



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capital Hill
Saipan, MP 96950

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

VIA EMAIL: f.aguon@dof.gov.mp

January 27, 2022

OAGDOF: 2022-044

Francisco C. Aguon
Director
Division of Procurement & Supply
Department of Finance
Saipan, MP 96950

Re: Sole-Source Contract for Martin B. Ada

Dear Director Aguon:

You approved a proposed contract for the procurement of Martin B. Ada's services. For the reasons discussed below, the contract is returned to your office.


The authority cited for the contract (NMIAC § 70-30.3-225(a)(7)) provides for sole-source procurement when "[t]he purpose is to procure policy consultants of the Governor, Lt. Governor, or presiding officers of the Legislature." NMIAC § 70-30.3-225(a)(7). A review of the contract shows Mr. Ada is to provide consulting services on those matters "set out in Exhibit B" (i.e. assist Director in the review of contracts, solicitations, and other services as requested by the Director of Procurement and Supply or Secretary of Finance). This is in-line with Mr. Ada's proposal (Exhibit B, last page) to provide consulting services for the Division of Procurement Services. It is also in-line with the justification letter, which states Mr. Ada is to be "detailed within the Department of Finance" and is to "work alongside the Secretary of Finance and the Acting Procurement Director." However, neither the proposal nor the contract actually provides that Mr. Ada will serve as a policy consultant to any of the officials under NMIAC § 70-30.3-225(a)(7). Furthermore, it is questionable whether procuring assistance to review the contracts and solicitations fits the purpose of procuring "policy consultants" under the regulation.

Thus, the contract is returned so that you may determine if there are appropriate revisions that should be made to proceed under the regulation. To proceed under NMIAC § 70-30.3-225(a)(7), the contract must reflect that

Francisco C. Aguon, Director
Re: *Sole Source Contract for Martin B. Ada*
OAGDOF; 2022-044
January 27, 2022
Page 2

Mr. Ada will serve as a policy consultant to either the "Governor, Lt. Governor, or presiding officers of the Legislature," and not the Secretary of Finance or the Director of the Division of Procurement Services. Please be guided accordingly.

Sincerely,



EDWARD MANIBUSAN
Attorney General

ROUTING SLIP

NOTE: CONTRACTS TO BE RELEASED TO AUTHORIZED PERSONNEL DESIGNATED BY PROCUREMENT SERVICES.

ROUTE	DEPARTMENT/OFFICE	PRINT	DATE IN	DATE OUT
1	PROCUREMENT SERVICES	Jack Reyes	01/07/22	1/7/22
2	FINANCIAL SERVICES			
3	SECRETARY OF FINANCE			
4	ATTORNEY GENERAL	<i>Sepura</i>	01/13/22	
5	GOVERNOR			
6	CONTRACTOR			
7	DIRECTOR OF PROCUREMENT SERVICES	Jack Reyes		
8	<u>FOR COMPLETION</u> Please Submit Signed Original Contract with 3-Copies			

PLEASE CALL 664-1506, 1506 WHEN CONTRACTS ARE READY FOR PICK-UP WALK-THRU

CONTRACT SPECIFICATION

CONTRACTING OFFICER : Secretary of Finance
 TITLE : Martin B. Ada
 PROJECT : Consulting Services(S/S)
 AMOUNT : ADD: \$-
 : Deduct \$-
 TOTAL CONTRACT AMOUNT : NTL: \$50,000.00
 ACCOUNT NUMBER : MI210253-2611210002
 CONTRACT NUMBER :


 Francisco C. Anon
 ACTING DIRECTOR OF PROCUREMENT SERVICES

12/20/2021
 DATE

RAIPH DLG. TORRES
Governor



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

MEMORANDUM

TO : Acting Director of Procurement & Supply
FROM : Office of the Governor
DATE : January 5, 2022
SUBJECT : Sole Source Justification for Consulting Services of Martin B. Ada

Pursuant to NMIAC § 70-30.3-225(a)(7), [a] contract may be awarded for a supply, service, or construction without a competition... [to] procure policy consultants of the Governor, Lt. Governor, or presiding officers of the Legislature.

The Office of the Governor is in need of professional consulting services of Mr. Martin B. Ada to review and revise the CNMI Procurement Regulations and provide a comprehensive report outlining areas of improvement and recommendation for a more streamlined process to the Governor. Additionally, Mr. Ada shall be responsible for developing a comprehensive proposed regulation that encompasses recent technological upgrades to the CNMI's financial management system, which includes e-procurement services. Mr. Ada shall be detailed within the Department of Finance - Procurement & Supply Services and will work alongside the Secretary of Finance and the Acting Procurement Director.

With nearly a decade of experience as policy maker with the CNMI House of Representatives, Mr. Ada is well versed with the intricacies of the CNMI's laws and regulations. He is highly qualified and best suited for the task at hand.

His services are being provided at a reasonable price, far below what would otherwise be offered for the proposed scope of work.

Should you have any questions, please do not hesitate to contact me at 670-237-2200.

Sincerely,

A handwritten signature in black ink, appearing to read "Raiph DLG. Torres".

RAIPH DLG. TORRES
Governor



RALPH DLG. TORRES
Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

MEMORANDUM

1/7/22
3:13 PM
Jen

TO : Acting Director of Procurement & Supply
FROM : Office of the Governor
DATE : January 5, 2022
SUBJECT : Sole Source Justification for Consulting Services of Martin B. Ada

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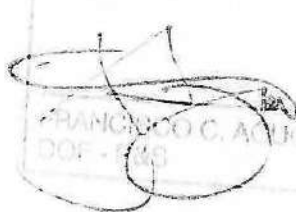
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His services are being provided at a reasonable price, far below what would otherwise be offered for the proposed scope of work.

