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Messages and Communications

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To: 34th Guam Legislature Clerks <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>

Thu, Aug 31, 2017 at 9:05

Hafa adai Clerk's: Please disregard earlier M&C GL# 34-17-937 and accept this, thanks.

GL#34-17-937

8/31/2017	8/31/2017	Consolidated Commission on Utilities	CCU Meeting 8/25/2017*	34-17-937

On Thu, Aug 31, 2017 at 9:02 AM, BENJAMIN CRUZ <speaker@senatorbjcruz.com> wrote:

CCU.Meeting.Aug.25.2017.MC 937.pdf

8/31/2017	Consolidated Commission on Utilities	CCU Meeting 8/25/2017*	34-17-937

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OFFICE OF SPEAKER BENJAMIN J.F. CRUZ

Committee on Appropriations and Adjudication

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Speaker Benjamin J.F. Cruz

AUG 31 2017

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0937

BENJAMIN CRUZ <speaker@senatorbjcruz.com>

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Dear Governor Calvo & Speaker Cruz,

This is to comply with 5 GCA, Chapter 8, Section 8113.1 – Reporting Requirements for Boards, attached are files related to the CCU Meeting of August 25, 2017:

1. Audio recording
2. Meeting materials
3. Minutes of 7/25/17
4. GPA&GWA Resolutions

Respectfully,

B. Lou Sablan
Board Secretary
Consolidated Commission on Utilities
Admin Asst., Legal Counsel, GPA

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7 files

Resolution 52-FY2017 Realtive to System Dev Charge (SDC) Implementation Guide...
Minutes July 25, 2017.pdf
CCU 8.29.17_Reg2.MP3
Resolution 2017-34 Relative to Phase III Renewable Acquisition Solar PV Bid.pdf
Resolution 2017-33 Relative to Supply_Delivery of Diesel Supply Oil #2.pdf
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Regular Board Meeting
CCU Conference Room, Gloria B. Nelson Public Service Building
5:30 p.m., July 25, 2017

MINUTES

1. **CALL TO ORDER**

The Chairman called the regular monthly meeting of July 25, 2017 to order at 5:30 p.m. He announced that all four (4) Commissioners were present – Vice Chairman Francis Santos, Comm. Judi Guthertz, George Bamba and himself. For the record, Comm. Sanchez was also present; he arrived at 5:37p.m.

Those present include:

Commissioners:

Joseph T. Duenas	CCU Chairman
Francis Santos	CCU Vice Chairman
George Bamba	CCU Secretary
Judi Guthertz	CCU Treasurer
Simon Sanchez	Member

Executive Mgmt.:

John Benavente	GM / GPA
Miguel Bordallo	GM / GWA
John Kim	CFO / GPA
Melinda Camacho	AGMO / GPA
Graham Botha	Staff Attorney / GPA
Kelly Clark	Staff Attorney / GWA

Management & Staff:

Paul Kemp	AGM Compliance & Safety / GWA
Manny Apuron	IT / GWA
Geigy Salayon	Asset / GWA
Ron Topasna	P&T / GWA
Vincent Pangelinan	GWA
Art Perez	PIO / GPA
Zina Charfauros	Personnel Admin. / GWA HR
Jacqueline Taisacan	Customer Service / GWA
Linda Benavente	Customer Service / GWA
Karen Grape	GWA / IT
Joyce Sayama	Mgmt. Analyst / GPA Ex. Office
Ann Borja	Mgmt. Analyst / GWA Ex. Office
Lou Sablan	Board Secretary / CCU

Guest:

Bill Gilman	Brown&Caldwell
George Watson	Brown&Caldwell
Dela Cruz, WW	KUAM
Andy Niven	Commissioner / PUC
Bill Chang	Brown&Caldwell
Annmarie Muna	AM Insurance
Angela Perez	AM Insurance

2. APPROVAL OF MINUTES

2.1 June 6, 2017

2.2 July 6, 2017

The Minutes of the CCU Regular Meeting of June 6, 2017 and the Special Meeting of July 6, 2017 were presented for approval.

Comm. Bamba motioned to approve both Minutes subject to verification & written correction; Comm. Guthertz seconded. There was no further discussion and the motion passed.

3. COMMUNICATIONS

3.1 Public Comments - None

4. NEW BUSINESS

4.1 GPA

4.1.1 GM Report Update

The GM said he would prefer to begin discussions with action items first and the agenda moved to New Business Section 4.1.3

At the end of discussing and acting on policy items, the GM shared with the Commission his thoughts on the financial impact of the various GPA Integrated Resource Plans. Below is a synopsis.

The implementation of GPA's Integrated Resource Plan continues to move forward and substantially most of the recommendations, if not all, could be implemented within the next several years. The Chairman has asked what the financial impact would be for the various projects and therefore this report provides a snapshot of the expected annual fuel cost impact of the various programs by 2022.

The next 4 to 5 years is a critical period for energy production and a major shift away from GPA's typical energy production from decades past. The near future plan will move energy production from the typical steam boiler and slow speed engines burning the less expensive and cheaper Residual Fuel Oil (RFO) to more efficient fast starting and quick reacting generators burning clean Ultra Low Sulfur Diesel (ULSD). Renewable energy PV coupled with energy storage systems such as batteries will provide a substantial amount (approximately 25%) of our energy needs at a lower cost than conventional energy. These renewables, although not 24/7 energy will provide supplemental energy which will provide excellent hedges against high fuel oil prices.

Key issues to the paradigm shift in energy production:

- **GPA's baseload units are non-compliant with USEPA regulations and GPA could be subjected to more than $200M in penalties.** GPA and USEPA would need to sign a consent decree to avoid penalties. A plan to burn ULSD and to retire RFO burning plants has been submitted to USEPA for consideration.
- **The loss of Cabras 3 & 4 units has left GPA with inadequate baseload capacity.** It has resulted in the operations of less efficient units which burn higher cost ULSD. GPA's system used to

produce less than 2% of its energy needs from ULSD. Currently and until the new power plant begins operations in about 5 years, GPA would be producing energy from less efficient generators burning ULSD between 15% to 30% of the time.

- **GPA has received approval to construct up to 180MW on new combined cycle units or flexible generations.** These new units will work well with intermittent renewables. The new plant would be more efficient and burn less fuel although the more expensive ULSD fuel. This more expensive ULSD fuel complies with USEPA regulations. The new plant would allow the retirement of the aged 42 year old Cabras 1 & 2 plant.
- **The price of utility scale solar PV renewables has dropped substantially.** CCU has awarded 120MW of solar PV power purchase agreements (Phase II), subject to PUC approval, at prices below the current LEAC. These contracts will certainly reduce energy cost in the near future and furthermore provide a long term hedge against rising fuel oil prices.

GPA will soon be issuing a bid for a power purchase agreement for about 40MW Solar PV system to be constructed on land recently leased from the US Navy. This system is expected to have load shifting capabilities so that the energy produce by the system could be released at peak time in lieu of higher cost peaking units production.

All renewables production offset conventional production fuel cost. All renewables production is considered LEAC related cost because they offset fuel cost. Renewables directly offset fuel cost and have the added benefit to Guam's economy thru the creation of jobs and business.

I have calculated the impact of the following scenarios in FY 2022:

- Annual volume of fuel oil used, annual total energy cost, average annual $/Kwh and the annual reduction of fuel oil barrels consumed.
- Net generation of 1,609,172,895 kWh; RFO @ $55/bbl.; ULSD @ $75/Bbl.

Scenario:	Description
A	FY 2017: Baseloads (RFO); Others (ULSD); NRG Renewables
B	FY 2020: Baseloads **(RFO)**; Emergency/Peakers (ULSD); Renewables: NRG-HANWAH-KEPCO-Phase III
C	FY 2020: Baseloads **(ULSD)**; Emergency/Peakers (ULSD); Renewables: NRG-HANWAH-KEPCO-Phase III
D	FY 2022: New 180MW Plant and MEC **(ULSD)**; Emergency/Peakers (ULSD) ; Renewables: NRG-HANWAH-KEPCO-Phase III
E	FY 2022: New 180MW Plant and MEC **(Natural Gas)**; Emergency/Peakers (ULSD) ; Renewables: NRG-HANWAH-KEPCO-Phase III

Scenario:	Gallons Consumption	Annual Cost	Annual Variance	Avg $/Kwh	Total BBLs.	BBL. Variance
A	110,884,018	$168,819,330		$0.105	2,640,096	0
B	81,414,199	$157,383,401	-$11,435,929	$0.098	1,938,433	-701,663
C	85,456,936	$197,519,886	$28,700,556	$0.123	2,034,689	-605,407
D	69,445,444	$168,881,229	$61,899	$0.105	1,653,463	-986,633
E	3,719,437	$141,495,393	-$27,323,937	$0.088	88,558	-2,551,538

Scenario A: This is the base case which assumes fuel oil prices in 2020 are what it is today. The loss of Cabras 3&4 has left us with inadequate baseload capacity resulting in emergency and standby units having to operate on a regular basis. It is estimated that non-baseload units will have to

produce as much as 25% of the energy needs in the next 4 to 5 years until the new 180MW power plant is commissioned.

