

**CONTRACT FOR THE JANITORIAL SERVICES AND MAINTENANCE CY 2013 OF PHILIPPINE PORTS AUTHORITY, PORT MANAGEMENT OFFICE – ZAMBOANGA, ZAMBOANGA CITY**

**KNOW ALL MEN BY THESE PRESENTS:**

This Contract, made and entered into this August 22, 2013, in the City of Zamboanga, Philippines, by and between:

**PHILIPPINE PORTS AUTHORITY**, a government corporation duly organized and existing under and by virtue of Presidential Decree No. 857, as amended, with principal office at Marsman Building, South Harbor, Port Area, Manila, represented herein by its duly authorized **Port Manager of Port Management Office-Zamboanga, Liberto C. Dela Rosa**, and hereinafter referred to as "PPA";

- and -

**LBP SERVICE CORPORATION**, a private corporation duly organized and existing in accordance with Philippine laws, with principal office address at 21<sup>st</sup> Floor Petron Mega Plaza Building, 358 Sen. Gil Puyat Avenue, Makati City, represented herein by its President, **Lydia P. Fernandez**, duly authorized for this purpose as evidenced by the Secretary's Certificate dated August 1, 2013, a copy of which is hereto attached and made as integral part hereof as Annex "A" and hereinafter referred to as "**CONTRACTOR**."

**WITNESSETH:**

**WHEREAS, PPA** is desirous to enter into a contract for the Outsourcing of Janitorial services and maintenance for CY 2013 of Port Management Office (PMO) - Zamboanga, Zamboanga City for its different offices, namely the whole Administration Building and immediate premises (fenced area including parking area), Passenger Terminal Building (PTB)-1 and immediate premises (fenced area), Port Police Office, Dock Operations Office at CFS, Gad Center, Port Manager's and Multi-Purpose Court covering the period September 1, 2013 to August 31, 2014.

**WHEREAS**, in accordance with Republic Act No. 9184 and its Implementing Rules and Regulations, the PPA Bids and Awards Committee [BAC] of PMO-Zamboanga for the outsourcing of seven (7) positions Janitors advertised and posted in the PPA Website, G-EPS Website as well as in its bulletin board an Invitation to Bid for the Outsourcing of Janitorial Services of Baseport Zamboanga, PMO-Zamboanga for CY 2013, for the different offices mentioned above.

**WHEREAS**, after the opening of the bids on August 12, 2013, and the conduct of bid evaluation and the required post-qualification, the bid submitted by the CONTRACTOR was found to be the single calculated and responsive bid in the amount of One Million Two Hundred Nine Thousand Four Hundred Twenty-Two & 52/100 (P1, 209, 422.52), Philippine Currency per BAC Resolution No. 004-2013 dated August 16, 2013.

**WHEREAS**, in a Notice of Award [NOA] dated August 19, 2013, the contract therefore was awarded to the CONTRACTOR which signifies its "Conforme" in the same NOA.

**NOW, THEREFORE**, for and in consideration of the foregoing premises and the mutual covenants, stipulations and agreements, the **PPA** and the **CONTRACTOR** have agreed, as they do hereby agree, and contract as follows:

**ARTICLE I**

**CONTRACT DOCUMENTS**

**1.01** The following documents shall constitute integral parts of this Contract, as fully as if the contents of the said documents are reproduced, incorporated and set forth herein, and shall govern and control in full force and effect the rights and obligations of the parties, except as

otherwise modified by the terms and conditions of this Contract, or by mutual agreement in writing of both parties, to wit:

- a. Invitation to Apply and Eligibility and to Bid;
- b. Authority of the Signing Official – Secretary's Certificate;
- c. Bid Documents consisting of the following:
  1. Instruction to Bidders
  2. Bid Data Sheet
  3. General Conditions of Contract
  4. Special Conditions of Contract
  5. Technical Specifications (Terms of Reference) and its Annexes "A" & "B"
- d. Contractor's Bid Proposal consisting of two [2] envelopes, namely: 1<sup>st</sup> Envelope - Eligibility and Technical Bid Requirements/Documents; and 2nd Envelope – Financial Bid Requirements; including all documents/statements contained therein;
- e. Performance Security
- f. Credit line issued by a licensed bank in amount at least equal to ten percent (10%) of the Approved budget for the contract or computed Net Financial Contracting Capacity (NFCC);
- g. Notice of Award of Contract dated August 19, 2013 and the CONTRACTOR'S "Conforme" thereto;
- h. Notice to proceed;
- i. Other pertinent documents as may be required by existing laws and/or of PPA.