Should you have any questions, please do not hesitate to contact me at 670-237-2200.

Sincerely,


RALPH DLG. TORRES
Governor

APPROVED DISAPPROVED

FRANCISCO C. AQUINO
DOF - 449
12/20/2021
DATE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CONTRACT FOR CONSULTANT

I. PARTIES

This contract is between the Office of the Governor, a department of the Commonwealth of the Northern Mariana Islands and referred to herein as "the Commonwealth," and MARTIN B. ADA. MARTIN B. ADA is referred to in this contract as the "Consultant."

Consultant is a Consulting Services.

Ralph DLG. Torres is the Expenditure Authority for Office of the Governor. Any reference to the expenditure authority in this contract is a reference to Governor. The Expenditure Authority may take any action on behalf of the Commonwealth provided for by this contract or by law.

II. NOTICE

All notices required by this contract shall be in written form and shall be delivered to the following addresses:

Attn: Francisco C. Aguon
Director

Division of Procurement and Supply
Department of Finance
P.O. Box 10007
Saipan, MP 96950

MARTIN B. ADA
P.O. Box 500314
Saipan, MP 96950

III. COMMUNICATION

The Consultant shall maintain communications with the OFFICE OF THE GOVERNOR, and/or Division of Economic Development and Investment, DEPARTMENT OF COMMERCE, and/or Division of Procurement and Supply, DEPARTMENT OF FINANCE at all stages of the Consultant's work. The Consultant will submit any questions it may have to the OFFICE OF THE GOVERNOR, DIVISION OF ECONOMIC DEVELOPMENT AND INVESTMENT, DEPARTMENT OF COMMERCE, AND DIVISION OF PROCUREMENT AND SUPPLY, DEPARTMENT OF FINANCE the performance of the contract.

IV. CONSULTING SERVICES

A. Retainer

Subject to the terms and conditions of this Contract, the Commonwealth hereby retains Consultant as a consultant and technical advisor to perform the consulting services specifically

set out in Exhibit B attached to this Contract and made a part hereof (hereafter referred to as the "Services"), as said Exhibit may be amended in writing from time to time, and Consultant agrees, subject to the terms and conditions of this Contract, render such Services during the term of this Contract. Such services shall be limited to the area of expertise described in Exhibit B. Consultant shall render services hereunder at such times and places as shall be mutually agreed by the Commonwealth and Consultant. Consultant's commitment hereunder shall not exceed 360 days per 1 year.

B. Periodic Review

It is understood that the purpose of the consulting is to provide periodic review and advice relevant to certain Commonwealth matters, and that neither Consultant nor the Commonwealth will benefit if Consultant provides inaccurate advice or commentary based on insufficient information. To that end, the Commonwealth shall provide Consultant, in advance of meetings, with accurate, unbiased and sufficient information for him or her to review the subject matter thereof, and shall promptly provide further information that Consultant reasonably deems relevant to forming any pertinent conclusions relevant to the matter for discussion. It is expressly understood that Consultant's role is to provide independent advice uninfluenced by commercial concerns; and that service as a Consultant does not require him to be an advocate for the Commonwealth or its products in any forum, public or private. The Commonwealth expressly agrees that under no circumstances will this role be inaccurately represented.

V. CONSULTANT TO PROVIDE EQUIPMENT

Except as otherwise provided by this contract, the Consultant will provide all equipment and personnel necessary to complete this contract.

VI. CONTRACT DOCUMENTS

The following instruments shown in the table below, constitute the contract documents ("Contract Documents") and are incorporated as part of the Contract thereof. If any of the attached documents conflict with this contract, then the language of this contract will control.

EXHIBIT	NAME OF DOCUMENT
A	Standard Terms and Conditions
B	<p>Services to be provided by the "contractor" (Martin B. Ada) are as follows:</p> <p>1.) To provide technical assistance and services to Division of Procurement and Supply, Department of Finance on procurement matters; to assist the Director in reviewing business contracts, bids, ITB's, RFP's, RFQ's and RFI's; to perform and deliver any and all services as requested by the Director of Procurement and Supply and all other services as requested by the Department of Finance, Secretary.</p>

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VII. CONSIDERATION AND SCOPE OF WORK

Consultant agrees to perform the services described in this contract and the documents attached and incorporated into this contract. The Commonwealth agrees to pay fifty thousand dollars (\$50,000.00) in exchange for the services described in this contract.

Consultant agrees to provide its services, at all times, in strict accordance with currently approved and accepted methods and practices in his or her profession. Consultant further agrees to provide services in a professional, timely and competent manner, and to comply with all Commonwealth and Federal laws. Consultant and the Commonwealth will agree in advance upon a mutually acceptable schedule for Consultant's services to the Commonwealth.

In addition, the Commonwealth shall reimburse Consultant for approved travel and other expenses Consultant incurs in connection with performing the Services. Travel and other expenses will not be considered approved unless specifically agreed to in writing by the Expenditure Authority. Under no circumstances will total travel and other expenses exceed \$50,000.00 in cost.

VIII. LICENSURE AND INSURANCE

As a condition of this Contract, the Consultant shall maintain all required licenses and certifications and shall at all times during the term of this Contract, meet all requirements of the Commonwealth of the Northern Mariana Islands or other regulatory entity for such licensing, certification or credentialing.