Scenario B: This scenario shows the savings, at today's fuel oil prices, which could occur from HANWHA, KEPCO and Phase III renewables. Savings calculates to about $11M annually. Higher fuel oil prices increase the savings.

Scenario C: This scenario shows what annual fuel cost would be should USEPA require us to immediately convert Cabras 1&2 and MEC 8&9 to ULSD. This calculates to about $40M in additional cost in one year.

Scenario D: This shows that the installation of the new more efficient 180MW plant burning ULSD and the award of Phase II and Phase III renewables would keep fuel cost at about today's level. This scenario has substantial fuel cost savings in comparison to Scenario C which is retaining existing units and converting all baseload units to ULSD.

Scenario E: This scenario is similar to Scenario D, but estimates fuel cost of about $27M by converting to natural gas. The CCU has directed management to continue to monitor the cost effectiveness of burning natural gas on the expected new 180MW power plant. As has been noted, the new plant will have dual fired capabilities of ULSD and natural gas. The conversion to natural gas would require an investment of about $200M. However, fuel oil prices are approaching that level in which natural gas burning plants would provide substantial savings to ratepayers. If WTI Crude prices jump to $60/Bbl., burning natural gas provides an estimated $47M annual fuel cost savings.

In conclusion, GPA's Integrated Resource Plan has laid out a realistic and achievable plan which would keep rates reasonable and affordable. Its implementation would insure ratepayers will not experience the difficulties of a fuel oil crisis rates similar to the one a few years ago when fuel oil prices exceeded $100/Bbl. and residential customer rates exceeded $0.29/Kwh.

Chairman Duenas thanked the GM and management for bring this report to the CCU. He said it is important that ratepayers know and understand that there is a method to our madness and that our actions are based on efforts to save the rates reasonable and affordable for everyone.

Comm. Bamba said it seems management is using renewables as a hedge on fuel and asked what kind of savings the GM anticipates GM Benavente said in 2020 he anticipates that 25% of island-wide power system power would come from renewables.

4.1.2 Financials

There was no discussion.

4.1.3 RATIFICATION OF POLL VOTE: Resolution 2017-27 Relative to Procurement of Additional Ultra Low Sulfer Fuel

Resolution 2017-27 was a poll vote matter that happened on July 20, 2017 and presented today for official ratification.

Comm. Santos moved to accept Resolution 2017-27; Comm. Guthertz seconded. For the record the ratification / vote was (4) yes and (1) abstention by Comm. Bamba. The resolution passed.

GPA continues to address the maintenance necessary to keep generating units efficient and reliable, the increase in demand for ultra-low sulfur fuel oil also continues to increase. GPA has initially purchased

additional ULSD product from IP&E for up to 105,000 barrels. However, additional quantities may still be needed through the Cabras Overhaul Period, and to ensure adequate contingency inventory for GPA through December 31, 2017. Other third party suppliers may not be able to accommodate GPA's requests hence it is necessary to continue purchasing via IP&E as well, to ensure uninterrupted fuel supply. The fuel will be delivered to Guam, stored in GPA and IP&E's leased storage facilities, and under GPA's direction, IP&E may be requested to deliver to certain locations.

The supply of fuel is estimated to cost $76.30 per barrel, and GPA requests for additional shipments through December 2017 of up to 300,000 barrels. Total cost is $22,890,000. The delivery will cost $0.17 per gallon, or a total cost of $2,142,000. The total costs for supply and delivery will be a maximum of $25,032,000 and will be expensed through GPA's fuel budget.

For the record, the Commission ratified the poll vote of (4) yes and (1) abstention.

4.1.4 Resolution 2017-28 Approval of Phase II Power Purchase Agreement

On June 6, 2017 the CCU approved Resolution no. 2017-25 authorizing GPA to petition the Public Utilities Commission (PUC) to award Phase II Renewable Acquisition Bid of two 30MW proposals each to Hanwha Energy Corporation and KEPCO-LG CNS Consortium for a total of 120 megawatts (MW). GPA and KEPCO-LG CNS Consortium have completed and agreed to commercial terms and conditions of the Power Purchase Agreements (PPA). GPA seeks approval to submit KEPCO-LG CNS Consortium's PPA to the PUC for their approval.

GPA continues to work with its consultant on the System Impact Study to define the interconnection requirements in an Interconnection Agreement; however these requirements will not change the terms and conditions of the PPA, including contract price and performance guarantees and penalties. The PPA will require KEPCO-LG CNS Consortium to agree to the Interconnection Agreement as a condition to the signing of the PPA which is for a 25-year term.

The KEPCO_LGCNS 2x30MW solar projects are located at Sasajyan, Mangilao and will be funded through LEAC. The cost is noted in the price proposal below

Site A

Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)	Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)
1	85.50	74,542.29	6,373,301.30	16	99.26	68,788.84	6,828,106.93
2	86.35	73,974.68	6,388,018.45	17	100.25	68,601.94	6,877,649.88
3	87.22	73,604.26	6,419,591.74	18	101.26	68,048.01	6,890,337.29
4	88.09	73,233.84	6,451,157.70	19	102.27	67,677.59	6,921,358.30
5	88.97	73,058.88	6,500,102.43	20	103.29	67,307.18	6,952,310.69
6	89.86	72,493.01	6,514,254.33	21	104.33	67,116.29	7,001,919.62

7	90.76	72,122.59	6,545,778.20	22	105.37	66,566.34	7,013,991.65
8	91.67	71,752.18	6,577,281.12	23	106.42	66,195.92	7,044,711.02
9	92.58	71,573.23	6,626,486.53	24	107.49	65,825.51	7,075,343.38

Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)	Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)
12							
1	85.50	74,542.29	6,373,301.30	16	99.26	68,788.84	6,828,106.93
13							
2	86.35	73,974.68	6,388,018.45	17	100.25	68,601.94	6,877,649.88
14							
3	87.22	73,604.26	6,419,591.74	18	101.26	68,048.01	6,890,337.29
15							
4	88.09	73,233.84	6,451,157.70	19	102.27	67,677.59	6,921,358.30
5	88.97	73,058.88	6,500,102.43	20	103.29	67,307.18	6,952,310.69
6	89.86	72,493.01	6,514,254.33	21	104.33	67,116.29	7,001,919.62
7	90.76	72,122.59	6,545,778.20	22	105.37	66,566.34	7,013,991.65
8	91.67	71,752.18	6,577,281.12	23	106.42	66,195.92	7,044,711.02
9	92.58	71,573.23	6,626,486.53	24	107.49	65,825.51	7,075,343.38
10	93.51	71,011.34	6,640,209.75	25	108.56	65,630.64	7,124,941.98
11	94.44	70,640.93	6,671,628.12				
12	95.39	70,270.51	6,703,010.83				
13	96.34	70,087.58	6,752,417.40				
14	97.31	69,529.68	6,765,653.80				
15	98.28	69,159.26	6,796,906.12				

GM Benavente updated the Commission on the status to date with price negotiations and also mentioned that a protest received today from Shanghai Group which has forced him to issue a stay of procurement. GPA will respond to the protest diligently until it is resolved. For now, management asked to table this Resolution pending outcome of the protest.

Discussion followed relative to anticipated length of the protest, Comm. Bamba asked management if there is a timeframe relative to the protest stating his concern is that this matter will save the ratepayer

money – 6.5 cents v. 12-14 cents. Shanghai Group cited several reasons and GPA will go through each one with due diligence until the matter is satisfactorily resolved.

Comm. Bamba said if this protest is due to price difference it is a given that they did not win the bid so why the protest.

Comm. Guthertz said we are obligated by law that a process be followed. We have to ensure our agency uses proper diligence to follow procedures and respond appropriately. It is true that there are times when protests are used as a tool to detain action but either way, we have to choice.

Comm . Bamba said at the end assuming the protest is resolved in favor for GPA will the price agreement still hold. The GM said there is always that possibility especially when there's a price validity date. In this case, the validity date is in September. If the protest encroaches on this date GPA's recourse could be to ask for an extension.