**1.02** All contract documents are and shall remain as the property of PPA.

**1.03** The words and expressions in this Contract shall have the same meanings respectively assigned to them in the contract documents referred to above.

## ARTICLE II

### MANPOWER, EQUIPMENT, MATERIALS & SUPPLIES REQUIREMENTS

**2.01** PPA hereby engages the CONTRACTOR to provide the former with the manpower/labor, equipment, materials and supplies requirements for Outsourcing of Janitorial Services as specified in the Bid Documents, more specifically in the Technical Specifications (Terms of Reference) thereof which forms part of this Contract.

**2.02** CONTRACTOR shall provide the aforesaid requirements effective September 1, 2013 until August 31, ~~2014~~.

**2.03** PPA reserves the right to increase or decrease the number of personnel as the need arises at anytime during the term of this Contract and the same may be effected by giving the CONTRACTOR fifteen [15] day-written notice to that effect, subject to applicable government rules and regulations thereof.

**2.04** The CONTRACTOR shall assign personnel who possess the required qualifications and experience suitable to the positions as specified in the Technical Specifications (Terms of Reference), having correct discipline for the function or duty to be performed, physically and mentally fit, and of good moral character.

**2.05** The CONTRACTOR shall provide the various janitorial supplies together with corresponding copy of the official receipt for the said cost and deliver the same to the PPA.

## ARTICLE III

### OTHER TERMS AND CONDITIONS

**3.01 Consideration** – For and in consideration of the service/s rendered, PPA hereby agrees to pay the CONTRACTOR the monthly billing rates as provided in the Financial Proposal of the CONTRACTOR which form part of this Contract. The rate quoted are based on eight [8] hours work per day per individual and include payment due to the personnel, i.e. basic pay, service incentive leave, 13<sup>th</sup> month pay, etc.; and to the government, i.e. contributions to Pag-ibig, SSS, PhilHealth, ECC, etc. including the value added tax of twelve [12%]. Except as provided for under

existing laws, it is hereby expressly agreed upon and understood that the stipulated rates shall not be subject to upward adjustment for any cause or reason.

Payment of the aforesaid consideration shall be subject to the following conditions:

- a. Tardiness, undertime, half days and absences incurred by the personnel assigned to PPA shall be deducted accordingly from the monthly billing of the CONTRACTOR.
- b. The payment shall be subject to the CONTRACTOR's presentation of its semi-monthly personnel payroll and affidavit or sworn certification that it has paid the salaries of its personnel for the period covered, per submitted payroll and remitted the corresponding premiums to Pag-Ibig, SSS, PhilHealth, ECC, etc. as well as the withholding taxes to BIR.
- c. Any payment due and payable to the CONTRACTOR may be set off against liquidated damages payable to PPA by the CONTRACTOR under this Contract.
- d. All payments shall be subject to existing government accounting and auditing rules and regulations.

It is further provided that the CONTRACTOR agrees to pay the salaries of its personnel assigned with PPA in accordance with the rates indicated in the Terms of Reference including the cost of living allowance, overtime pay, night shift differential pay, 13<sup>th</sup> month pay, 5-day incentive pay, uniform allowance, and such other benefits and emoluments as may be applicable, and as may be granted by law, wage orders, and rules and regulations issued by the Department of Labor and Employment. For this purpose, CONTRACTOR shall provide its personnel with pay slips evidencing the amount of their salaries and deductions thereof, should there be any, in at least two [2] days before the scheduled payment of their salaries which would be in every fifteenth [15th] and thirtieth [30th] of each month.

**3.02 Duration** – This Contract shall be for a period of twelve (12) months, i.e., September 1, 2013 until August 31, 2014.

