



METROPOLITAN WATERWORKS & SEWERAGE SYSTEM

**REGULATORY OFFICE**

**PROCUREMENT, INSTALLATION, AND  
COMMISSIONING OF WATER METER  
TESTING/LABORATORY  
(Contract No. RO-PG2020-006)**

**Contract Agreement**

**-Between-**

**Metropolitan Waterworks & Sewerage  
System Regulatory Office (MWSS RO)**

**-and-**

**East Asia Solutions Technologies  
Corporation**

**December 2020**



## Contract Agreement Form

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This contract is executed between:

**METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM**, a government corporation created pursuant to Republic Act (RA) 9234, as amended, with principal office address at MWSS Building, Katipunan Road, Balara, Quezon City, through its **REGULATORY OFFICE (RO)**, represented here by its Chief Regulator, **PATRICK LESTER NG TY**, duly authorized by the MWSS Board of Trustees under Board Resolution No. 2019-082-RO dated 23 May 2019, attached as Annex "A".

-and-

**EAST ASIA SOLUTIONS TECHNOLOGIES CORPORATION (EASTC)**, with principal office address at Unit 401-402, 77 Visayas Avenue, Barangay Vasra, Quezon City, represented by its President, **GREGG G. CORDOVA**, duly authorized under regular meeting of the Board of Directors, as evidenced by Secretary's Certificate dated September 30, 2020, attached as Annex "B"

### ANTECEDENTS:

On 14 November 2019, the MWSS Board of Trustees (BOT) issued Resolution No. 2019-173-RO, approving the Corporate Operating Budget (COB) for CY 2020 of the MWSS Regulatory Office (RO);

On the same day, the MWSS BOT issued Resolution No. 2019-171-RO, approving the Annual Procurement Plan (APP) for CY 2020 of the RO, which included the Procurement, Installation, and Commissioning of Water Meter Testing/Laboratory for CY 2020 (Contract No. RO-PG2020-006), the Subject Procurement, to be procured through Competitive Bidding with an estimated budget of Twenty-Seven Million Four Hundred Fifty-Two Thousand Nine Hundred Fifty-Six Pesos and 87/100 (Php 27,452,956.87);

As early as on 10 August 2017, the MWSS BOT issued Resolution No. 2017-097-RO, authorizing the Chief Regulator to perform various power and functions of the MWSS BOT as the Head of Procuring Entity (HoPE) which includes:

1. Approval/disapproval of the Technical Specifications and/or Terms of Reference (TOR) of the procurement; and
2. Approval/disapproval of the estimated cost to be the Approved Budget for the Contract (ABC), consistent with the duly approved COB of the RO, including amendments and/or realignments, if any;

On 08 July 2020, the Chief Regulator Approved the Budget for the Contract (ABC) and the Technical Specifications for the Subject Procurement;

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On 10 and 14 September 2020, the BAC conducted Pre-Procurement Conference, to ensure the readiness of the pertinent documents for the procurement. The conference discussed, among others, the requirements of the TOR which were incorporated in the Bidding Documents. Likewise, the Timelines as well as the Bidding Documents were also discussed to ensure their conformance to the 2016 Revised Implementing Rules and Regulations of RA 9184 (Revised IRR of RA 9184);

On 15 September 2020, the BAC posted the Bidding Documents for the Subject Procurement at the MWSS RO website, the Philippine Government Electronic Procurement System (PhilGEPS) website, and at a conspicuous place reserved for the purpose of advertising the IB in the premises of the MWSS RO continuously for seven calendar days;

On 23 September 2020, the BAC conducted a Pre-Bid Conference for the Subject Procurement, wherein prospective bidders asked clarifications on the Bidding Documents and the Technical Specifications;

On 28 September 2020, the BAC received an email from Liberty Multi-Utilities Corp., requesting for clarifications on the Bidding Documents and the Technical Specifications;

On 29 September 2020, the BAC issued Supplemental Bulletin No. 1, extending the deadline of submission of bids;