After a lengthy discussion, this matter was tabled pending resolution of the protest.

4.1.5 Resolution 2017-29 Relative to Zero Tolerance Drug Policy

It is the policy of GPA and GWA to provide a safe, healthy and secure work environment for all employees. It is also the policy of GPA and GWA to ensure that all employees perform their job duties in a safe, efficient and productive manner. GPA and GWA have drafted a new joint DRUG AND ALCOHOL FREE WORKPLACE policy that makes changes from the previous policy that allowed employees to a complete a drug treatment program, and remain employed provided they successfully completed a drug treatment program. The new draft DRUG AND ALCOHOL FREE WORKPLACE POLICY provides for a zero-tolerance drug policy, such that if an employee tests positive for drugs they will be terminated as employees of GPA and GWA. The General Managers of GPA and GWA were directed to receive input from employees and provide the Consolidated Commission on Utilities (CCU) with a proposed final policy by the September 2017 CCU meeting. Management is directed to begin training on the new DRUG AND ALCOHOL FREE WORKPLACE policy to be implemented October 1, 2017.

There was discussion on the importance of educating all employees and to allow those who need to seek help to do so in an effort to prepare for the Oct.1 implementation date. GM Benavente said he would also like to give employees a chance to comment and to bring the policy back to the Commission with any recommended amendments in the September meeting for final CCU approval.

Chairman Duenas said if the CCU approves the resolution tonight the policy would already be approved and management can implement it without further action from the CCU.

Comm. Guthertz asked if HR was involved in the creation of the policy and if the employees gave input on the proposed policy. The GM said that this issue was presented to employees at his last briefing ande mentioned to them that management's direction is a zero tolerance policy. Comm. Guthertz said she supports a zero tolerance policy but thinks it is important to garner employee buy-in by allowing them to comment on the draft policy before the CCU adopts it.

Comm. Santos asked the GM's what did management do to let the employees know about this major shift – were there HR meetings held because this is a huge change . He said he too agrees with the zero tolerance policy but employees need to know.

Comm. Guthertz said if this is approved tonight then we really need an effective education for our employees.

Comm. Sanchez read a portion of the policy that speaks of aftercare treatment and said the verbiage of the policy does not coincide with zero tolerance.

The discussion went back and forth and at the end it was clear that the language of the draft policy, as written, was confusing and the implementation process unclear. Management was directed to revisit the policy and make the language more clear. Resolution 2017-29 was tabled.

4.1.6 Resolution 2017-30 Relative to Establishment of Business MasterCard

In March 2016, the Guam Power Authority (GPA) and Guam Waterworks Authority (GWA) procured and awarded the merchant banking services contract with the Bank of Hawaii (BOH). During the last year, BOH has assessed an average of 1.25% in fees of the total debit and credit card payments processed, including MasterCard, VISA and Discover. Because of this, currently, GPA is only authorized to accept debit and credit card payments from residential customers because it would be too costly to include commercial customers.

BOH confirmed they are now able to offer both GPA and GWA the Utility Interchange rate when utility bills are paid with MasterCard. A large commercial customer would generate fees of approximately between $50 - $100 using a commercial or business MasterCard. GPA estimates the total cost to the Authority will be approximately $160,000 annually assuming all commercial accounts use MasterCard.

GPA feels with the favorable Utility Interchange rates for MasterCard it can now offer to commercial customers the convenience of paying their power bills with MasterCard debit and credit cards at a reasonable cost. GPA is now requesting for the authority to extend the use of MasterCard debit and credit cards as payment for commercial accounts. This flat rate fee is $0.65/transaction for MasterCard consumer credit cards, $0.45/transaction for MasterCard debit cards and $1.50/transaction for MasterCard commercial and business cards plus BOH's nominal processing fee passed on to GPA and will be implemented as soon as approved by the CCU. The funding source for all merchant banking expenses would be revenue funds.

Comm. Sanchez motioned to approve Resolution 2017-30; Comm. Guthertz seconded.

It was mentioned that management has been struggling with the issue of high merchant fees for a very long while and welcomes the chance to pass on these proposed low fixed rates to ratepayers, especially businesses. If Resolution 2017-30 is approved, it would allow all customers to be able to transact payments using MasterCard. Comm. Sanchez asked how long the agreement would be with Bank of Hawaii; the CFO confirmed there are (4) 1-year options

The Commission congratulated management for this great accomplishment and asked them to report on related savings accrued for each respective agency at a future meeting.

On the motion there was no further discussion or objection and the motion passed.

4.1.7 Resolution 2017-31 Relative to Lease of Additional Storage Tank from Tristar Terminals

GPA is currently renting tanks for Ultra Low Sulfer Diesel (ULSD) storage, with a combined total usable capacity of about 95,000 bbls. From the months of April through June of 2017, the ULSD consumption was between 75,000 to 92,000 barrels per month. Because of the significant changes in consumption due to baseload plant outages, MW demand and other reasons, GPA's current ULSD supplier storage capacity is insufficient to meet GPA's supply volume requirement. It has become necessary for GPA to store contingency inventory for ULSD. As with RFO, GPA intends to store about 60 days of ULSD inventory level, comprising of 30 days operating and 30 days reserve, to ensure uninterrupted fuel supply in the event of extended baseload outages and increased ULSD consumption based on the current ULSD consumption of approximately 3,000 bbl per day, GPA would need to increase the storage currently leased from TTGI to approximately 180,000 bbls. The increased storage capacity will also allow for the replenishment of

inventory within 30-45 days shipment turn-around, minimizing additional costs associated with frequent fuel shipments.

The intended tank for lease is located at Agat, at the TTGI facilities. It's maximum capacity is 200,000 bbls with a Safe Fill Capacity of 196,000 bbls. The lease cost is $6/bbl year or $1,176,000 annually, excluding costs for the transfer of fuel. The funding source for this expense will come from the Fuel Budget Fees and LEAC.

A minimum of six months' lead time is required for TTGI to refurbish the tanks. Once available, GPA plans to lease the tank for four (4) years, until the fuel farm inspections and refurbishment are completed, as well as the plans for other generating units and the new power plant.

Comm. Santos asked when GPA plans to build their own tanks. At what point will GPA start investing in their own tanks. With plans for new generation, will GPA own their own tanks. The GM said yes. GM Benavente explained that the current tanks that GPA owns were used to store RFO fuel and the cleaning process for existing tanks to prep them for ULSD fuel takes time. He said he the cleaning process to transition the tanks could take 3-4 years.

Comm. Guthertz motioned to approve Resolution 2017-31 for discussion; Comm. Sanchez seconded.

Comm. Sanchez asked management to start planning for GPA's tank needs I the future and how the current tanks available fits into the plan which he asked management to bring back to the Commission in a few months. GM Benavente concurred. He said that GPA needs more space to hold fuel and now with approval of this resolution, they will have it.

On the motion, there was no further discussion or objection and the motion passed.

4.1.8 Resolution 2017-32 Relative to Contract Ext. for GPA Fuel Bulk Storage Facility

The Guam Power Authority's current contract for the Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility is expired in May 2017. The solicitation for a new contract was completed and award to the lowest bidder was approved via CCU Resolution 2017-10. However, a protest has been filed and is still in progress. The extension of the current contract is necessary to ensure that GPA continues to receive services required for the proper operation, maintenance and security of the Fuel Bulk Storage Facility, to ensure uninterrupted, reliable fuel supply to the GPA plants. The contractor will continue to manage the fuel bulk storage facility located at Cabras.

For the 5th year of the contract, the annual cost was $684,056.47, or about $57,005 per month. Extension through December 31, 2017 would cost $399,035. This does not include costs for any project above $5,000. Extension is requested through December 31, 2017, on a month-to-month basis as required. The fund source for this request will be from Fuel Handling Fees, under the Fuel Budget and LEAC.

Comm. Guthertz motioned to approve Resolution 2017-32; Comm. Sanchez seconded. There was no further discussion or objection and the motion carried. On the vote, there were (4) ayes and (1) abstention. For the record, Comm. Bamba abstained.

At this point in the meeting, the Chairman called for a 5-miinute recess; it was 6:52 p.m.

4.2 GWA

The meeting was called back to order at 7:03 p.m. and GWA matters were discussed.