**3.03 Performance Security** – To guarantee the faithful performance of the CONTRACTOR under this Contract, it shall post upon the signing of the Contract a performance security in the form of cash, certified check, manager's check, cashier's check, bank draft/guarantee, irrevocable letter of credit issued by a reputable commercial bank, surety bond, callable on demand, issued by the Government Service Insurance System (GSIS) or a combination thereof, as may be required by PPA, in accordance with the following schedule:

- |   |   |
|---|---|
| 1. Cash, cashier's/manager's check, bank draft/guarantee<br>Confirmed by a Universal or Commercial Bank | - Five percent (5%) of<br>total contract price                                  |
| 2. Irrevocable Letter of credit issued by a Universal or<br>Commercial Bank                             | - Five percent ( 5%) of<br>total contract price                                 |
| 3. Surety Bond  | - Thirty percent (30%)<br>of total contract price                               |
| 4. Any combination of the forgoing  | - Proportionate to share of form<br>with respect to total amount of<br>security |

This performance security shall be posted in favor of PPA, and shall be forfeited in favor of PPA in the event it is established that the CONTRACTOR is in default in any of its obligations under this Contract.

In the execution of performance security, the following conditions shall be complied with:

- a. It shall be executed in accordance with the form prescribed in this Section.
- b. It shall be at least co-terminus with the final completion of the project/undertaking.
- c. The following provisions shall form part of the performance security: "The right to institute action on the penal bond pursuant to Act No. 3688 of any individual firm, partnership,

corporation and association supplying the CONTRACTOR with labor and materials for the prosecution of work is hereby acknowledged and confirmed".

Should any surety upon the bond for the performance of this contract become unacceptable to PPA, the CONTRACTOR shall promptly furnish such replacement security as may be required from time to time up to the sum equal to the amount of the original surety.

**3.04 Assignment of Personnel** – The CONTRACTOR shall assign its personnel as PPA may deem proper under this Contract. The CONTRACTOR maintains administrative control and supervision over its personnel, however, it hereby authorizes PPA to give direct instructions to the personnel assigned during their term of duty and such exercise of power by PPA shall not be deemed as relinquishment of power by the CONTRACTOR as the Employer of the said personnel.

**3.05 Hours/Days of Work** – The personnel assigned to PPA shall be required to work eight (8) hours a day. The services shall be rendered seven (7) days for PTB-1, and six (6) days a week for other offices. In case the need arises, said personnel may be required to render service beyond the eight [8] hours period or during Holiday or rest day, the payment for such overtime work shall be paid in accordance with the applicable government rules and regulations.

**3.06 Removal or Replacement of Personnel** – PPA hereby reserves the right to request the immediate replacement of any of the assigned personnel of the CONTRACTOR who, in its opinion, are found wanting in competency, honesty, and integrity or whose continued stay or service would be prejudicial to the best interest of PPA.

**3.07 Liquidated Damages** – Should the CONTRACTOR refuse or fail to satisfactory comply with its undertaking, and is hereby in default under the Contract, the CONTRACTOR shall be liable for damages for the delay and shall pay PPA for liquidated damages and not by way of penalty, an amount equivalent to one-tenth [1/10] of one percent (1%) of the cost of the unperformed portion thereof, for every day of delay until the same is finally performed/completed and accepted by PPA.

It is understood that the damages herein provided are fixed and agreed liquidated damages and to be entitled to such damages, PPA need not prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due the CONTRACTOR under the contract and/or collect such liquidated damages from the securities or warranties posted by the CONTRACTOR, whichever is convenient to PPA.

In no case, however, shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price, in which event the Contract shall automatically be terminated by PPA and the erring CONTRACTOR'S performance security shall be forfeited. The amount of the forfeited performance security shall be set aside from the amount of the liquidated damages that the CONTRACTOR shall pay PPA under this Section and the other appropriate sanctions that may be imposed to the former.

**3.08 Cancellation/Termination of Contract** – PPA has the right to terminate or cancel this Contract without the need of judicial action, at anytime before its expiration or reasonable grounds, such as, but not limited to: unsatisfactory service and performance or violation of the terms and conditions of this Contract, by giving the CONTRACTOR at least fifteen [15] calendar days written notice in advance to that effect, which Notice shall be final and binding on all the parties.

Within thirty (30) days after termination, cancellation or rescission of this Contract, the parties shall settle their respective accountabilities as of the date of termination, cancellation or rescission.

