

**BAC-C RESOLUTION NO. BC-2018-007**

**RESOLUTION TO HIRE A PRIMARILY CONFIDENTIAL CONSULTANT FOR THE  
OFFICE OF THE CHAIRMAN WHERE TRUST AND CONFIDENCE ARE THE PRIMARY  
CONSIDERATIONS**

**WHEREAS**, in a memo dated February 27, 2018, the Chairman of the Board of Directors of BCDA (Chairman) endorsed to the Bids and Awards Committee for Consulting Services (BAC-C), the hiring of an individual consultant who is highly technical in nature and holding the full trust and confidence of the Chairman;

**WHEREAS**, the consultant shall render the following services:

1. Support and assistance in handling, processing, and working on highly confidential and discretionary information, data, and records, particularly concerning public housing development in Bonifacio Global City, New Clark City, Camp John Hay in Baguio City, Poro Point in La Union and other BCDA properties, and the funding thereof; the access of which, owing to its highly sensitive or proprietary nature, must be strictly limited only to authorized individuals bearing the trust and confidence of the Chairman. These highly confidential information data, and records shall include, among others, trade or business secrets handled by BCDA in its business, which are secured from its partners, subsidiaries, affiliates, consultants, and other related parties, usually covered by contractual stipulations on confidentiality; all of which are presented to the Chairman and the Board as part of its deliberations on matters for approval or determining policy directions of the BCDA;
2. Support and assistance to the Chairman in liaising, establishing contracts, and maintaining business and professional relationships with third parties on the development of housing projects and infrastructure development in BCDA properties, especially those confidential in nature and/or involving highly sensitive information, as may be deemed by the Chairman;
3. Support and assistance to the Chairman in working with, coordinating, and partnering with BCDA subsidiaries and affiliates in matters concerning the mandate of BCDA, particularly in housing and infrastructure development, including attending meetings and consultations, providing assistance on project management, settling policy strategies, and implementing the same;
4. Matters pertaining to the administration of BCDA, including sensitive information on financials, business direction and recommendation and/or insights that may have an adverse impact on the housing and infrastructure development interests of BCDA should it fall in the wrong hands;
5. Coordinate with BCDA departments/offices and its subsidiaries on matters related to the above;
6. Monitor and evaluate proposed, pending or new legislative or executive issuances insofar as they may be relevant to the housing and infrastructure development interests of BCDA or any of its subsidiaries, as well as prepare, in consultation and coordination with the Chairman, such position papers or

statements which may be required of BCDA or necessary as a consequence of said proposed, pending or new legislative or executive issuances;

7. Provide review and advisory work on project proposals related to housing and infrastructure development and their term of reference, in the context of any and all proposed, pending or new legislative or executive issuances, particularly with respect to the oversight functions or prerogatives of the Legislature or Executive Departments; and
8. Submit an accomplishment report on a monthly basis for approval by the Chairman;

**WHEREAS**, the engagement of Ms. Darlene Marie B. Berberabe was recommended to render the above-mentioned services, having technical expertise and full trust and confidence of the Chairman;

**WHEREAS**, Ms. Darlene Marie B. Berberabe, who is also a lawyer, shall not be obligated to handle or render advisory services on any legal cases and other legal matters concerning BCDA or any of its subsidiaries or affiliates (Annex A – Terms of Reference),

**WHEREAS**, for avoidance of doubt, Ms. Darlene Marie B. Berberabe is not being engaged as a lawyer, but because of her technical expertise, having years of experience in the field of housing and development;

**WHEREAS**, while Section 48.2 of the Revised IRR of RA 9184 reiterates the general rule that public bidding is the general mode of procurement, the same section allows procuring entities to resort to alternative methods of procurement in highly exceptional cases and subject to the conditions required by RA 9184, its Revised IRR, and applicable guidelines. Among these highly exceptional cases is Negotiated Procurement of Highly Technical Consultants under Section 53.7 of the Revised IRR;

**WHEREAS**, Section 53 of the Revised IRR of RA 9184 defines Negotiated Procurement as “a method of Procurement of Goods, Infrastructure Projects and Consulting Services, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant xx”;

**WHEREAS**, Section 53.7 of the Revised IRR of RA 9184 allows negotiated procurement as a mode of procuring the services of “individual consultants hired to do work that is (i) highly technical or proprietary; or (ii) primarily confidential or policy determining, where trust and confidence are primary considerations for the hiring of the consultant...” In this case, the main consideration for hiring the consultant is the trust and confidence of the Chairman;

**WHEREAS**, pursuant also to Section 53.7 of the Revised IRR of RA 9184, the term of the individual consultant shall, at the most, be on a six months basis, renewable at the option of the appointing Head of the Procuring Entity (HoPE), but in no case shall exceed the term of the latter;

**WHEREAS**, pursuant to Section 54.6 of the Revised IRR of RA 9184, consultants hired pursuant to Section 53.7 are mandated to register with PhilGEPS and provide a PhilGEPS Registration Number as a condition for award of the contract;

**WHEREAS**, the total approved budget for the abovementioned consulting services for a term of six (6) months is Pesos: Four Hundred Eighty Thousand (Php480,000.00), inclusive of all applicable taxes;

*Handwritten signatures and initials in blue ink.*

**WHEREAS**, the BAC-C in its evaluation determines that the foregoing main consideration qualifies the procurement of the abovementioned consultant in accordance with Section 53.7 of the Revised IRR of RA 9184 with a monthly consultancy fee of Pesos: Eighty Thousand, inclusive of all applicable taxes (Php80,000);