On 01 October 2020, the BAC issued Supplemental Bulletin No. 2, providing clarifications and revising the Bidding Documents;

In response to the posting/advertisement of the Invitation to Bid (IB) for the subject procurement, the following prospective bidders bought the bidding documents:

1. Liberty Multi-Utilities Corp. (Liberty); and
2. EastAsia Solutions Technologies Corporation (EastAsia);

On 12 October 2020, before the deadline for the submission of bids, Liberty and EastAsia submitted their bids;

On even date, the BAC opened the first envelope containing the eligibility and technical requirements in the order of submission to check its completeness using a non-discretionary pass/fail criterion. After a preliminary examination of the same, the BAC rated Liberty and EastAsia as "passed", having submitted all the required eligibility and technical documents;

Immediately after determining compliance with the requirements of the first envelope, the BAC opened the second envelope containing the financial requirements in the order of submission:

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1. The financial bid of Liberty, as read, was Twenty-Five Million Five Hundred Twenty-Six Thousand Three Hundred Forty-Eight And 51/100 Pesos (Php25,526,348.51), which is lower than the ABC and thus rated as "passed"; and
2. The financial bid of EastAsia, as read, was Twenty Million Five Hundred Thousand Pesos (Php 20,500,000.00), which is lower than the ABC and thus rated as "passed";

With the first and second envelopes of Liberty and EastAsia rated "passed" in the preliminary examination of bids, the BAC instructed the TWG to conduct a detailed evaluation of the bids within the time frame required by the 2016 Revised IRR of R.A. 9184;

On 19 October 2020, the BAC deliberated on the TWG's Detailed Bid Evaluation Report, with the following findings:

1. Liberty was found not to have indicated its conformity to the revised Item 1.3 and a new Part 1 Item 1.7 of the Technical Specifications as provided by Supplemental Bid No. 2; and
2. EastAsia was found to have complied with all the eligibility, technical, and financial requirement;

In view of the foregoing, the BAC declared Liberty's bid to be DISQUALIFIED for the Subject Procurement, and issued the Abstract of Bid declaring EastAsia as the bidder with the Single Calculated Bid (SCB). Consequently, the BAC instructed the TWG to conduct the post-qualification of EastAsia (A copy of the Abstract of Bids is attached and made an integral part hereof);

On 22 October 2020, the BAC received an email from Liberty, requesting for the documents that show that Liberty did not conform to the said Technical Specifications;

On 29 October 2020, the BAC sent a letter to Liberty stating that the email of Liberty contained only a request to provide copy of certain portions of the bid that Liberty submitted. It did not conform with the procedures laid down by the procurement law and its IRR. The email also appeared not to be sent by the Authorized Representative and failed to offer any new factual basis for the BAC to reconsider the grounds for its decision to disqualify Liberty's bid for the Subject Procurement. Furthermore, at the time of the sending of the letter, the three-day period for Liberty to file a request for reconsideration has already prescribed. Thus, the decision of the BAC to DISQUALIFY Liberty's bid for the Subject Procurement was deemed as FINAL;

On 03 November 2020, the BAC deliberated on the TWG's Post-Qualification regarding the results of its verification of the legal, technical, and financial

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submissions of EastAsia for the Subject Procurement. The BAC found the submissions in order;

On the same day, the MWSS Regulatory Office Bids and Awards Committee hereby **RESOLVED** to declare **EASTASIA SOLUTIONS TECHNOLOGIES CORPORATION** as the Bidder with the **Single Calculated and Responsive Bid** for the Subject Procurement and recommend to the MWSS Board of Trustees to **Award** the Contract for the Subject Procurement to **EASTASIA SOLUTIONS TECHNOLOGIES CORPORATION** with a total contract cost of Twenty Million Five Hundred Thousand Pesos (Php 20,500,000.00); and likewise recommend to the MWSS Board of Trustees to **Authorize** the Chief Regulator to enter into agreement with **EASTASIA SOLUTIONS TECHNOLOGIES CORPORATION** for the Procurement, Installation, Commissioning of Water Meter Testing/Laboratory for CY 2020 (Contract No. RO-PG2020-006);