**3.09 Warranties** - The CONTRACTOR hereby warrants compliance with the requirements of Philippine Laws, the Social Security System Law, the Workman's Compensation Act, and Wage Orders governing payment to workers of at least the minimum wage, and other laws or decrees pertaining to employer-employee relationship, including the grant of retirement benefits as mandated by existing labor laws to its personnel.

CONTRACTOR further warrants the capabilities and technical competence of its support personnel to be assigned in PPA based on individual work and experience qualifications. Relative to this, PPA reserves the right to verify the CONTRACTOR's assigned personnel as to their qualifications and integrity and to require replacement thereof in case PPA upon its verification, is in opinion that the said personnel are found wanting in competency, honesty, and integrity or whose

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continued stay or service would be prejudicial to the best interest of PPA without additional cost to PPA.

**3.10 CONTRACTOR's Liability** – The CONTRACTOR shall assume full responsibility and agrees and binds itself to indemnify PPA for any loss, damage, destruction, and/or injury that may be incurred by the latter and/or its employees which are attributable to the negligence, fault, misconduct or unlawful act of the former and its personnel.

**3.11 No Employer-Employee Relationship** – It is expressly agreed and understood that there is no employer-employee relationship between the CONTRACTOR and/or its personnel and PPA, such that the CONTRACTOR's personnel assigned in PPA are not employees of the latter, it being understood that the position of the CONTRACTOR and anyone else performing the services is that of an independent contractor. Accordingly, PPA should not in any way be liable or responsible for any personal injury or damage including death sustained or caused by any of the personnel of the CONTRACTOR during the lawful performance of their duties.

#### ARTICLE IV

#### MISCELLANEOUS PROVISIONS

4.01 The failure of PPA to demand strict compliance with any of the terms, stipulations and covenants of this Contract or any act of liberality on the part of the PPA, shall not be construed or considered as a waiver on the part of PPA for enforcement of this Contract, nor shall it relieve the CONTRACTOR of any of its obligations as herein provided.

4.02 It is expressly agreed and understood that in case of conflict between the Contract and the provisions of the contract documents incorporated as forming part hereof, the former shall be controlling.

4.03 The CONTRACTOR shall provide and do anything necessary to perform its obligations under this contract according to the true intent and meaning of all the Contract Documents taken together.

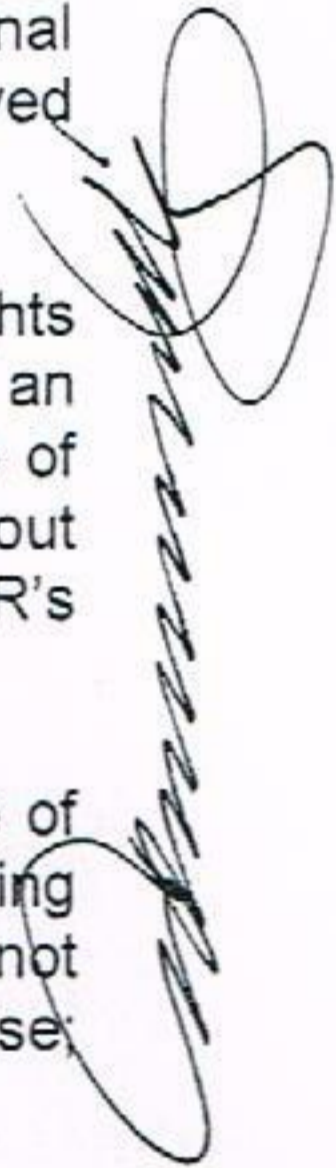
4.04 All taxes, licenses, permits, fees or charges of whatever form, kind, or nature due or which may be due to the national or local government units and/or its instrumentalities/agencies on account of the performance and completion of the work stipulated herein, and all necessary and incidental expenses relative thereto, including the cost of notarization of this Contract shall be borne and paid for by the CONTRACTOR on its own account. Should PPA be compelled to advance the same, PPA is hereby authorized to deduct the amount advanced from whatever amount due the CONTRACTOR from PPA.

4.05 The CONTRACTOR shall pay taxes in full and on time and that failure to do so shall entitle PPA to suspend payment to the CONTRACTOR. Further, the CONTRACTOR shall during the term of this Contract regularly present to PPA a tax clearance from the Bureau of Internal Revenue (BIR) as well as a copy of its income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.