**NOW, THEREFORE**, we the members of the Bids and Awards Committee for Consulting Services, hereby RESOLVE, as it is hereby RESOLVED:

1. To recommend the procurement of the services of an individual consultant where trust and confidence are the primary considerations through Negotiated Procurement under Section 53.7 of the Revised IRR of RA 9184;
2. To recommend the award of contract to Ms. Darlene Marie B. Berberabe with a monthly consultancy fee of Pesos: Eighty Thousand (Php80,000), inclusive of all applicable taxes for a period of six (6) months from the date indicated in the Notice to Proceed and/or Contract, renewable at the option of the appointing HoPE, but in no case shall exceed his term. The appointment is subject to compliance with the law and on the condition that the consultant register with the PhilGEPS and provide a PhilGEPS Registration Number; and
3. To request the end user to furnish the BAC-C Secretariat original copies of the duly conformed Notice of Award, Notice to Proceed and executed contract.

Done in Taguig City this 28th day of February, 2018.

#### **BIDS AND AWARDS COMMITTEE FOR CONSULTING SERVICES**

**JOSHUA M. BINGCANG**  
Chairman

**BGEN. CARLOS F. QUITA (Ret.)**  
Vice-Chairman

*On official business*  
**HEDDA LOURDES Y. RULONA**  
Member

**MARIA SOLEDAD C. SAN PABLO**  
Member

**RITCHIE P. PACLIBAR**  
Member

Approved by:

**AILEEN ANUNCIACION R. ZOSA**  
Executive Vice President

**TERMS OF REFERENCE  
FOR THE CONSULTANCY SERVICES THAT IS HIGHLY TECHNICAL AND/OR  
PRIMARILY CONFIDENTIAL OR POLICY DETERMINING FOR THE OFFICE OF THE  
CHAIRMAN**

**1. PROJECT DESCRIPTION**

The Bases Conversion and Development Authority (BCDA) intends to select an individual CONSULTANT with the technical expertise and vast experience in the housing sector and infrastructure development who shall provide services that is highly technical and/or primarily confidential or policy determining where trust and confidence is primary consideration. S/he shall assist the Chairman of the BCDA Board of Directors in matters relating to policy creation, strategic direction, project management and innovation, particularly in the fields of housing and infrastructure development in properties transferred to BCDA by virtue of R.A. No. 7227.

**2. OBLIGATIONS OF THE CONSULTANT**

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

2.1 Handle discretionary and/or highly sensitive information, to assist the Chairman in his functions including, but not limited to the following:

2.1.1 Support and assistance in handling, processing, and working on highly confidential and discretionary information, data, and records, particularly concerning public housing development in Bonifacio Global City, New Clark City, Camp John Hay in Baguio City, Poro Point in La Union and other BCDA properties, and the funding thereof; the access of which, owing to its highly sensitive or proprietary nature, must be strictly limited only to authorized individuals bearing the trust and confidence of the Chairman. These highly confidential information, data, and records shall include, among others, trade or business secrets handled by BCDA in its business, which are secured from its partners, subsidiaries, affiliates, consultants, and other related parties, usually covered by contractual stipulations on confidentiality; all of which are presented to the Chairman and the Board as part of its deliberations on matters for approval or determining policy directions of the BCDA;

2.1.2 Support and assistance to the Chairman in liaising, establishing contacts, and maintaining business and professional relationships with third parties on the development of public housing projects and the funding thereof in BCDA properties, especially those confidential in nature and/or involving highly sensitive information, as may be deemed by the Chairman;

2.1.3 Support and assistance to the Chairman in working with, coordinating, and partnering with BCDA subsidiaries and affiliates in matters concerning the mandate of BCDA, particularly in public housing development, including attending meetings and consultations, providing assistance on project management, setting policy strategies, and implementing the same;

2.2 Coordinate with BCDA departments/offices and its subsidiaries on matters related to the above;

2.3 Provide review and advisory work on matters relating to the development of public housing and the funding thereof; and

2.4 Submit an accomplishment report on a monthly basis for approval by the Chairman.

The CONSULTANT shall not be obligated to handle or render advisory services on any legal cases and other legal matters concerning BCDA or any of its subsidiaries or affiliates.

### **3. CONSIDERATION AND TERMS OF PAYMENT**

The CONSULTANT shall be paid for the services in the amount of PHILIPPINE CURRENCY: EIGHTY THOUSAND PESOS (Php 80,000.00) a month, inclusive of all applicable taxes. The professional fee shall be processed and released every month only upon completion and submission of the accomplishment report and supporting documents that may be required.

### **4. TERM AND EFFECTIVITY OF THE CONTRACT**

The contract shall have an effectivity period of six (6) months, renewable at the option of the Chairman but in no case to exceed the tenure of the latter, to commence from the date of its execution.

### **5. DEGREE OF PERFORMANCE**

The 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.

### **6. CONFIDENTIALITY**

The CONSULTANT is obliged to follow information security procedures and take all reasonable precautions for the protection of confidential information. This duty of confidentiality binds any person which may be hired by the CONSULTANT, with consent of BCDA, to help in the fulfillment of the obligations under the contract.

### **7. TERMINATION OF THE CONTRACT**

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

### **8. AUTHORITY TO ENTER INTO AGREEMENT**

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

### **9. OWNERSHIP OF OUTPUTS**

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

10. **NO EMPLOYER-EMPLOYEE RELATIONSHIP**

It is understood that there shall be no employer-employee relationship arise between BCDA and the CONSULTANT. Hence, BCDA shall not be responsible for complying with labor laws, rules and regulations governing employer-employee relationships in the Philippines.

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