4.2.1 **GM Report Update** - GM Miguel said there was no change from report provided at the GWA Work Session

4.2.2 **Financials** - CFO Cruz reported no change from report provided at the GWA Work Session

4.2.3 **Resolution 42-FY2017 Relative to Zero Tolerance Drug Policy** - Tabled

4.2.4 **Resolution 43-FY2017 Relative to Funding of Yigo & Astumbo Reservoir Construction Project**

The objective of the funding increase is to provide for the additional construction management services specific to the new Yigo No. 3 reservoir which will be captured in a proposed Change Order No. 2. The reason a funding increase was needed is GWA management executed Change No. 1 to Pernix Guam's contract which "advanced" the construction of Yigo No. 3 reservoir and its associated work, in order to realize economies of scale resulting in overall cost reduction for the construction work. Construction of Yigo No. 3 was to potentially occur at a later phase once Yigo No. 1 was completed. The CM services for Yigo No. 3 was not taken into account in the initial Construction Management (CM) services scope thus GWA negotiated with its construction manager, GHD, to continue CM services for the Yigo No. 3 reservoir, along Route 1 near the entrance to Anderson Air Force Base, Yigo.

Given there is still a balance in the current contingency fund, the additional funding increase request is Two Hundred Ninety Three Thousand Six Hundred Ninety One Dollars ($293,691.00). GWA management also seeks a ten percent (10%) contingency to the additional fund request of Twenty Nine Thousand Three Hundred Sixty Nine Dollars and Ten Cents ($29,369.10), to bring the additional total fund request to Three Hundred Twenty Three Thousand Sixty Dollars and Ten Cents ($323,060.10).

With this funding increase on top of the original approval of One Million Five Hundred Twenty Six Thousand Seven Hundred Eighty Dollars and Twenty Cents ($1,526,780.20), the increased funding total for the CM services is One Million Eight Hundred Forty Nine Thousand Eight Hundred Forty Dollars and Thirty Cents ($1,849,840.30). The funding for this project will be from the bond funds
The CM services will continue up until July 2018.

Comm. Sanchez motioned to approve Resolution 43-FY2017; Comm. Bamba seconded.

The Commission said they reviewed and discussed this resolution in detail during the work session and has no further discussion.

On the motion, there was no further discussion or objection and the motion passed.

4.2.5 **Resolution 44-FY2017 Relative to Route 2 Sewer Line Replacement Project**

The objective of this project is to replace approximately 16 manholes and approximately 2,200 linear feet of sewer pipelines along Route 2, in the village of Agat. Construction activities will be limited to the government easements of the sewer infrastructure elements identified by GWA, through an SSES investigation, to be subjected to excessive infiltration and inflow (I&I) and surcharging. Successful completion of this project will result in reduced I&I within the wastewater collection system and decreased storm water volume that enters into the collection system tributary to the Agat-Santa Rita WWTP GWA and USEPA agree that efforts to rehabilitate, repair or replace the sewer line are necessary.

The construction services contract was proposed by ProPacific Builder Corporation at a total amount of Four Million Five Hundred Fifty Four Thousand Four Hundred Fifty One Dollars ($4,554,451.00). This contract amount, which is primarily based on unit pricing, includes the furnishing of all labor, tools, equipment and materials, and agency coordination needed to complete the sewer infrastructure

replacement in the aforementioned locations. The construction contract length of this project is 365 calendar days after an NTP is issued to the contractor. Estimated completion of construction is in Fall 2018.

GWA management is also seeking a ten percent (10%) contingency of the total contract amount of Four Hundred Fifty Five Thousand Four Hundred Forty Five Dollars and Ten Cents ($455,445.10), which brings the total authorized funding amount to a maximum of Five Million Nine Thousand Eight Hundred Ninety Six Dollars and Ten Cents ($5,009,896.10). It was said that the funding for this project will be from USEPA SRF Grant Funds and, if necessary, GWA Bond Funds applicable to the project.

Comm. Sanchez motioned to approve Resolution 44-FY2017; Comm. Bamba seconded.

It was again mentioned that the Commission reviewed and discussed aspects of the details of this request at the GWA Work Session and are ready to render a vote.

On the motion, there was no further discussion and the motion passed unanimously.

4.2.6 Resolution 45-FY2017 Relative to On-site Representative/CM Umatac-Merizo WWTP Design Build Proj

The objective of this project is to provide construction management services for upgrades to the Umatac-Merizo WWTP. It is a Design-Build contract so the Owner Site Representative/construction manager services are necessary, and will focus on monitoring the progress of the design work, construction progress on the site by the Design-Builder, to ensure compliance with plans and specifications, reviewing the construction schedule relative to actual construction progress, reviewing Design-Builder pay applications in comparison with construction work performed, receiving and logging Design-Builder submittals, and keeping GWA advised and informed as to project progress and cost, just to name a few activities.

The approval of the Owner Site Representative (Construction Management) Services Contract and ultimately execution of the contract will tie into the completion schedule for this Court Order project. There is an immediate need for the CM given the WWTP upgrades are currently under design.

The construction management services proposal by SSFM International is One Million Two Hundred Seventy Eight Thousand Fifty Dollars ($1,278,050.00). GWA management is also seeking a 10% contingency of One Hundred Twenty Seven Thousand Eight Hundred Five Dollars ($127,805.00), for a total funding amount of One Million Four Hundred Five Thousand Eight Hundred Fifty Five Dollars ($1,405,855.00). The funding for this project will be from the GWA Bond Funds, System Development Charge Funds, as applicable, and Internally Funded CIP. The project completion is anticipated to be December 2018.

Comm. Sanchez motioned to approve Resolution 45-FY2017 and Comm. Guthertz seconded. There was no further discussion or objection and the motion passed.

4.2.7 Resolution 46-FY2017 Relative to Change Order D-Series Well Rehabilitation Project

When approved Resolution 46-FY2017 will enable a well maintenance rig (well pump hoist) to the Island-wide Well Site Rehabilitation project. The rig has been identified as critical equipment for GWA to regularly perform well maintenance and timely repairs. Additional funding is needed for Change Order No. 6 and additional electrical work. The additional electrical work was determined to be necessary after award of the contract to complete the power supply requirements for the project. Due to the urgency of completing the power supply to the well sites located at Groundwater Wells D-03, D-17, D-18, D-22, and M-09 within the villages of Dededo and Mangilao. Additional funding is requested before a formal change order is requested.

The funding for this project will be from USEPA Grant and, if necessary, GWA Bond Funds applicable to the project. The original contract value for this project is Four Million Six Hundred Eighty Nine Thousand Eight

Hundred Eighty Eight Dollars ($4,689,888.00), plus a ten percent (10%) contingency of Four Hundred Sixty Eight Thousand Nine Hundred Eighty Eight Dollars and Eighty Cents ($468,988.80).

The proposed Change Order No. 6 will require funding in the amount of Eight Hundred Seventeen Thousand One Hundred Forty Seven Dollars ($817,147.00) to proceed with the purchase of the well maintenance rig and supporting equipment.

The additional electrical work necessary to complete the well power supply is estimated to be Two Hundred Thousand Dollars ($200,000.00). This brings the total authorized funding amount to a maximum of Six Million One Hundred Seventy Six Thousand Twenty Three Dollars and Eighty Cents ($6,176,023.80).

The shipment of the rig and supporting equipment will arrive four months after the approval of this Change Order. The electrical work is expected to be completed in October 2017.

Comm. Bamba motioned to approve Resolution 46-FY2017; Comm. Sanchez seconded. There was no further discussion or objection and the motion passed.

4.2.8 Resolution 47-FY2017 Relative to Design Services Northern District WWTP Upgrades

This project is to design the necessary upgrades to the NDWWTP to secondary treatment as part of the wastewater improvements in support of the relocation of U.S. Marines and their dependents to Guam and which is funded through a General Assistance Grant from the U.S. Department of Defense, Office of Economic Adjustment. The project is located at the existing Northern District WWTP as well as the adjacent property northwest of the existing plant that is going through final acquisition proceedings.

The scope of work in general involves engineering design, permitting, and engineering services during construction. The urgency of approving the project intent and fee range is GWA's internal milestone deadline to issue the Notice to Proceed to the design firm by the end of July 2017 to meet timelines established in the Office of Economic Adjustment grant requirements and coordinated with the Guam Water and Wastewater Intergovernmental Support Team.

The final cost for the engineering design services is being negotiated, and GWA management seeks the support of the CCU to approve the intent of the design project and approve and authorize the funding not to exceed GWA Engineering's estimate and grant budget amount of Nine Million Dollars ($9,000,000.00). GWA Management's negotiations so far indicate a fair and reasonable cost for engineering design and services during construction for the negotiated scope of work below the budgeted amount. The design firm will be required to provide services to the overall project which has a completion deadline of December 31, 2021.

Comm. Guthertz moved to approve Resolution 47-FY2017; Comm. Bamba seconded. There was no further discussion or objection and the motion passed.