IX. CONFIDENTIALITY

To perform his or her duties, the Consultant will be given access to information that is confidential. The Consultant will not divulge or discuss, with a third party, any information acquired or received from the Commonwealth in connection with this contract. Any reports, recommendations, or advice given by the Consultant to the Commonwealth will be the property of the Commonwealth and may not be released by the Consultant to a third party. This confidentiality provision is a material term of this Contract and its violation shall constitute a breach of this Contract.

It will not be a breach of this Contract for Consultant to release information to a third party when required to do so by law.

X. DURATION OF CONTRACT

The Consultant will begin its performance on December 13, 2021 or upon receipt of a Notice to Proceed by the Commonwealth.

This contract will remain in effect until (1) one year after this contract becomes effective.

XI. CONTRACT EXTENSION

The Commonwealth may extend the term of this contract by written notice to the Consultant 30 days before the contract expires. This extension provision may be exercised more than once, but the total extension of performance may not exceed six months. If the Commonwealth exercises its option to extend this contract, then the contract will continue without any change in the terms and conditions of this contract.

XII. DELIVERY AND PAYMENT

1. The Consultant agrees to begin, and to continue for as long as this contract provides, to perform the services on the island of Saipan, Rota, and Tinian. The Consultant will invoice the Commonwealth and will be paid according to the following schedule:

DATE THE COMMONWEALTH RECEIVES INVOICE	INVOICE AMOUNT	PAYMENT DUE DATE
12/31/2021	\$ 4,166.67	1/7/2022
1/31/2022	\$ 4,166.67	2/7/2022
2/28/2022	\$ 4,166.67	3/7/2022
3/31/2022	\$ 4,166.67	4/8/2022
4/30/2022	\$ 4,166.67	5/6/2022
5/31/2022	\$ 4,166.67	6/6/2022
6/30/2022	\$ 4,166.67	7/7/2022
7/31/2022	\$ 4,166.67	8/8/2022
8/31/2022	\$ 4,166.67	9/7/2022
9/30/2022	\$ 4,166.67	10/7/2022
10/31/2022	\$ 4,166.67	11/7/2022
11/30/2022	\$4,166.67	12/7/2022

2. If the notice to proceed is issued after a date identified in the above-schedule, then the Consultant will invoice the Commonwealth on the next date identified in the above-schedule. Thereafter, invoices will be issued in accordance with the above-schedule and will continue to be issued until the contract is completed.
3. Payment by the Commonwealth shall be made only upon Consultant's submission of evidence to the Expenditure Authority that the Consultant has delivered the services and has adhered to all contract terms and specifications.

If the Consultant fails to invoice the Commonwealth according to the above schedule, then the Commonwealth, at its sole discretion, may refuse to pay the untimely invoice. If the Commonwealth exercises its right to refuse payment under this subsection, neither party will be relieved of its obligation to perform under this contract.

XIII. INDEPENDENT CONTRACTOR

The parties agree that this Contract creates an independent contractor relationship, not an employment relationship. The Consultant acknowledges and agrees that the Commonwealth will not provide the Consultant with any employee benefits, including without limitation any employee stock purchase plan, social security, unemployment, medical, or pension payments, and that income tax withholding is Consultant's responsibility. In addition, the parties acknowledge that neither party has, or shall be deemed to have, the authority to bind the other party.

XIV. INCORPORATED BY REFERENCE BUT NOT ATTACHED

This contract incorporates the following documents and laws that are not attached to this contract:

1. All Commonwealth laws, regulations, or rules applicable to the purchase of motor vehicle(s) in the Commonwealth; and
2. All applicable federal laws and regulations.

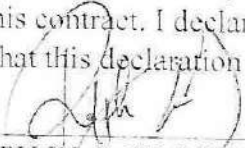
XV. SIGNATURE REQUIREMENTS

No Contract can be formed prior to the approval of all required signatories, as evidenced by the signature affixed below of each of them, made in the order listed. The Contract shall become effective when the Director of Procurement and Supply certifies its completion and a notice to proceed is issued by the Commonwealth.

XVI. SIGNATURES

1. Expenditure Authority

I declare that I have complied with the Commonwealth procurement regulations; that this contract is for a public purpose; and that the contract does not waste or abuse public funds. I declare that I, personally, have the authority to obligate the expenditure of funds for this contract. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this day on Saipan.

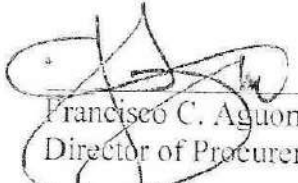


RALPH D.L.G. TORRES
Expenditure Authority

11/4 DEC 2021
Date:

2. Procurement and Supply

I hereby certify that to the best of my information and belief this contract is in compliance with the CNMI Procurement Regulations, is for a public purpose, the Consultant is a responsible Consultant, and the contract does not waste or abuse public funds.


Francisco C. Aguon
Director of Procurement and Supply

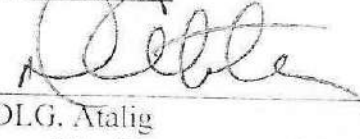
12/20/2021
Date

3. Secretary of Finance

I hereby certify that the funds identified below are available and have been committed for funding of this Contract:

Account: MI210253 -- 2611210002

Amount: \$50,000.00


David DLG. Atalig
Secretary of the Department of Finance

1/11/22
Date

4. Attorney General

I hereby certify that this contract has been numbered, review and approved as to form and legal capacity.

Edward Manibusan
Attorney General

Date

5. Governor

Ralph Deleon Guerrero Torres
Governor

Date

6. Consultant - MARTIN B. ADA

On behalf of the Consultant, I represent that I am authorized to bind the Consultant to the terms of this Contract, and by my signature I do hereby accept and bind the Consultant to the terms of this Contract. I further represent for the Consultant that no person associated with the Consultant has retained any person in violation of the Commonwealth Procurement Regulations.

