

CONTRACT FOR TECHNICAL & PROFESSIONAL SERVICES

This CONTRACT is made and entered into on the day of **September 01, 2021**, by AMS TECH, hereinafter called the CONTRACTOR, and the Guam Power Authority, hereinafter called GPA.

GPA engages the CONTRACTOR to perform technical services for a project known and described as **Meteorological Tower Quality Assurance Audit, Re-Solicitation GPA-RFP-21-003**, hereinafter called the "Project".

RECITALS

WHEREAS, the Guam Power Authority (GPA) is required to comply with applicable local, federal, and permitting requirements; and

WHEREAS, GPA is required to conduct a semiannual instrument performance quality assurance (QA) audit at GPA's meteorological monitoring station located at the Cabras Power Plant in Piti, Guam; and

WHEREAS, GPA seeks CONTRACTOR services to perform the Meteorological Quality Assurance Audit; and

WHEREAS, the Guam Power Authority has prepared a scope of work and request for proposal to accomplish this; and

WHEREAS, the Guam Power Authority will enter into a contract to conduct a semiannual instrument performance quality assurance (QA) audit at GPA's meteorological monitoring station located at the Cabras Power Plant in Piti, Guam based on the established scope of work; and

NOW, THEREFORE, the Guam Power Authority and the CONTRACTOR for the considerations set forth, agree as follows:

SECTION I – SERVICES OF THE CONSULTANT

The CONTRACTOR shall perform the following technical services in accordance with the degree of care and skill that a registered professional in Guam would exercise under similar conditions:

- A. GPA and the CONTRACTOR have entered into a task-based contract wherein, GPA will call upon a task and negotiate price, scope and schedule with the CONTRACTOR. The CONTRACTOR shall provide services as described in the task list provided in the Scope. This list is not all inclusive; GPA can negotiate tasks that are similar in scope.
- B. The CONTRACTOR has assigned Dave Meisters as the Project Manager for this CONTRACT. Prior written approval is required in the event the CONTRACTOR needs to change the Project Manager. The CONTRACTOR shall submit the qualifications of the proposed substituted personnel to GPA for approval.

- C. The CONTRACTOR shall submit all final documents in both hard copy and electronic format. All documents shall be Microsoft Office 2010 compatible. The software version used shall be compatible to current GPA standards.

SECTION II – PERIOD OF SERVICE

GPA and the CONTRACTOR have agreed that this CONTRACT will be effective September 01, 2021 for a base contract period of three (3) years. Upon mutual agreement, the CONTRACT may be extended for two one-year periods beyond the base contract term (for a maximum contract length of five years). GPA shall, at its sole discretion, determine total contract length.

SECTION III – CONSULTANT'S COMPENSATION

The CONTRACTOR shall be paid semiannually based on tasks completed. Such payments shall be made as specified in SECTION VI.

SECTION IV - CONSULTANT'S STATUS

The CONTRACTOR agrees that there shall be no employee benefits occurring from this CONTRACT, such as:

- A. Insurance coverage provided by GPA;
- B. Participation in the Government of Guam retirement system;
- C. Accumulation of vacation or sick leave;
- D. There shall be no withholding of taxes by GPA;
- E. That it is expressly understood and agreed that, in the performance of services under this CONTRACT, the CONTRACTOR and its employees shall at all times act as independent contractors with respect to GPA, and not as an employee or agent of GPA. Further, it is expressly understood and agreed by the parties that nothing contained in this CONTRACT shall be construed to create a joint venture, partnership, association, or other affiliation or like relationship and shall remain that of independent parties to a contractual relationship set forth in this CONTRACT.

Responsibility of CONTRACTOR

CONTRACTOR shall perform the services utilizing the standard of care normally exercised by professional consulting firms in performing comparable services under similar conditions. GPA's review, approval, acceptance of, and payment of fees for services required under this agreement shall not be construed to operate as a waiver of any rights under this agreement and the CONTRACTOR shall be and remain liable to GPA for all costs of any kind which may be incurred by GPA as a result of CONTRACTOR'S negligent performance of any of the services performed under this agreement. CONTRACTOR makes no other guarantees or warranties unless specifically

identified herein, all warranties, expressed or implied or otherwise waived. The rights and remedies of GPA provided for under this contract are in addition to any other rights and remedies provided by law. If the CONTRACTOR is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

SECTION V – GUAM POWER AUTHORITY'S RESPONSIBILITIES

- A. GPA shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by GPA on any aspect of the work shall be directed to the project manager.
- B. GPA shall review submittals by the CONTRACTOR and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONTRACTOR'S work. GPA will keep the CONTRACTOR advised concerning the progress of GPA's review of the work. The CONTRACTOR agrees that GPA's inspection, review, acceptance or approval of CONTRACTOR'S work shall not relieve CONTRACTOR'S responsibility for errors or omissions of the CONTRACTOR or its sub-CONTRACTOR(s).
- C. Unless included in the CONTRACTOR'S Services as identified in Section I, GPA shall furnish the CONTRACTOR gratis available GPA data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.