Comm. Bamba commended GM Bordallo for moving this project forward.

4.2.9 Resolution 48-FY2017 Relative to Funding Agat-Santa Rita WWTP ConstrMgmtContract

Management is asking the Commission for an increase to fund the additional construction management services by GHD to oversee construction activities at the Agat Santa Rita WWTP along Route 2 where off-site waterline improvements are on-going. The reason for the required funding increase is that GWA management executed Change Order to the Contractor, Sumitomo Construction that extended their contract completion date to December 2017 due to permitting and rain delays. Therefore in order to have continued CM services during the extended contract period, GHD contract services must also be extended to cover this period.

There is currently potential for further delays by the contractor related to adverse weather conditions and the H2-B visa program, which could impact the construction completion period for SMCC an additional one to three months past their current December 2017 deadline. If such potential delays are confirmed, CM services may also be needed to cover this additional period.

The funding for this project will be from the bond funds under the line item - WW 11-08 "Agat/ Santa Rita STP Replacement". The additional fund amount requested is Five Hundred Eighty One Thousand Four Hundred Thirty One Dollars ($581,431.00) plus Four Hundred Thirty Two Thousand Nine Hundred Eighty One Dollars ($432,981.00) to cover CM services should there be an extension to the SMCC contract completion period for a total funding increase of One Million Fourteen Thousand Four Hundred Twelve Dollars ($1,014,412.00)

With this funding increase on top of the original approval of Three Million Two Hundred Eighty Eight Thousand Six Hundred Fifty Three Dollars ($3,288,653.00), the funding total for the CM services is Four Million Three Hundred Three Thousand Forty Seven Dollars ($4,303,047.00). The CM services will continue up until December 2017 however should there be any extension to the construction contractor's completion the CM services will cover up until March 2018.

Comm. Sanchez moved to approve Resolution 48-FY2017; Comm. Guthertz seconded. There was no further discussion or objection and the motion passed.

4.2.10 Resolution 49-FY2017 Relative to Ratification of Expenditures for Chlorine Contract

Liquid Chlorine is necessary for the treatment of drinking water to disinfect improprieties and is a requirement by the Safe Drinking Water Act and required by local and federal laws. Its procurement will benefit the various well locations island-wide.

The 3 Year contract cost for this procurement is 150lbs. Chlorine Cylinder $558.75 each, 1 Ton Chlorine Cylinder $5,807.40 each. The Bid Specified amount estimated for 150lbs. is 1,260 cylinders per annum and for 1 Ton it is 12 cylinders per annum

The total expenditure for the 3-year contract term is $2,460,984.00 (Average $820,328/yr.) and the term for 2 year for renewal with a 5% price increase is 150lbs. Chlorine Cylinder $586.68 each and 1 Ton Chlorine Cylinder $6,097.78 each.

The Estimated Cost for 150lbs. Chlorine Cylinder $586.68/$739,216.80 annually and for 1 Ton. Chlorine Cylinder it is $6,097.78/$73,173.36 annually, totaling $812,390.16 Estimated Annually – all funded through O&M.

Comm. Bamba motioned to approve Resolution 49-FY2017; Comm. Guthertz seconded.

In discussion Comm. Guthertz asked if the contract provides for an extension if needed and GM Bordallo said yes.

On the motion there was no further discussion or objection and the motion passed.

4.2.11 Resolution 50-FY2017 Relative to Additional Purchase of Membrane Modules for Ugum WTP

If approved, Resolution 50-FY2017 will replace the balance of four hundred sixty-four (464) existing membrane filters that have met their manufacturer life expectancy at the Ugum Water Treatment Plant and to ensure the plant continues to meet Surface Water Treatment Rules and Safe Drinking Water Standards. GWA has already replaced four hundred (400) membrane filters procured under previous authorization from the CCU.

The purchase of 464 membrane filters at a cost of One Thousand Four-Hundred Twenty Dollars ($1420.00) each will cost Six Hundred Fifty-Eight Thousand Eight-Hundred Eighty Dollars ($658,880.00) and will be funded through Internally Funded Capital Improvement Projects (IFCIP). The anticipated project completion date is September 30, 2017.

Comm. Guthertz asked if this procurement will go out for bid and GM Bordallo confirmed yes. Comm. Santos asked if this was for back up and GM said it is for immediate replacement upon arrival. CCU asked when the next series of replacements would be and GM Bordallo said that because this item does have a shelf life management does not want to order too much; as far as date of next replacement, it was not mentioned.

Comm. Bamba moved to approve Resolution 50-FY2017; Comm. Guthertz seconded. There was no further discussion or objection and the motion passed.

4.2.12 Resolution 51-FY2017 Relative to Refunding of 2010 Series GWA Water& Wastewater Sys.Rev.Bonds

If approved, Resolution 51-FY2017 will refund GWA's 2010 system Revenue Bonds and capitalize on lower municipal bond interest rates which in turn will produce lower debt service. Upon the approval of the CCU, GEDA and the Public Utilities Commission, it is estimated the sale will be completed sometime around the end of September 2017 and the pricing and sale will take place in New York City, New York.

Approximately $1.7 million is estimated to pay for typical issuance costs to cover expenses and fees of GWA's Bond Underwriter, the Guam Public Utilities Commission, GWA and GEDA. The cost of the refunding will be paid from proceeds of the refunding bonds.

CFO Cruz said GWA management is requesting the CCU to allow GWA to refund 2010 revenue bond. The Bond has Call features allowing to call prior to its first redemption date. He added that the interest rate is in GWA's favor and will save $10M in debt service thru 2040. This represents $8M in savings in net present value over 22 years. CFO Cruz gave savings scenario that shows at what point savings will start to deteriorate if no action is taken.

Comm. Sanchez wants to make sure that management is clear to the PUC relative to the savings and definitions of savings. He asked about the timeline for effective date and the CFO said about 60days. Comm. Sanchez asked about the projected interest rate that may exist in the market and the CFO said the average is about 5.6% and the new anticipated rate is 4.15% .He further restated that n2 things have happ3nd interest rates are down and GWA has improved their credit rating. Because of this GWA's consultants are recommending that the balance of bonds be refinanced to take advantage of the current market status. It was noted that the last Refi in 2014 was approved by the PUC with a premium and with net present value above 2%. Prepare a summary of previous date approved by PUC showing when there were premiums applied. It is important that they understand that the premium is not paid by GWA but the investor buying the new bonds is paying GWA. He told management he wants to work very hard to be clear with PUC.

It was mentioned that this resolution does not need legislative approval but must be approved by PUC & GEDA. Comm. Guthertz asked when will this initiative with PUC occur; the response was as soon as CCU approves this resolution.

Comm. Guthertz moved to approve Resolution 51-FY2017; Comm. Bamba seconded. There was no further discussion or objection and the motion passed.

5. OLD BUSINESS – None

6. **ANNOUNCEMENTS**

6.1 **Next CCU Meetings: GWA Work Session: Aug 16; GPA Work Session: Aug 17; CCU Meeting: Aug 22**

The Chairman announced that the next meeting would be a work session for GWA on Aug. 16 and GPA on Aug 17, followed by the CCU regular monthly meeting on Aug. 22.

Commissioner Sanchez said he would be traveling and asked if the August meetings could be pushed back a week being that he would like to take part in the discussions. Chairman Duenas said he will discuss this request with management and the other Commissioners and advise.

7. **ADJOURNMENT**

There was no further business to bring before the Commission and the meeting was adjourned at 6:51 p.m.

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Attested:

JOSEPH T. DUENAS, Chairman

J. GEORGE BAMBA, Secretary

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671) 648-3002 | guamccu.org

Regular Board Meeting
CCU Conference Room, Gloria B. Nelson Public Service Building
5:30 p.m., August 29, 2017

AGENDA

1. CALL TO ORDER

2. APPROVAL OF MINUTES

3. COMMUNICATIONS
   - 3.1 Public Comments (2 min. per person)

4. NEW BUSINESS
   - 4.1 GWA
   - 4.1.1 GM Report Update
   - 4.1.2 Financials
   - 4.1.3 Resolution 52-FY2017 Relative to Update of System Development Charge (SDC) Implementation Guidelines

   - 4.2 GPA
   - 4.2.1 GM Report Update
   - 4.2.2 Financials
   - 4.2.3 Resolution 2017-33 Relative to Revision of Scope of Work and Re-Solicitation of Contract for Supply of Diesel Fuel No.2 for Baseload
   - 4.2.4 Resolution 2017-34 Relative to Phase III Renewables with Energy Storage

5. OLD BUSINESS

6. ANNOUNCEMENTS
   - 6.1 Next CCU Meetings: GPA Work Session: Sept.20; GWA Work Session: Sept 21; CCU Meeting: Sept. 26

7. ADJOURNMENT

CONSOLIDATED COMMISSION ON UTILITIES
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Regular Board Meeting
CCU Conference Room, Gloria B. Nelson Public Service Building
5:30 p.m., July 25, 2017

MINUTES

1. CALL TO ORDER

The Chairman called the regular monthly meeting of July 25, 2017 to order at 5:30 p.m. He announced that all four (4) Commissioners were present – Vice Chairman Francis Santos, Comm. Judi Guthertz, George Bamba and himself. For the record, Comm. Sanchez was also present; he arrived at 5:37p.m.