Martin B. Ada
PRINTED NAME OF SIGNING AUTHORITY

Owner Consultant
TITLE

MARTIN B. ADA
On behalf of MBA

Date

7. CERTIFICATION OF CONTRACT COMPLETION

I hereby certify that this contract bears all signatures and is therefore complete.

FRANCISCO C. AGUON
Director of Procurement and Supply

Date

XVII. END OF CONTRACT DOCUMENT

Procurement Information
(For government purposes only)

Method of Procurement (Check one only)

- Competitive Sealed Bids
- Competitive Sealed Proposal
- Small Purchase
- Sole Source
- Emergency
- Expedited

Type of Procurement (Check one only)

- Initial procurement
- Subsequent procurement
- Following Bid Protest
- Government's Option
- Replacement for Defaulted Consultant

Government contract numbers of all related contracts with the Vendor:
Insert Contract Numbers, or NONE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STANDARD TERMS AND CONDITIONS

1.1. Entire Agreement:

With respect to the subject matter of the Contract, the Contract, as expressed in the Contract Documents, represents the entire agreement between the Commonwealth and the Contractor, and supersedes all prior agreements and understandings. No revision to the express terms of the contract shall be implied, except as required by law.

1.2. Contract Not Assignable:

This contract and all of its covenants shall inure to the benefit of and be binding respectively upon the Commonwealth and the Contractor and its partners, successors, assigns and legal representatives. The Contractor may not assign, transfer, encumber, or sublet its interest or obligations under the Contract without written consent of the Commonwealth.

1.3. Independent Contractor:

(a) For purposes of the application of Part 700, "Ethics in Public Contracting" of the CNMI Procurement Regulations, the Contractor and its employees, agents, subcontractors, and representatives shall be considered employees of the Commonwealth government.

(b) Except as stated in the CNMI Procurement Regulations or authorized in writing by the Contracting Officer and only under the terms so stated or authorized, neither the Contractor nor its employees or subcontractors shall act for, represent, or bind the Commonwealth in any capacity or manner whatsoever, or be deemed or considered an employee, agent, or representative of the Commonwealth, or be deemed to have any relationship with the Commonwealth other than that of independent contractor.

1.4. No Waiver by Commonwealth:

The failure of the Commonwealth in any one or more instances to insist upon strict performance of any of the items of the Contract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or options on any future occasion. Nothing contained in this Contract is intended to serve as a waiver of sovereign immunity by any entity to which sovereign immunity may be applicable.

1.5. Regulations Controlling:

This contract is void if either the procurement processes or contract execution fails to comply with the Commonwealth Procurement Regulations codified by NMIAC §§ 70-30.3-001, et seq. Any procurement action of a government official or employee in violation of said regulations is not authorized by the government and is an act for which the government will not take responsibility or be liable for in any manner. The Contractor and the government Contracting Officer hereby certify that they have both read and understand said procurement regulations and have complied with all such regulations.

6. Interpretations and Validity:

- (a) This contract shall be interpreted under the laws of the Commonwealth of the Northern Mariana Islands. Where no local law is available to resolve a particular issue, reference shall be had to U.S. federal procurement law and cases similar to the matter in dispute, including the Federal Acquisition Regulation and decisions interpreting it, as well as scholarly treatises on U.S. federal procurement law.
- (b) All provisions of this Contract shall, to the extent practical, be interpreted to be consistent with the CNMI Procurement Regulations. In the event of an unresolvable conflict between any provision of the contract and the CNMI Procurement Regulations, the CNMI Procurement Regulations shall govern the Contract.
- (c) In the event of a conflict between any provision of the Contract and Agreement document and these General Conditions, the Contract and Agreement shall govern the Contract.
- (d) If the contract documents include a "Special Conditions" document, that document shall be interpreted to supplement these General Conditions and shall prevail if in conflict.
- (e) In the event the contract or the procurement action resulting in the contract is found to be in violation of the CNMI Procurement Regulations, then the Contract will not be valid under the laws of the Commonwealth of the Northern Mariana Islands, and may be found to be legally voidable. The Commonwealth will seek to have any liability asserted against it by a contractor which directly results from improper acts of a government employee to be determined judicially to be the individual liability of the employee who committed the wrongful acts.

7. Contract Subject to Funding:

Continued funding of this Contract beyond the present fiscal year is contingent on availability of funding in future years. In the event that such funding does not become available, the Commonwealth may terminate the contract without any further liability.

8. Satisfaction of Expenditure Authority Required:

Contractor agrees to complete the contract according to the contract terms and to the full satisfaction of the Expenditure Authority.

9. Litigation:

If the Commonwealth, without any fault on its own part, becomes a party to any litigation by or against the Contractor in connection with this contract, the Contractor shall pay all costs and expenses incurred by the Commonwealth, including reasonable attorneys' fees. For the convenience of the parties and witnesses, and in the interest of justice, the venue for litigation shall be the court of appropriate jurisdiction on the island of Saipan, CNMI.

4. 15. Representation of Contractor Concerning Contingent Fees:

The Contractor hereby represents that, in accordance with § 70-30.3-730, it has not retained any person to solicit or secure government contracts upon an agreement or understanding for a commission percentage, brokerage or contingent fee except for the retention of a bona fide employee or bona fide established commercial selling agencies for the purpose of securing business.