SECTION VI - INVOICING AND PAYMENT TERMS & CONDITIONS

All invoices shall include supporting documents (i.e. timesheets, shipping invoices, consumable listings). All supporting documents must be reviewed and approved by the GPA Project Manager prior to invoice submittal for charges. All invoices will be paid net 30 days from date invoice is received at the GPA Accounting Department. Payment shall be made using a method mutually agreed upon by GPA and the CONTRACTOR.

SECTION VII - TERMINATION

The Procurement Officer may, when the interest of GPA or the Territory so require, terminate this contract in whole or in part, for the Convenience of the Territory. The Procurement Officer shall give written notice of the termination to the CONTRACTOR specifying the part of the contract terminated and when termination becomes effective. **[GSA Procurement Regulations 6-101.10.]**

Immediately after receiving such notice, the CONTRACTOR shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The CONTRACTOR shall appraise the services it has completed and submit an appraisal to GPA for evaluation. GPA shall have the right to inspect the CONTRACTOR'S work to appraise the services completed.

CONTRACTOR shall deliver to GPA all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONTRACTOR under the CONTRACT, entirely or partially completed, together with all unused materials supplied by GPA.

In the event of such termination or abandonment, the CONTRACTOR shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONTRACTOR based upon the scope of work set forth in Exhibit A, and shall be agreed upon mutually by the CONTRACTOR and GPA. However, in no event shall the fee exceed that set forth in Section III.

GPA shall make final payment within thirty (30) days after the CONTRACTOR has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event this CONTRACT is terminated, GPA shall have the option of completing the work, or entering into a contract with another party for the completion of the work according to the provisions and agreements herein.

SECTION VIII - CHANGES

GPA may at any time, by written order, make any changes or deletions in the services to be performed hereunder. If such changes or deletions cause an increase or decrease in the costs of doing work under this CONTRACT, or in the time required for this performance, an equitable adjustment shall be made as agreed to by the parties and the CONTRACT shall be modified in writing accordingly.

SECTION IX - ASSIGNMENT OF AGREEMENT

Consultant may not assign this Agreement, or any sum becoming due to under the provisions of this Agreement, without the prior written consent of GPA.

SECTION X - FORCE MAJEURE

Neither party shall be liable for any delay in meeting or failure to meet its obligations under this Agreement due to a force majeure.

SECTION XI - TAXES

OFFEROR shall be liable for Guam Gross Receipt Taxes and all other applicable taxes and duties. Guam Power Authority shall have no tax liability under this order. Specific information on taxes may be obtained from the Director of Revenue and Taxation.

GPA is a government agency exempted from ALL government taxes as stipulated in the Guam Code Annotated.

SECTION XII – NOTICES

Any notice, demand or other document required or permitted to be delivered hereunder shall be in writing and may be delivered personally (not to include facsimile transmission) or shall be deemed to be delivered when received postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at their respective address as specified herein:

TO: Dave Meisters
COPY: 1539 Purple Sage Ct., Fort Collins, CO 80526
FAX: N/A

TO: Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932-2977
ATTN: General Manager
FAX: (671) 648-3165

SECTION XIII – GOVERNING LAW

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of Guam.

SECTION XIV - SUPPLEMENTAL CONTRACT PROVISIONS

The supplemental contract provisions to this CONTRACT are attached hereto and incorporated herein by reference as if fully set forth.

SECTION XV – INDEMNIFICATION

The CONSULTANT shall indemnify and hold GPA harmless from any claim, liability or product liability, loss, damage, demand, cause of action or suit, expense or reasonable fee of legal counsel arising out of or in connection with the goods or services the CONSULTANT provides.

SECTION XVI – DISPUTES

All controversies between GPA and the CONSULTANT which arise under, or are by virtue of this CONTRACT and which are not resolved by mutual agreement shall be resolved under Guam Procurement Law and the Government Claims Act, and pursuant to the laws of Guam.

SECTION XVII – RELEASE OF INFORMATION

The CONSULTANT shall not release any information, including the contract price, concerning this project or any part thereof in any form, including advertising, news releases, or professional articles, without written permission from GPA.

SECTION XVIII – INSURANCE

The CONSULTANT shall not commence work under this CONTRACT until he has obtained reasonable insurance for Auto Liability and Worker's Compensation and Employer's Liability up to the statutory limits. The CONSULTANT shall maintain all insurance required during the course of the work.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this day **September 01, 2021**. The CONSULTANT warrants that the person who is signing this CONTRACT on behalf of the CONSULTANT is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.



Dave Meisters
President
AMSTech, LLC
27-2159709

August 11, 2021

DATE



for JOHN M. BENAVENTE, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

8/24/2021

DATE

APPROVED AS TO FORM:



D. GRAHAM BOTHA, ESQ.
STAFF ATTORNEY
GUAM POWER AUTHORITY

8/24/2021

DATE