Those present include:

Commissioners:

Joseph T. Duenas	CCU Chairman
Francis Santos	CCU Vice Chairman
George Bamba	CCU Secretary
Judi Guthertz	CCU Treasurer
Simon Sanchez	Member

Executive Mgmt.:

John Benavente	GM / GPA
Miguel Bordallo	GM / GWA
John Kim	CFO / GPA
Melinda Camacho	AGMO / GPA
Graham Botha	Staff Attorney / GPA
Kelly Clark	Staff Attorney / GWA

Management & Staff:

Paul Kemp	AGM Compliance & Safety / GWA
Manny Apuron	IT / GWA
Geigy Salayon	Asset / GWA
Ron Topasna	P&T / GWA
Vincent Pangelinan	GWA
Art Perez	PIO / GPA
Zina Charfauros	Personnel Admin. / GWA HR
Jacqueline Taisacan	Customer Service / GWA
Linda Benavente	Customer Service / GWA
Karen Grape	GWA / IT
Joyce Sayama	Mgmt. Analyst / GPA Ex. Office
Ann Borja	Mgmt. Analyst / GWA Ex. Office
Lou Sablan	Board Secretary / CCU

Guest:

Bill Gilman	Brown&Caldwell
George Watson	Brown&Caldwell
Dela Cruz, WW	KUAM
Andy Niven	Commissioner / PUC
Bill Chang	Brown&Caldwell
Annmarie Muna	AM Insurance
Angela Perez	AM Insurance

2. APPROVAL OF MINUTES

2.1 June 6, 2017

2.2 July 6, 2017

The Minutes of the CCU Regular Meeting of June 6, 2017 and the Special Meeting of July 6, 2017 were presented for approval.

Comm. Bamba motioned to approve both Minutes subject to verification & written correction; Comm. Guthertz seconded. There was no further discussion and the motion passed.

3. COMMUNICATIONS

3.1 Public Comments - None

4. NEW BUSINESS

4.1 GPA

4.1.1 GM Report Update

The GM said he would prefer to begin discussions with action items first and the agenda moved to New Business Section 4.1.3

At the end of discussing and acting on policy items, the GM shared with the Commission his thoughts on the financial impact of the various GPA Integrated Resource Plans. Below is a synopsis.

The implementation of GPA's Integrated Resource Plan continues to move forward and substantially most of the recommendations, if not all, could be implemented within the next several years. The Chairman has asked what the financial impact would be for the various projects and therefore this report provides a snapshot of the expected annual fuel cost impact of the various programs by 2022.

The next 4 to 5 years is a critical period for energy production and a major shift away from GPA's typical energy production from decades past. The near future plan will move energy production from the typical steam boiler and slow speed engines burning the less expensive and cheaper Residual Fuel Oil (RFO) to more efficient fast starting and quick reacting generators burning clean Ultra Low Sulfur Diesel (ULSD). Renewable energy PV coupled with energy storage systems such as batteries will provide a substantial amount (approximately 25%) of our energy needs at a lower cost than conventional energy. These renewables, although not 24/7 energy will provide supplemental energy which will provide excellent hedges against high fuel oil prices.

Key issues to the paradigm shift in energy production:

- **GPA's baseload units are non-compliant with USEPA regulations and GPA could be subjected to more than $200M in penalties.** GPA and USEPA would need to sign a consent decree to avoid penalties. A plan to burn ULSD and to retire RFO burning plants has been submitted to USEPA for consideration.
- **The loss of Cabras 3 & 4 units has left GPA with inadequate baseload capacity.** It has resulted in the operations of less efficient units which burn higher cost ULSD. GPA's system used to

produce less than 2% of its energy needs from ULSD. Currently and until the new power plant begins operations in about 5 years, GPA would be producing energy from less efficient generators burning ULSD between 15% to 30% of the time.

- **GPA has received approval to construct up to 180MW on new combined cycle units or flexible generations.** These new units will work well with intermittent renewables. The new plant would be more efficient and burn less fuel although the more expensive ULSD fuel. This more expensive ULSD fuel complies with USEPA regulations. The new plant would allow the retirement of the aged 42 year old Cabras 1 & 2 plant.
- **The price of utility scale solar PV renewables has dropped substantially.** CCU has awarded 120MW of solar PV power purchase agreements (Phase II), subject to PUC approval, at prices below the current LEAC. These contracts will certainly reduce energy cost in the near future and furthermore provide a long term hedge against rising fuel oil prices.

GPA will soon be issuing a bid for a power purchase agreement for about 40MW Solar PV system to be constructed on land recently leased from the US Navy. This system is expected to have load shifting capabilities so that the energy produce by the system could be released at peak time in lieu of higher cost peaking units production.

All renewables production offset conventional production fuel cost. All renewables production is considered LEAC related cost because they offset fuel cost. Renewables directly offset fuel cost and have the added benefit to Guam's economy thru the creation of jobs and business.

I have calculated the impact of the following scenarios in FY 2022:

- Annual volume of fuel oil used, annual total energy cost, average annual $/Kwh and the annual reduction of fuel oil barrels consumed.
- Net generation of 1,609,172,895 kWh; RFO @ $55/bbl.; ULSD @ $75/Bbl.

Scenario:	Description
A	FY 2017: Baseloads (RFO); Others (ULSD); NRG Renewables
B	FY 2020: Baseloads **(RFO)**; Emergency/Peakers (ULSD); Renewables: NRG-HANWAH-KEPCO-Phase III
C	FY 2020: Baseloads **(ULSD)**; Emergency/Peakers (ULSD); Renewables: NRG-HANWAH-KEPCO-Phase III
D	FY 2022: New 180MW Plant and MEC **(ULSD)**; Emergency/Peakers (ULSD) ; Renewables: NRG-HANWAH-KEPCO-Phase III
E	FY 2022: New 180MW Plant and MEC **(Natural Gas)**; Emergency/Peakers (ULSD) ; Renewables: NRG-HANWAH-KEPCO-Phase III

Scenario:	Gallons Consumption	Annual Cost	Annual Variance	Avg $/Kwh	Total BBLs.	BBL. Variance
A	110,884,018	$168,819,330		$0.105	2,640,096	0
B	81,414,199	$157,383,401	-$11,435,929	$0.098	1,938,433	-701,663
C	85,456,936	$197,519,886	$28,700,556	$0.123	2,034,689	-605,407
D	69,445,444	$168,881,229	$61,899	$0.105	1,653,463	-986,633
E	3,719,437	$141,495,393	-$27,323,937	$0.088	88,558	-2,551,538

Scenario A: This is the base case which assumes fuel oil prices in 2020 are what it is today. The loss of Cabras 3&4 has left us with inadequate baseload capacity resulting in emergency and standby units having to operate on a regular basis. It is estimated that non-baseload units will have to

produce as much as 25% of the energy needs in the next 4 to 5 years until the new 180MW power plant is commissioned.

Scenario B: This scenario shows the savings, at today's fuel oil prices, which could occur from HANWHA, KEPCO and Phase III renewables. Savings calculates to about $11M annually. Higher fuel oil prices increase the savings.

Scenario C: This scenario shows what annual fuel cost would be should USEPA require us to immediately convert Cabras 1&2 and MEC 8&9 to ULSD. This calculates to about $40M in additional cost in one year.

Scenario D: This shows that the installation of the new more efficient 180MW plant burning ULSD and the award of Phase II and Phase III renewables would keep fuel cost at about today's level. This scenario has substantial fuel cost savings in comparison to Scenario C which is retaining existing units and converting all baseload units to ULSD.

Scenario E: This scenario is similar to Scenario D, but estimates fuel cost of about $27M by converting to natural gas. The CCU has directed management to continue to monitor the cost effectiveness of burning natural gas on the expected new 180MW power plant. As has been noted, the new plant will have dual fired capabilities of ULSD and natural gas. The conversion to natural gas would require an investment of about $200M. However, fuel oil prices are approaching that level in which natural gas burning plants would provide substantial savings to ratepayers. If WTI Crude prices jump to $60/Bbl., burning natural gas provides an estimated $47M annual fuel cost savings.