§ 16. Payments to Contractor

- (a) The Commonwealth will pay the contract price as provided in this clause.
- (b) The Commonwealth will make progress payments monthly as the work proceeds or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer.
- (c) Before the first progress payment under the Contract becomes due, the Contractor shall prepare a breakdown of the contract price acceptable to the Contracting Officer showing the amount included therein for each principal category of the work, in such detail as requested. The values in the breakdown will be used to provide a basis for determining progress payments. The Contractor's overhead and profit shall be prorated throughout the life of the contract.
- (d) Except as may be otherwise provided in the Contract, the contract price shall include all applicable Federal, Commonwealth of the Northern Mariana Islands, and local taxes and duties.
- (e) Estimates on which progress payments are based shall include the value (as determined by the Contracting Officer) of satisfactory in place work performed pursuant to change orders.
- (f) Preparatory work done will not be taken into consideration in preparing estimates upon which progress payments are based.
- (g) The Contracting Officer, at his discretion, may authorize payments for materials delivered and stored on the work site. The Contractor is fully responsible for the materials delivered and stored by him.
- (h) The Contractor, prior to receiving a progress or final payment under the Contract, shall submit to the Contracting Officer a certification that the Contractor has made payments from the proceeds of prior payments, or that he will make timely payment from the proceeds of the progress payments or final payment due him, to his workers, subcontractors, and suppliers in accordance with the Contractor's contractual agreement with them.
- (i) In making each progress payment, there shall be retained ten percent (10%) of the estimated amount until final completion and acceptance of the contract work. Furthermore, upon completion and acceptance of each separate building, public work, or other division of the contract on which the price is stated separately in the contract, payment may be made thereon without retention of a percentage.
- (j) All material and work covered by progress payments made shall thereupon become the sole property of the Commonwealth, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which the payments have been made or the restoration of any damaged work, or as waiving the right of the Commonwealth to require the fulfillment of all of the terms of the contract.
- (k) Upon completion and acceptance of all work, the amount due the Contractor under the Contract shall be paid upon the presentation of a properly executed voucher and after the

Contractor shall have furnished the Commonwealth with a written release of all claims against the Commonwealth arising by virtue of the Contract, other than claims stated in amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the Contract has been assigned under the "Assignment of Claims" clause, a release may also be required of the assignee.

47. Changes:

- (a) **Change Order.** By a written order at any time, the Procurement Officer or the Official with Expenditure Authority may, subject to all appropriate adjustments, make changes within the general scope of this contract in compliance with applicable Procurement Regulations.
- (b) **Adjustments of Price or Time for Performance.** If any change order increases or decreases the Contractor's cost of, or the time required for the performance of any part of the order, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with applicable "Price Adjustment" clauses of this contract. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed, provided that the Commonwealth promptly and duly makes such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.
- (c) **Time Period for Claim.** Within thirty (30) days after receipt of a written change order under paragraph (1) (Change Order) of this clause, unless such period is extended by the Chief Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor's claim unless the Commonwealth is prejudiced by the delay in notification.
- (d) **Claims Barred After Final Payment.** No claim by the Contractor for adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.
- (e) **Other Claims Not Barred.** In absence of such a change order, nothing in this clause shall be deemed to restrict the Contractor's right to pursue a claim arising under the contract if pursued in accordance with the clause entitled, "Claims Based on an Official With Expenditure Authority's Actions or Omissions, Notice of Claim" clause, or for breach of contract.

48. Stop Work Order:

- (a) **Order to Stop Work.** The Chief Procurement Officer may, by written order to the Contractor, at any time, and without notice to any Surety, require the Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a

Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed the Chief Procurement Officer shall either: (a) cancel the stop work order; or (b) terminate the work covered by such order as provided in the "Termination For Default" clause or the "Termination For Convenience" clause of this contract.

(b) **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule and/or the contract price shall be modified in writing accordingly, if:

- i. The Stop Work order results in an increase in the time required for, or in the Contractor's costs properly allocable to, the performance of any part of this contract; and
- ii. The contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any claim may be received and acted upon at any time prior to final payment under this contract.

(c) **Termination of Stop Work.** If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable cost resulting from the stop work order shall be allowed by adjustment or otherwise.

(d) **Adjustment of Price.** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment" clause of this contract.

19. **Clause Based on the Acts or Omissions of the Expenditure Authority:**

(a) **Notice of Claim.** If any action or omission on the part of the Expenditure Authority, or designee of such official, requiring performance changes within the scope of the contract, constitutes the basis for a claim by the Contractor for additional compensation, damages, or an extension of time for completion, the Contractor shall continue with the directions or orders of such officials, but by so doing, the Contractor shall not be deemed to have prejudiced claim for additional compensation, damages, or an extension of time for completion, provided:

(i) The Contractor shall have given written notice to the Expenditure Authority and Chief Procurement Officer, or designee of such officer:

- A. Prior to the commencement of the work involved, if at that time, the Contractor knows of the occurrence of such action or omission.

- B. Within thirty (30) days after the Contractor knows of the occurrence of such action or omission, if the Contractor did not have knowledge prior to the commencement of the work; or
- C. Within such further time as may be allowed by the Chief Procurement Officer in writing.

(b) This notice shall state that the Contractor regards the act or omission as a reason which may entitle the Contractor to additional compensation, damages, or an extension of time. The Chief Procurement Officer or designee of such officer, upon receipt of such notice, may rescind any action, remedy such omission, or take such other steps as may be advisable in the discretion of the Chief Procurement Officer or designee of such officer.

- i. The notice required by subparagraph (a) of this paragraph describes as clearly as practicable at the time the reasons why the Contractor believes that additional compensation, damages, or an extension of time may be remedies to which the Contractor is entitled; and
- ii. The Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

(c) **Limitations of Clause.** Nothing herein contained, however, shall excuse the Contractor from compliance with any rules of law precluding any Commonwealth officers and any contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

(d) **Adjustment of Price.** Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the "Price Adjust" clause of this contract.

