COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC WORKS
Saipan, MP 96950

CONTRACT No. _____

AGREEMENT and CONTRACT
for CONSTRUCTION

This Agreement and Contract is entered into between the Commonwealth of the Northern Mariana Islands (the "Commonwealth"), represented by the Contracting Officer, and _____ *(the "Contractor") for the* **ROUTE 36 (WINDWARD/CHALAN KALABERA) ROAD IMPROVEMENTS, PHASE-1a, PROJECT NO. TQ-THS-0036(301),** *(the "Project"). The Commonwealth and the Contractor agree as follows:*

ARTICLE 1.   THE CONTRACTOR SHALL furnish all materials, labor, equipment, tools and services necessary to perform in a workmanlike manner all work required for the completion of the Project, as described in the Scope of Work and in strict compliance with the Contract Documents, for the firm fixed price of _____ **($_____).**

(a) Payments to Contractor.   The Commonwealth shall make progress payments to the Contractor in accordance with the General Conditions. No other payments will be made.

(b) Contract Time.   The Contractor shall commence work on the date stated in the written Notice to Proceed issued by the Contracting Officer, and shall complete the Project ready for use within **THREE HUNDRED (300)** calendar days of commencement, exclusive of any review time or suspension time imposed by the government that delays the orderly prosecution of the work.

(c) Subcontractors.   The Contractor shall bind every subcontractor by the terms of the Contract Documents.   The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the Government.

ARTICLE 2. LIQUIDATED DAMAGES.   The Contractor shall pay to the Commonwealth the sum of _____ **($_____)** not as a penalty but as reasonable liquidated damages for breach of this Contract by the Contractor, by his failing, neglecting or refusing to complete the work within the time herein specified, and said sums shall be paid for each consecutive calendar day that the Contractor shall be in default beyond the time stipulated in the Contract for completing the work.

ARTICLE 3. RECORDS.   The Contractor and subcontractors at all levels shall provide the Public Auditor of the Commonwealth of the Northern Mariana Islands access to examine and copy any records,

data, or papers relevant to the Contract until three (3) years have passed since the final payment under the Contract. (Reference 1 CMC §7845.)

ARTICLE 4. DEBARMENT AND SUSPENSION. In addition to other causes set forth in the CNMI Procurement Regulations §6-212(2), a breach of ethical standards under any of the following sections of the CNMI Procurement Regulations shall be cause for (i) debarment or suspension of the Contractor and/or (ii) termination of the Contractor for default.

Section 6-205 Gratuities and Kickbacks.

(1) *Gratuities*. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.

(2) *Kickbacks*. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

Section 6-206 Prohibition Against Contingent Fees.

(1) *Contingent fees*. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure government contracts upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(2) *Representation of contractor*. Every person, before being awarded a government contract, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of ethical standards.

ARTICLE 5. CONTRACT DOCUMENTS. The following instruments (if checked) constitute the Contract Documents, and collectively evidence and constitute the Contract. ("Future Documents" will become Contract Documents by operation of the Contract at a later date.)

Existing Documents	Future Documents
☒Agreement and Contract	☒Notice to Proceed
☐Scope of Work	☒Performance and Payment Bonds
☒General Conditions	☒Bid Schedules
☐Labor Standards Provisions	☒Contractor's Bid Proposal
☐Special Conditions	☒Invitation for Bids, DPW-17-IFB-XXX
☐Request for Proposals	☒Technical Specifications

☐Minutes of Pre-award meetings	☐Contract management documents issued by the Contracting Officer
☒Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-03	

ARTICLE 6. SEVERABILITY. If any contractual provision, clause, duty or obligation is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, clauses, duties and/or obligations of the Contract Documents where such can be given effect without the invalid provision, clause, duty or obligation. To this end such provisions, clauses, duties or obligations are agreed by the parties to be severable. Severability of Procurement actions are governed by the applicable procurement regulations.

ARTICLE 7. 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 upon certification of contract completion by the Director of Procurement and Supply.

1. Expenditure Authority

I declare that I have complied with the construction procedures of the CNMI Procurement Regulations in the procurement of this contract, 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, Commonwealth of the Northern Mariana Islands.

Date: _____

_____

RAY N. YUMUL
Secretary of Public Works

2. Contracting Officer for the Commonwealth

Date: _____

_____

RAY N. YUMUL
Secretary of Public Works

3. 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, and does not waste or abuse public funds.

Date: _____

_____

BRIEN SAN NICOLAS
Director of Procurement and Supply

4. Department of Finance

I hereby certify that there are sufficient funds available in Account Number _____ in the

amount of $_____ for the execution of this contract.

Date: _____

_____

Tracy Norita
Secretary of Finance

5. **Attorney General**

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

Date: _____

_____
EDWARD MANIBUSAN
Attorney General

6. Governor

Date: _____

_____
Arnold I. Palacios
Governor
Commonwealth of the Northern Mariana Islands

7. Contractor: _____

On behalf of the Contractor, I represent that I am authorized to bind the Contractor to the terms of this Contract, and by my signature I do so hereby accept for the Contractor, and bind the Contractor to, the terms of this Contract. I further represent for the Contractor that no person associated with the Contractor has retained any person in violation of Section 6-206 of the CNMI Procurement Regulations.

Date: _____

_____
Name: _____

Title: _____

8. CERTIFICATION OF CONTRACT COMPLETION

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

_____   Date: _____
               Brien San Nicolas
    Director, Division of Procurement & Supply

END OF CONTRACT and AGREEMENT

PROCUREMENT INFORMATION
For Government Use Only

Method of Procurement (Check one only)

☒ Competitive Sealed Bids, _____
☐ Competitive Sealed Proposals
☐ 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 Contractor

Government contract numbers of all related contracts with the Vendor:

  "NONE"