In conclusion, GPA's Integrated Resource Plan has laid out a realistic and achievable plan which would keep rates reasonable and affordable. Its implementation would insure ratepayers will not experience the difficulties of a fuel oil crisis rates similar to the one a few years ago when fuel oil prices exceeded $100/Bbl. and residential customer rates exceeded $0.29/Kwh.

Chairman Duenas thanked the GM and management for bring this report to the CCU. He said it is important that ratepayers know and understand that there is a method to our madness and that our actions are based on efforts to save the rates reasonable and affordable for everyone.

Comm. Bamba said it seems management is using renewables as a hedge on fuel and asked what kind of savings the GM anticipates GM Benavente said in 2020 he anticipates that 25% of island-wide power system power would come from renewables.

4.1.2 Financials

There was no discussion.

4.1.3 RATIFICATION OF POLL VOTE: Resolution 2017-27 Relative to Procurement of Additional Ultra Low Sulfer Fuel

Resolution 2017-22 was a poll vote matter that happened on July 20, 2017 and presented today for official ratification.

Comm. Santos moved to accept Resolution 2017-22; Comm. Guthertz seconded. For the record the ratification / vote was (4) yes and (1) abstention by Comm. Bamba. The resolution passed.

GPA continues to address the maintenance necessary to keep generating units efficient and reliable, the increase in demand for ultra-low sulfur fuel oil also continues to increase. GPA has initially purchased

additional ULSD product from IP&E for up to 105,000 barrels. However, additional quantities may still be needed through the Cabras Overhaul Period, and to ensure adequate contingency inventory for GPA through December 31, 2017. Other third party suppliers may not be able to accommodate GPA's requests hence it is necessary to continue purchasing via IP&E as well, to ensure uninterrupted fuel supply. The fuel will be delivered to Guam, stored in GPA and IP&E's leased storage facilities, and under GPA's direction, IP&E may be requested to deliver to certain locations.

The supply of fuel is estimated to cost $76.30 per barrel, and GPA requests for additional shipments through December 2017 of up to 300,000 barrels. Total cost is $22,890,000. The delivery will cost $0.17 per gallon, or a total cost of $2,142,000. The total costs for supply and delivery will be a maximum of $25,032,000 and will be expensed through GPA's fuel budget.

For the record, the Commission ratified the poll vote of (4) yes and (1) abstention.

4.1.4 Resolution 2017-28 Approval of Phase II Power Purchase Agreement

On June 6, 2017 the CCU approved Resolution no. 2017-25 authorizing GPA to petition the Public Utilities Commission (PUC) to award Phase II Renewable Acquisition Bid of two 30MW proposals each to Hanwha Energy Corporation and KEPCO-LG CNS Consortium for a total of 120 megawatts (MW). GPA and KEPCO-LG CNS Consortium have completed and agreed to commercial terms and conditions of the Power Purchase Agreements (PPA). GPA seeks approval to submit KEPCO-LG CNS Consortium's PPA to the PUC for their approval.

GPA continues to work with its consultant on the System Impact Study to define the interconnection requirements in an Interconnection Agreement; however these requirements will not change the terms and conditions of the PPA, including contract price and performance guarantees and penalties. The PPA will require KEPCO-LG CNS Consortium to agree to the Interconnection Agreement as a condition to the signing of the PPA which is for a 25-year term.

The KEPCO_LGCNS 2x30MW solar projects are located at Sasajyan, Mangilao and will be funded through LEAC. The cost is noted in the price proposal below

Site A

Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)	Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)
1	85.50	74,542.29	6,373,301.30	16	99.26	68,788.84	6,828,106.93
2	86.35	73,974.68	6,388,018.45	17	100.25	68,601.94	6,877,649.88
3	87.22	73,604.26	6,419,591.74	18	101.26	68,048.01	6,890,337.29
4	88.09	73,233.84	6,451,157.70	19	102.27	67,677.59	6,921,358.30
5	88.97	73,058.88	6,500,102.43	20	103.29	67,307.18	6,952,310.69
6	89.86	72,493.01	6,514,254.33	21	104.33	67,116.29	7,001,919.62

7	90.76	72,122.59	6,545,778.20	22	105.37	66,566.34	7,013,991.65
8	91.67	71,752.18	6,577,281.12	23	106.42	66,195.92	7,044,711.02
9	92.58	71,573.23	6,626,486.53	24	107.49	65,825.51	7,075,343.38

Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)	Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)	Annual Price ($)
1	85.50	74,542.29	6,373,301.30	16	99.26	68,788.84	6,828,106.93
2	86.35	73,974.68	6,388,018.45	17	100.25	68,601.94	6,877,649.88
3	87.22	73,604.26	6,419,591.74	18	101.26	68,048.01	6,890,337.29
4	88.09	73,233.84	6,451,157.70	19	102.27	67,677.59	6,921,358.30
5	88.97	73,058.88	6,500,102.43	20	103.29	67,307.18	6,952,310.69
6	89.86	72,493.01	6,514,254.33	21	104.33	67,116.29	7,001,919.62
7	90.76	72,122.59	6,545,778.20	22	105.37	66,566.34	7,013,991.65
8	91.67	71,752.18	6,577,281.12	23	106.42	66,195.92	7,044,711.02
9	92.58	71,573.23	6,626,486.53	24	107.49	65,825.51	7,075,343.38
10	93.51	71,011.34	6,640,209.75	25	108.56	65,630.64	7,124,941.98
11	94.44	70,640.93	6,671,628.12				
12	95.39	70,270.51	6,703,010.83				
13	96.34	70,087.58	6,752,417.40				
14	97.31	69,529.68	6,765,653.80				
15	98.28	69,159.26	6,796,906.12				

GM Benavente updated the Commission on the status to date with price negotiations and also mentioned that a protest received today from Shanghai Group which has forced him to issue a stay of procurement. GPA will respond to the protest diligently until it is resolved. For now, management asked to table this Resolution pending outcome of the protest.

Discussion followed relative to anticipated length of the protest, Comm. Bamba asked management if there is a timeframe relative to the protest stating his concern is that this matter will save the ratepayer

money – 6.5 cents v. 12-14 cents. Shanghai Group cited several reasons and GPA will go through each one with due diligence until the matter is satisfactorily resolved.

Comm. Bamba said if this protest is due to price difference it is a given that they did not win the bid so why the protest.

Comm. Guthertz said we are obligated by law that a process be followed. We have to ensure our agency uses proper diligence to follow procedures and respond appropriately. It is true that there are times when protests are used as a tool to detain action but either way, we have to choice.

Comm . Bamba said at the end assuming the protest is resolved in favor for GPA will the price agreement still hold. The GM said there is always that possibility especially when there's a price validity date. In this case, the validity date is in September. If the protest encroaches on this date GPA's recourse could be to ask for an extension.

After a lengthy discussion, this matter was tabled pending resolution of the protest.

4.1.5 Resolution 2017-29 Relative to Zero Tolerance Drug Policy

It is the policy of GPA and GWA to provide a safe, healthy and secure work environment for all employees. It is also the policy of GPA and GWA to ensure that all employees perform their job duties in a safe, efficient and productive manner. GPA and GWA have drafted a new joint DRUG AND ALCOHOL FREE WORKPLACE policy that makes changes from the previous policy that allowed employees to a complete a drug treatment program, and remain employed provided they successfully completed a drug treatment program. The new draft DRUG AND ALCOHOL FREE WORKPLACE POLICY provides for a zero-tolerance drug policy, such that if an employee tests positive for drugs they will be terminated as employees of GPA and GWA. The General Managers of GPA and GWA were directed to receive input from employees and provide the Consolidated Commission on Utilities (CCU) with a proposed final policy by the September 2017 CCU meeting. Management is directed to begin training on the new DRUG AND ALCOHOL FREE WORKPLACE policy to be implemented October 1, 2017.

There was discussion on the importance of educating all employees and to allow those who need to seek help to do so in an effort to prepare for the Oct.1 implementation date. GM Benavente said he would also like to give employees a chance to comment and to bring the policy back to the Commission with any recommended amendments in the September meeting for final CCU approval.

Chairman Duenas said if the CCU approves the resolution tonight the policy would already be approved and management can implement it without further action from the CCU.