20. Price Adjustment:

(a) **Price Adjustment Methods.** Any adjustment in contract price pursuant to a clause in this contract shall be made in one or more of the following ways:

- i. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- ii. By unit prices specified in the contract or subsequently agreed upon;
- iii. By the cost attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract subsequently agreed upon;
- iv. In such other manner as the parties may mutually agree; or
- v. In the absence of agreement between the parties, by a unilateral determination by the Chief Procurement Officer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Chief Procurement Officer in accordance with generally accepted accounting principles.

- (b) **Submission of Cost or Pricing Data.** The Contractor shall provide cost or pricing data for any adjustments.

§ 31. **Termination for Default:**

- (a) **Default.** If the Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Chief Procurement Officer may notify the Contractor in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Chief Procurement Officer, such officer may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or failure to properly perform. In the event of termination in whole or in part, the Chief Procurement Officer may procure similar supplies or services, in a manner and upon terms deemed appropriate by the Chief Procurement Officer. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- (b) **Contractor's Disputes.** Notwithstanding termination of the contract and subject to any direction from the Chief Procurement Officer, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the Commonwealth has an interest.
- (c) **Compensation.** Payment for completed supplies delivered and accepted by the Commonwealth shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the Contractor and the Chief Procurement Officer; if the parties fail to agree, the Chief Procurement Officer shall set an amount. The Commonwealth may withhold from amounts due the Contractor such sums as the Chief Procurement Officer deems to be necessary to protect the Commonwealth against loss because of outstanding liens or claims of former lien holders and to reimburse the Commonwealth for the excess costs incurred in procuring similar goods and services.
- (d) **Excuse for Non-Performance or Delayed Performance.** Except with respect to defaults of subcontractors, the Contractor shall not be in accordance with its terms (including any failure of the Contractor to make progress in the protection of the work hereunder which endangers such performance) if the Contractor has notified the Chief Procurement Officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of god; acts of public enemy; acts of the Commonwealth and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemic; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the supplies or services to be furnished by the subcontractor were reasonably obtainable from other

sources in sufficient time to permit the Contractor to meet the contract requirements. Upon the request of the Contractor, the Chief Procurement Officer shall ascertain the facts and extent of such failure, and, if such Officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the Commonwealth under the clause entitled "Termination For Convenience".

- (c) **Erroneous Termination for Default.** If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of this clause, or that the delay was excusable under the provision of paragraph 4 ("Excuse For Non-Performance Or Delayed Performance") of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause providing for Termination For Convenience of the Commonwealth.
- (d) **Additional Rights and Remedies.** The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

22. Termination for Convenience:

- (a) **Termination.** The Commonwealth may, when its interests so require, terminate this contract in whole or in part for the convenience of the Commonwealth. The Commonwealth will give written notice of the termination to the Contractor if the contract is terminated for the convenience of the Commonwealth.
- (b) **Contractor's Obligation.** If the contract is terminated, then the Contractor will not incur any further obligation in connection with the terminated contract. The Contractor will work to terminate outstanding orders and subcontracts as they relate to the terminated contract, and will settle the liabilities and claims arising out of the termination. The Contractor will limit and mitigate its damages as much as possible. The Chief Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the Commonwealth. The Contractor must still complete the work not terminated by the notice of termination and incur obligations as are necessary to do so.
- (c) **Compensation.**
 - (i) The Contractor shall submit a termination claim specifying the amounts due because of the Termination for convenience together with cost and pricing data to the extent required. If the contractor fails to file a termination claim within one (1) year from the effective date of the termination, the Chief Procurement Officer may pay the Contractor, if at all, an amount set in accordance with paragraph (iii) of this paragraph.
 - (ii) The Chief Procurement Officer and the Contractor may agree to a settlement provided the Contractor has filed a termination claim supported by cost or

pricing data to the extent required and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the Commonwealth, the proceeds of any sales and supplies and manufacturing materials under paragraph 3 of this clause, and the contract price of the work not terminated.

- (iii) Absent complete agreement under subparagraph (ii) of this paragraph, the Chief Procurement Officer shall pay the Contractor the following amounts provided payments agreed to under subparagraph (ii) shall not duplicate payments under this subparagraph:
 - A. Contract prices for supplies or services accepted under the contract.
 - B. Costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the Contractor would have sustained a loss if completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss.
 - C. Cost of settling and paying claims arising out of termination of subcontracts or orders pursuant to paragraph (b) of this clause. These costs must not include cost paid in accordance with subparagraph (ii) (B) of this paragraph.
 - D. The reasonable settlement costs of the Contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of the contracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of the Contract. The total sum to be paid the Contractor under this subparagraph shall not exceed the total contract price plus reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made from the proceeds of any sales of supplies and manufacturing materials under subparagraph (ii) of this paragraph, and the contract price of work not terminated.

2.5. Design Within Cost Limitation:

- a) The Consultant shall use its best efforts to design a facility which can be constructed, under normal contracting procedures in the Northern Mariana Islands, within cost limitations, for each separate part of the facility, as provided to the Consultant by the Contracting Officer and as agreed to, in writing, by the Consultant.
- b) Unless stated otherwise in the Scope of Work or other Contract Documents, the Consultant shall be permitted to include contingencies for design, bidding, and price escalation, to determine what materials, equipment, component systems, and type of construction are to be include, and to allow for reasonable adjustments in the scope of the project to be designed. If, after receipt of competitive bids, it is found that a construction contract cannot be awarded within the cost limitations, the Consultant will, as part of the Contract, and at no additional cost to the Commonwealth, re-design, re-estimate, and perform other services as are necessary to produce a useable facility within cost limitations.
- c) In connection with the foregoing the Consultant shall be obligated to perform such additional service at no increase in the contract price only when the Commonwealth has received competitive bids within six (6) months from the date of final approval of the Consultant's drawings and specifications.

