDGE TRANSFER AND MANAGEMENT

In addition to the Scope of Services enumerated above, the Consultant shall also conduct at least one (1) Training / Capacity Building / Workshop for the concerned units (ICTD, BDD and other personnel from different departments that may be identified) on the areas of Data Center Facility Design Development, Network Infrastructure and Security.



6. PERFORMANCE APPRAISAL

Should the consultant be endorsed for renewal, he/she should receive a satisfactory rating from the President and CEO and involve BCDA departments/units as part of the requirements of the renewal, using the prescribed Performance Evaluation of Individual Consultant sheet.

7. CONSIDERATION AND TERMS OF PAYMENT

The professional fee of CONSULTANT shall be **One Hundred Fifty Five Thousand Pesos (Php155,000.00)** a month, inclusive of all applicable taxes and other fees, which shall be processed and released only every month upon completion and submission of the accomplishment report and supporting documents that may be required, to the BCDA President and CEO. The consultancy fee for the duration of the engagement is subject to the availability of funds.

8. TAXES

8.1. All taxes, including, for the avoidance of doubt, Gross Receipts Tax, shall be for the account of BCDA. No set-off or withholding (other than for creditable withholding taxes) shall be made on the payable Monthly Fees. In relation to creditable withholding taxes, BCDA shall provide the applicable Bureau of Internal Revenue form/s such that the total payment to the consultant (inclusive of such creditable withholding taxes) is equal to the Monthly Fees, as applicable.

8.2. BCDA agrees to indemnify the Consultant for future assessments on taxes withheld by BCDA on any payment received hereunder when such assessment is brought about or is the result of BCDA's misinterpretation of the applicable tax law.

9. OTHER CONDITIONS

9.1. **Change in Scope of Services.** Should BCDA require a change or amendment in the Services enumerated in Item 2 hereof, the Consultant and BCDA shall immediately meet and agree on any adjustment of fees and payment terms, if warranted, under the Engagement contract. The parties shall also agree to a revised work program and timetable. In case the parties are unable to reach an agreement, then each Party shall have the right to suspend and/or terminate the Engagement in accordance with Item 9 below.

9.2. **Change in Work Program.** If there is a substantial change in the agreed work program and timetable due to a request from BCDA for the acceleration of certain deliverables or due to the occurrence of any unforeseen circumstances which may cause or have caused delays, the parties shall immediately meet and agree on the revised work program and timetable including any adjustment of fees and payment terms, if warranted, under the Engagement contract. In case the parties are unable to reach an agreement, then each Party shall have the right to suspend and/or terminate the Engagement in accordance with Item 9 below.

10. DEGREE OF PERFORMANCE

CONSULTANT is expected to perform his/her duties faithfully and to the best of his/her ability, and to comply with the scope of work with the highest standards of professional and ethical competence and integrity.

11. CONFIDENTIALITY

CONSULTANT recognizes and acknowledges that security information regarding BCDA projects, property and personnel, relationships with third parties, actual or proposed developments as they may exist from time to time, and processes are valuable assets of BCDA, whether or not evidences in writing, CONSULTANT's access to or knowledge of which is incidental or essential to the performance of this CONTRACT. Except as otherwise provided for in this CONTRACT, CONSULTANT shall not, during or after the term of the CONTRACT, disclose such secrets, information concepts or processes, in whole or in part, to any person, firm corporation or entity under circumstances, without the prior written consent of BCDA or unless otherwise required by law. This restriction shall not apply to information concepts or processes which are or shall thereafter become part of the public domain after the term of this CONTRACT. This Confidentiality Clause shall survive the termination of the CONTRACT.



12. CONFLICT OF INTEREST

BCDA understands and agrees that CONSULTANT may have clients whose interests may directly or indirectly be in conflict with the interest of BCDA. Any conflict of interest should be declared by the CONSULTANT immediately upon discovery by either Party of such conflict or potential conflict. Failure to declare such circumstance, or discovery by BCDA of the existence of such conflict or potential conflict before the CONSULTANT's declaration, will be sufficient ground for termination of the CONTRACT as provided in paragraph 8 hereof, and without prejudice to the filing of an action for damages with the proper court under paragraph 16 of this Contract.

13. TERMINATION OF THE CONTRACT

13.1. For the duration of this Contract, BCDA shall have the right to conduct a periodic evaluation of CONSULTANT's performance, the services delivered and outputs submitted as well as to terminate this Contract due to contractual breach, breach of trust, loss of confidence, unsatisfactory performance and/or other reasons detrimental to the interest of BCDA.