4.06 Should PPA be constrained to resort to court action to enforce or safeguard its rights and interests under this Contract, the CONTRACTOR shall be liable to PPA for attorney's fees in an amount equivalent to twenty percent [20%] of the total sum claimed in the complaint, exclusive of other damages and expenses litigation. Venue of all court actions in connection with or arising out of this contract shall be laid exclusively in the proper court of the place where the CONTRACTOR's personnel are assigned.

4.07 The personnel to be assigned to PPA must not be related within the third degree of consanguinity or affinity with PPA's General Manager, or the appointing and recommending authorities, or the immediate superior of the assigned personnel; and that the said personnel has not been previously dismissed from the service by reason of an administrative case or criminal case, and has not yet reached the compulsory retirement age of sixty-five [65].

4.08 The CONTRACTOR hereby represents that all documents it submitted which form integral parts hereof are authentic and duly executed with all the required formalities for the same, and that the facts and/or data contained therein are true and correct. A breach of this representation including all misrepresentation in the documents or suppression of material facts therein, which if known, could have disqualified the CONTRACTOR such that this Contract would not have been



made and entered into, gives the PPA the immediate right or recourse to *motu proprio* rescind, abrogate or otherwise terminate the Contract without need of judicial intervention.

4.09 Pursuant to Section 47 of IRR of R.A. 9184, CONTRACTOR further represent that all its officers, directors, and controlling stockholders are not related to by consanguinity or affinity up to the third [3<sup>rd</sup>] civil degree to PPA's General Manager, including any of its officers or employees having direct access to the concluded bidding.

If in any event, it is found that the aforesated representation was violated, PPA, however, has the right to terminate or cancel this contract without the need of judicial action, at anytime before its expiration pursuant to Article 3.08 hereof.

**ARTICLE V**

**EFFECTIVITY**

This Contract shall be effective on September 1, 2013.

**IN WITNESS WHEREOF**, the Parties have hereunto set their hands on the date and place above written.

**PHILIPPINE PORTS AUTHORITY  
(PPA)**

By:

  
**LIBERTO C. DELA ROSA**  
Port Manager

**LBP SERVICE CORPRATION  
(CONTRACTOR)**

By:

  
**LYDIA P. FERNANDEZ**  
President

  
**EDMUND B. QUE**

Signed in the presence of:



ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)  
CITY OF ZAMBOANGA CITY S.S.

BEFORE ME. A Notary Public, for and in the City of Zamboanga, Philippines, on this  
SEP 02 2013 day of 20 personally appeared:

NAME	Identification Document Present	Place & Date Issued
LIBERTO C. DELA ROSA	PRC ID (CIVIL ENGINEER)	MANILA 05/11/2010
LYDIA P. FERNANDEZ	SSS ID	03-0283142-7

known to me and to me known to be the same persons who executed the foregoing instrument as:

Position	Company	CTC No.	Place Issued	Date Issued
Port Manager	Philippine Ports Authority	01979095	Sasa, Davao City	Jan. 28, 2013
President	LBP Service Corporation	03-0283142-7	S.S.S. ID	

and acknowledged to me that the same is their free and voluntary act and deed, as well as the free and voluntary act of the corporation they represent.

The foregoing instrument refers to a Contract for the Outsourcing of Janitorial Services and Maintenance for CY 2013 of PPA, PMO-Zamboanga consisting of seven [7] pages including the page on which this acknowledgement is written, duly signed by the parties and their witnesses on each and every page thereof.

WITNESS MY HAND AND SEAL this SEP 02 2013 day of \_\_\_\_\_, 2013 at \_\_\_\_\_, Philippines.

*M. M. Susukan*  
**ATTY. MUTA B. K. SUSUKAN**  
 NOTARY PUBLIC  
 Notary Public  
 Until December 31, 2013

Doc. No. 111  
Page No. 23  
Book No. 153  
Series of 2013

PTR NO. 10624445 issued on Jan. 4, 2013  
at Zamboanga City; Roll No. 27474

ACK. ONLY

*J. M. P.*

*Gerardo*

*[Signature]*

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*[Signature]*