END OF DOCUMENT

RESUME'

MARTIN BORJA ADA

P.O. Box 500514

Corner Texas Road & Susupe Lake Road

Saipan, MP 96950

Email: martinborjaada@gmail.com

Objective: Seeking a position in the following areas:

- 1) Consultancy
- 2) Advisory
- 3) Management

Experience:

- 1) Five ¹⁰~~(5)~~ years of governing/advisory work, as Trustee, at Marianas Public Land Trust (MPLT); from January 2013 to ~~January 2018~~: *present*.
- 2) Eight (8) years from January 2000 to January 2008 of work as a Legislator in the House of Representatives, Commonwealth Legislature, Commonwealth of the Northern Mariana Islands.
- 3) More than five (5) years of progressive teaching and counseling experience in Elementary Schools.
- 4) More than seven (7) years of experience in Public Information Officer's position.

Education:

- 1) Bachelor of Arts Degree in Elementary Education, University of Guam - May 1986.
- 2) Associate of Arts Degree, Liberal Arts, Social Science, Northern Marianas College - 1984
- 3) Graduated at Mount Carmel High School with honors (Salutatorian) - 1976

Work History:

- 1) Community Outreach Coordinator, Department of Community & Cultural Affairs, Division of Youth Services - June to August 2012
- 2) Director of Planning, Department of Public Lands - January 2009 to September 2009
- 3) Representative, Lower House, Third Senatorial District of Saipan, CNMI for eight (8) years; from January 2000 to January 2008. Acquired eight (8) years of experience on CNMI's State and local legislations (bills, acts, and resolutions) that require decision making that directly affects the lives of the people of the CNMI; and other matters that dealt with Health, Economy, Social and Welfare, Education, Tourism, Commerce, Government Operations, Labor, Immigration, International and Global issues and concerns.
- 4) CNMI State Representative and Member of the Association of Pacific Islands (APIL) Legislature, January 2002 - January 2007. Acted on resolutions that dealt with regional, global and international issues and concerns, such as renewable energy resources, bioterrorism, environment, land and sea resources, regional trade and commerce, customs and immigration policies.
- 5) Public Information Officer, Saipan Mayor's Office from January 1990 to September 1997. Served as spokesman for the Mayor of Saipan; provides information to the public on all programs, activities, functions, community-wide services and assistance; prepares messages, speeches, quarterly newsletter publication, and covers all civil and community-wide functions and appearances of the Mayor.
- 6) Counselor, Garapan Elementary School, Public School System, from January 1989 to December 1989. Serves as advisor to middle elementary grade students from 1st through 7th grade.
- 7) Classroom Teacher, Elementary Schools, Saipan from June 1979 through December 1982. Teaches seven (7) subjects such as English, Math, Science,

Social Studies, Art, Music, and Physical Education to students from grades 1 to 7. A classroom size is comprised of at least 25-35 students.

- 8) Statistics Specialist, Department of Community & Cultural Affairs, Senior Citizen's Program (SCP), June 1982 to June 1984. Performs the monthly collection of raw data from each section of SCP. Converts applicable information into statistical form accompanied by narrative interpretation. Programs are evaluated, monitored and reported. Most programs are federally funded.
- 9) Teacher-Aide, San Vicente Elementary School, from June 1978 to May 1979. Assisted the Classroom Teacher in all subject areas daily. Seven (7) required subjects are: four (4) academic and three (3) electives. Also assisted in the preparation of daily lesson plans, periodic tests, field trips, daily supervision of students and report card days.
- 10) Teacher-Aide, Mount Carmel School, from June 1977 to May 1978. Assisted the Classroom Teacher in all subject areas daily (same as above).

Special Skills and Abilities:

- Proficient in writing speeches, messages and preparation of annual reports
- Proficient in writing bilingual (Chamorro) scripts and translations.

Community, Non-Profit Organizations & Associations:

- Member, San Vicente Parish Council, from 1995-2008
- Member, Two of CNMI Golf Associations, from 2006 to present
- Member, Saipan Table Tennis Association, from 2004 to 2008

Awards and Certificates - Received and awarded certificates on various trainings and workshops related to work. Recent were:

- Holder of AIF® Designation. AIF® or Accredited Investment Fiduciary is a designation earned after passing the AIF examination. Certified holder since January 2017 and serves as an investment fiduciary at MPLT.
- Completed Profit Mastery Training "Creating Value & Building Wealth"; December 4-5, 2012 conducted by Business Resource Services, Seattle WA in collaboration with the CNMI Department of Commerce and the Commonwealth Development Authority.
- Twice attended the conference on Annual Pacific Region Investment Conference conducted by Asia Pacific Association of Fiduciary Studies (APAFS) while a member of the House of Representatives. And, attended yearly the same while at MPLT as Board of Trustee, from 2013 to 2017

Hobbies:

- Golf, table tennis, tennis, billiards, darts, guitar playing and karaoke.

References:

- Available upon request

fi

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Accredited Investment Fiduciary Analyst

AIFPA

Be it known that

Martin Borja Ada

Having satisfied all requirements for certification is hereby authorized to use the AIFPA[®] and Accredited Investment Fiduciary Analyst[®] marks with all the rights and privileges pertaining thereto for as long as the aforementioned remains in good standing.