13.2. Over the same period, CONSULTANT may initiate the termination of this Contract provided that:

13.2.1. A written notice for the termination of the consultancy agreement, stating the reasons for the termination of the contract, is submitted by CONSULTANT to the BCDA President and CEO for approval with a copy furnished to the BCDA Human Resource Management Department (HRMD), at least thirty (30) calendar days prior to the proposed date of termination; and

13.2.2. The written notice has been received, accepted and approved in writing by the BCDA President and CEO.

14. AUTHORITY TO ENTER INTO AGREEMENT

CONSULTANT shall neither have the right nor the authority to enter into agreements on behalf of BCDA in any manner.

15. OWNERSHIP OF OUTPUTS

The outputs realized, produced and submitted by CONSULTANT shall be owned and used solely by BCDA with proper acknowledgment on the contributions made by CONSULTANT. Such outputs shall not be used for the benefit of any other person without the written permission of BCDA.

CONSULTANT shall not sell, transfer, publish, disclose or otherwise make the work product available to third person without BCDA's prior written consent.

16. NO EMPLOYER-EMPLOYEE RELATIONSHIP. LIABILITY IN CASE OF DAMAGE AND/OR INJURY

No employer-employee relationship is created between BCDA and CONSULTANT; nor between BCDA and any employee who CONSULTANT may hire to assist him. It is understood that any kind and all acts and/or omissions done by persons engaged by CONSULTANT which results to damage and/or injury to property and/or persons shall be for the sole account of the CONSULTANT. CONSULTANT hereby releases BCDA from any form of liability resulting from the intentional and/or negligent acts performed by persons engaged by CONSULTANT.

17. WAIVER

The failure of the Parties to insist upon the strict performance of any of the terms and conditions hereof shall not be deemed as a waiver of any right or remedy the other Party may have nor shall it be construed as a waiver of any subsequent breach or default. No waiver of any right stipulated herein shall be deemed to have been made unless expressed in writing and signed by the Parties.





18. ENTIRE AGREEMENT

This Contract constitutes the entire, full and complete agreement between the Parties concerning the subject matter hereof. All prior agreements or arrangements, written or oral, between the Parties relating to the subject matter hereof are hereby deemed cancelled and superseded.

No other representation has induced the Parties to execute this Contract, and there are no representations, inducements, promises, or agreements, oral or otherwise, between the parties not embodied herein, which are of any force or effect with reference to this Contract or otherwise.

19. AMENDMENTS

No amendment, alteration, or variance from this Contract shall be binding on either Party unless executed in writing by both Parties.

20. SEVERABILITY AND CONSTRUCTION

Each paragraph, part, term and/or provision of this Contract shall be considered severable, and if for any reason, any paragraph, part, term and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation, such shall not impair the operation of or affect the remaining portions, sections, parts, terms and/or provisions of this Contract, and the latter shall continue to be given full force and effect and bind the Parties hereto. The invalid sections, parts, terms and/or provisions shall not be deemed part of this Contract.

All captions herein are intended solely for the convenience of the Parties, and none shall be deemed to affect the meaning or construction of any provision hereof.

21. VENUE OF ACTIONS

The venue of any legal action arising out of this Contract shall be brought only in the proper court of record in Taguig City, to the exclusion of all other courts.

SIGNED BY THE PARTIES on _____ at Taguig City.

BASES CONVERSION AND DEVELOPMENT AUTHORITY

CONSULTANT

By:

[Redacted signature area]

[Redacted signature area]

AILEEN ANUNCIACION R. ZOSA
President and CEO

MYRVIN S. CORTES



Signed in the Presence of:

ACKNOWLEDGMENT

[Redacted signature area]

Republic of the Philippines)
Taguig City) S.S.

BEFORE ME, a Notary Public for and in Taguig City, personally appeared the following:

NAME	IDENTIFICATION DOCUMENT	DATE AND PLACE OF ISSUE
AILEEN ANUNCIACION R. ZOSA	<u>Passport</u> [REDACTED]	DFA [REDACTED] 19
MYRVIN S. CORTES	[REDACTED]	DFA [REDACTED] 2022

known to me to be the same persons who executed the foregoing instrument and they acknowledge to me that the signatures they affixed confirm their voluntary act and deed and of the entity they represent.

SIGNED AND SEALED on the MAR 29 2023 in Taguig City.

Doc. No. 312;
Page No. 64;
Book No. 1;
Series of 2023.

[REDACTED]
FERNANDO T. GALLARDO JR.
Notary Public for Taguig City, Philippines
2F BTC, 31st Street, BGC, Taguig City, 1634
Notarial Commission valid until 31 December 2023
PTR No. A-5422669-2021-2022/Taguig City
Roll of Attorneys
IBP Life Member
MCLE Compliance NC

[REDACTED]

[REDACTED]