The MWSS-RO invited Bids for certain goods and ancillary services, viz., Procurement, Installation and Commissioning of Water Meter Testing/Laboratory for CY 2020 (RO-PG2020-006) and has accepted a Bid by EASTC for the supply of those goods and services in the sum of Twenty Million Five Hundred Thousand Pesos, Php 20,500,000.00 (hereinafter called "the Contract Price").

**NOW THEREFORE**, the parties agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Supplier's Bid, including the Technical and Financial Proposals, and all other documents/statements submitted (e.g. bidder's response to clarifications on the bid), including corrections to the bid resulting from the Procuring Entity's bid evaluation;
  - (b) the Schedule of Requirements;
  - (c) the Technical Specifications;
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract;
  - (f) the Performance Security; and
  - (g) the Entity's Notice of Award.
3. In consideration of the payments to be made by the MWSS-RO to EASTC as hereinafter mentioned, EASTC hereby covenants with the MWSS-RO to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of this Contract
4. The MWSS-RO hereby covenants to pay EASTC in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the time and in the manner prescribed by the contract.

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## EXCLUSIVITY OF VENUE OF ACTIONS AND SETTLEMENT OF DISPUTES

Should MWSS-RO be constrained to resort to court action to protect its rights and interests, EASTC shall pay MWSS=RO attorney's fees equivalent to 20% of the total sum claimed in the complaint, plus litigation expenses after judgement is issued and has become final and executory. The attorney's fees shall in no case be less than PhP50, 000.00. Venue of all court actions shall be laid exclusively I the proper courts of Quezon City.

Any and all remaining disputes arising from the implementation of this Contract shall be submitted to arbitration in the Philippines in accordance with R.A. 876, the arbitration Law, and R.A. 9285, the Alternative Dispute Resolution Act of 2004.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in accordance with the laws of the Republic of the Philippines on this 14<sup>th</sup> day of December 2020.

**MWSS REGULATORY OFFICE**

By:

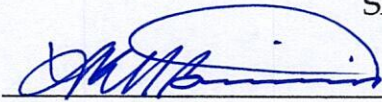
  
**PATRICK LESTER N. TY**  
Chief Regulator

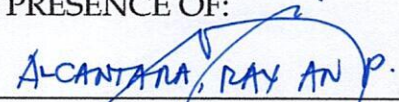
**EASTASIA SOLUTIONS  
TECHNOLOGIES CORPORATION**

By:

  
**GREGG G. CORDOVA**  
General Manager

SIGNED IN THE PRESENCE OF:

  
For MWSS RO

  
For EASTASIA SOLUTIONS  
TECHNOLOGIES CORPORATION



## ACKNOWLEDGMENT

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

BEFORE ME, personally appeared the following persons:

<u>Name</u> <u>Issued</u>	<u>Valid Proof of Identification</u>	<u>Date/Place</u>
Patrick Lester N. Ty	<u>Driver's License NO4-95333952</u>	Manila expires 2/25/24
Gregg G. Cordova	<u>Driver's License NO2-90122769</u>	Quezon City expires 9/23/23

known to me to be the same persons who executed the foregoing document denominated as "*Contract for Procurement, Installation, and Commissioning of Water Meter Testing/Laboratory for CY 2020*", consisting of six (6) pages, including this page.

IN WITNESS WHEREOF, I have hereunto signed the foregoing instrument and set my notarial seal on this \_\_\_\_ day of \_\_\_\_\_ 2020 in Quezon City, Philippines.

Notary Public

Doc. No. \_\_\_\_\_;  
Page No. \_\_\_\_\_;  
Book No. \_\_\_\_\_;  
Series of 2020.