Awarded on 1 May 2019

Certificate No. 64515

THOMAS AMON CEO



THOMAS AMON CEO

Richard Hyman

University of Guam

has conferred upon

Martin Borja Aba

the degree of

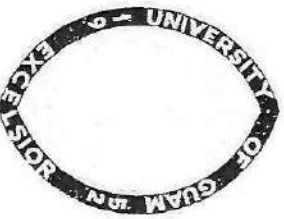
Bachelor of Arts in Education
in Elementary Education

Together with all the Honors, Rights, and Privileges appertaining thereto in consideration of the satisfactory completion of the course prescribed by the Faculty of the

The College of Education

The Attitness Thereof the undersigned have affixed their names and the seal of the University of Guam. Given at Mangilao, in the Territory of Guam

April 24, 1987



Julio P. S. S. S.
Chairperson, Board of Regents

President

[Signature]

Senior Vice President Academic & Student Affairs

Dean



Business License

DEPARTMENT OF FINANCE
Division of Revenue and Taxation
Commonwealth of the Northern Mariana Islands

IN COMPLIANCE WITH PUBLIC LAW 11-73, AND ALL OTHER APPLICABLE LAWS IN THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, THE LICENSEE:

MARTIN E. ADA

SEA

LOCATED AT

Suaya

IS HEREBY LICENSED TO ENGAGE IN THE BUSINESS OF

CONSULTING SERVICES

841611

THE AUTHORITY OF WHICH TO OPERATE UNDER SECTION

5811(d)

THIS LICENSE IS NON-TRANSFERABLE AND SHALL COMMENCE ON

9/30/2021

AND EXPIRE ON

9/30/2022

NO.

5025 - 0008 - 3

10/04/2021

DATE OF ISSUE

David B.G. Acalla
SECRETARY OF FINANCE

(This license must be displayed in a conspicuous place)

DIVISION OF REVENUE AND TAXATION
COMMONWEALTH OF THE NORTHERN MARIANAS ISLANDS

Taxpayer: MARTIN B. ADA

DBA: MBA

Address: P.O. BOX 500314
SAIPAN, MP 96950

CNMI Tax Identification Number SS: 3008928

CNMI TIN is exclusively for reporting your CNMI taxes except Social Security. To apply for a Federal Identification Number, Form SS-4 may be obtained from the Division of Revenue and Taxation.

Authorized by: *Martin B. Ada* Date: 10/4/2021

FORM TR-101 (REV. 10/2017)

MBA CONSULTING SERVICES

TEL. (670)483-3300

EMPLOYMENT BACKGROUND ON PROCUREMENT SERVICES:

1. January 1990 to December 1990 - Procurement Officer for the entire CNMI Public School System. Supervising five staff members we took care of all procurement services and supply needs for all the public schools in Rota, Tinian, Saipan, and the Northern Islands. Distribution of these much needed school services and supplies were on a daily basis throughout the school year.
2. Marianas Public Land Trust – From March 2012 to the present I dealt with the preparation and opening of sealed RFPs (request for proposals) for three professional service providers: Investment Consultant, Board Financial Consultant, Legal Counsel. As Trustees for MPLT we are involved in the selection process of proposers for each of the aforementioned professional service providers required annually. I was also tasked with reviewing each of the eight (8) money managers we hire for our eight (8) investment portfolios at MPLT. Under the guidance and assistance of our three professional service providers each Trustee was required to dissect and understand the terms of each money manager's contract and make a final decision to hire or to reject. At the same token we as Trustees perform an Annual Money Managers' Review where we evaluate each in their performance for the previous year. The result? We either retain their services or hire a new one. In addition, the Trustees are also tasked every year with the employment contracts of MPLT's Administrator, Assistant Administrator, Fiscal Assistant, and a Grounds Maintenance personnel. The MPLT Office also mirrors the NMI Procurement regulations on bids for cleaning services, transportation needs, and the purchase of a much needed generator for emergency power needs. Trustees are also tasked with entertaining bids on repossessed houses and properties in their Home Loan Portfolio.

3. Division of Procurement Services, NMI Department of Finance – From October 12, 2021 to December 12, 2021, I was employed at the Division of Procurement Services under the NMI Department of Finance as a Policy Analyst. I was tasked to review and revise the 68 page NMI Procurement regulations. Working with the Director of Procurement Services and two other staff members we were able to produce the edited and revised procurement regulations based on the instructions of Secretary of Finance David DLG. Atalig. For reference this finished product may be requested from the Director of Procurement Services Frank S. Aguon or from me.

MBADA CONSULTING SERVICES

BUSINESS PROPOSAL

Attention: David DLG. Atalig

Secretary of Finance, Capital Hill, Saipan

My name is Martin B. Ada. I am a licensed vendor doing consulting services. I am hereby submitting my business proposal to do consulting work for the Division of Procurement Services under the Northern Mariana Islands Department of Finance. The specific consulting work I will be performing would be on ITBs (Invitation to Bid), RFPs (Request for Proposals), RFQs (Request for Quotations), and RFI (Request for Information). I will also be involved in the review and processing of contracts awarded to vendors.

The duration of the consulting contract I am proposing is for one calendar year, from January 01, 2022, until December 31, 2022. The amount I am proposing for the one year contract is \$50,000.00.

For your reference please see the attached document on my work experience with Procurement Services for three entities I worked for.

My contact number is (670)483-3300 or martinborjaada@gmail.com. Thank you for your consideration and I look forward for your response to my proposal.


Martin B. Ada