Comm. Guthertz asked if HR was involved in the creation of the policy and if the employees gave input on the proposed policy. The GM said that this issue was presented to employees at his last briefing ande mentioned to them that management's direction is a zero tolerance policy. Comm. Guthertz said she supports a zero tolerance policy but thinks it is important to garner employee buy-in by allowing them to comment on the draft policy before the CCU adopts it.

Comm. Santos asked the GM's what did management do to let the employees know about this major shift – were there HR meetings held because this is a huge change . He said he too agrees with the zero tolerance policy but employees need to know.

Comm. Guthertz said if this is approved tonight then we really need an effective education for our employees.

Comm. Sanchez read a portion of the policy that speaks of aftercare treatment – the verbiage of the policy does not coincide with zero tolerance.

The discussion went back and forth and at the end it was clear that the language of the draft policy, as written, was confusing and had many and the implementation process unclear. Management was directed to revisit the policy and make the language more clear. Resolution 2017-29 was tabled.

4.1.6 Resolution 2017-30 Relative to Establishment of Business MasterCard

In March 2016, the Guam Power Authority (GPA) and Guam Waterworks Authority (GWA) procured and awarded the merchant banking services contract with the Bank of Hawaii (BOH). During the last year, BOH has assessed an average of 1.25% in fees of the total debit and credit card payments processed, including MasterCard, VISA and Discover. Because of this, currently, GPA is only authorized to accept debit and credit card payments from residential customers because it would be too costly to include commercial customers.

BOH confirmed they are now able to offer both GPA and GWA the Utility Interchange rate when utility bills are paid with MasterCard. A large commercial customer would generate fees of approximately between $50 - $100 using a commercial or business MasterCard. GPA estimates the total cost to the Authority will be approximately $160,000 annually assuming all commercial accounts use MasterCard.

GPA feels with the favorable Utility Interchange rates for MasterCard it can now offer to commercial customers the convenience of paying their power bills with MasterCard debit and credit cards at a reasonable cost. GPA is now requesting for the authority to extend the use of MasterCard debit and credit cards as payment for commercial accounts. This flat rate fee is $0.65/transaction for MasterCard consumer credit cards, $0.45/transaction for MasterCard debit cards and $1.50/transaction for MasterCard commercial and business cards plus BOH's nominal processing fee passed on to GPA and will be implemented as soon as approved by the CCU. The funding source for all merchant banking expenses would be revenue funds.

Comm. Sanchez motioned to approve Resolution 2017-30; Comm. Guthertz seconded.

It was mentioned that management has been struggling with the issue of high merchant fees for a very long while and welcomes the chance to pass on these proposed low fixed rates to ratepayers, especially businesses. If Resolution 2017-30 is approved, it would allow all customers to be able to transact payments using MasterCard. Comm. Sanchez asked how long the agreement would be with Bank of Hawaii; the CFO confirmed there are (4) 1-year options

The Commission congratulated management for this great accomplishment and asked them to report on related savings accrued for each respective agency at a future meeting.

On the motion there was no further discussion or objection and the motion passed.

4.1.7 Resolution 2017-31 Relative to Lease of Additional Storage Tank from Tristar Terminals

GPA is currently renting tanks for Ultra Low Sulfer Diesel (ULSD) storage, with a combined total usable capacity of about 95,000 bbls. From the months of April through June of 2017, the ULSD consumption was between 75,000 to 92,000 barrels per month. Because of the significant changes in consumption due to baseload plant outages, MW demand and other reasons, GPA's current ULSD supplier storage capacity is insufficient to meet GPA's supply volume requirement. It has become necessary for GPA to store contingency inventory for ULSD. As with RFO, GPA intends to store about 60 days of ULSD inventory level, comprising of 30 days operating and 30 days reserve, to ensure uninterrupted fuel supply in the event of extended baseload outages and increased ULSD consumption based on the current ULSD consumption of approximately 3,000 bbl per day, GPA would need to increase the storage currently leased from TTGI to approximately 180,000 bbls. The increased storage capacity will also allow for the replenishment of

inventory within 30-45 days shipment turn-around, minimizing additional costs associated with frequent fuel shipments.

The intended tank for lease is located at Agat, at the TTGI facilities. It's maximum capacity is 200,000 bbls with a Safe Fill Capacity of 196,000 bbls. The lease cost is $6/bbl year or $1,176,000 annually, excluding costs for the transfer of fuel. The funding source for this expense will come from the Fuel Budget Fees and LEAC.

A minimum of six months' lead time is required for TTGI to refurbish the tanks. Once available, GPA plans to lease the tank for four (4) years, until the fuel farm inspections and refurbishment are completed, as well as the plans for other generating units and the new power plant.

Comm. Santos asked when GPA plans to build their own tanks. At what point will GPA start investing in their own tanks. With plans for new generation, will GPA own their own tanks. The GM said yes. GM Benavente explained that the current tanks that GPA owns were used to store RFO fuel and the cleaning process for existing tanks to prep them for ULSD fuel takes time. He said he the cleaning process to transition the tanks could take 3-4 years.

Comm. Guthertz motioned to approve Resolution 2017-31 for discussion; Comm. Sanchez seconded.

Comm. Sanchez asked management to start planning for GPA's tank needs I the future and how the current tanks available fits into the plan which he asked management to bring back to the Commission in a few months. GM Benavente concurred. He said that GPA needs more space to hold fuel and now with approval of this resolution, they will have it.

On the motion, there was no further discussion or objection and the motion passed.

4.1.8 Resolution 2017-32 Relative to Contract Ext. for GPA Fuel Bulk Storage Facility

The Guam Power Authority's current contract for the Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility is expired in May 2017. The solicitation for a new contract was completed and award to the lowest bidder was approved via CCU Resolution 2017-10. However, a protest has been filed and is still in progress. The extension of the current contract is necessary to ensure that GPA continues to receive services required for the proper operation, maintenance and security of the Fuel Bulk Storage Facility, to ensure uninterrupted, reliable fuel supply to the GPA plants. The contractor will continue to manage the fuel bulk storage facility located at Cabras.

For the 5th year of the contract, the annual cost was $684,056.47, or about $57,005 per month. Extension through December 31, 2017 would cost $399,035. This does not include costs for any project above $5,000. Extension is requested through December 31, 2017, on a month-to-month basis as required. The fund source for this request will be from Fuel Handling Fees, under the Fuel Budget and LEAC.

Comm. Guthertz motioned to approve Resolution 2017-32; Comm. Sanchez seconded. There was no further discussion or objection and the motion carried. On the vote, there were (4) ayes and (1) abstention. For the record, Comm. Bamba abstained.

At this point in the meeting, the Chairman called for a 5-miinute recess; it was 6:52 p.m.

4.2 GWA

The meeting was called back to order at 7:03 p.m. and GWA matters were discussed.

4.2.1 GM Report Update

4.2.2 Financials

4.2.3 Resolution 42-FY2017 Relative to Zero Tolerance Drug Policy

This matter was tabled (refer to Section 4.1.5 above).

4.2.4 Resolution 43-FY2017 Relative to Funding of Yigo & Astumbo Reservoir Construction Project

The objective of the funding increase is to provide for the additional construction management services specific to the new Yigo No. 3 reservoir which will be captured in a proposed Change Order No. 2. The reason a funding increase was needed is GWA management executed Change No. 1 to Pernix Guam's contract which "advanced" the construction of Yigo No. 3 reservoir and its associated work, in order to realize economies of scale resulting in overall cost reduction for the construction work. Construction of Yigo No. 3 was to potentially occur at a later phase once Yigo No. 1 was completed. The CM services for Yigo No. 3 was not taken into account in the initial Construction Management (CM) services scope thus GWA negotiated with its construction manager, GHD, to continue CM services for the Yigo No. 3 reservoir, along Route 1 near the entrance to Anderson Air Force Base, Yigo.

Given there is still a balance in the current contingency fund, the additional funding increase request is Two Hundred Ninety Three Thousand Six Hundred Ninety One Dollars ($293,691.00). GWA management also seeks a ten percent (10%) contingency to the additional fund request of Twenty Nine Thousand Three Hundred Sixty Nine Dollars and Ten Cents ($29,369.10), to bring the additional total fund request to Three Hundred Twenty Three Thousand Sixty Dollars and Ten Cents ($323,060.10).

With this funding increase on top of the original approval of One Million Five Hundred Twenty Six Thousand Seven Hundred Eighty Dollars and Twenty Cents ($1,526,780.20), the increased funding total for the CM services is One Million Eight Hundred Forty Nine Thousand Eight Hundred Forty Dollars and Thirty Cents ($1,849,840.30). The funding for this project will be from the bond funds
The CM services will continue up until July 2018.

Comm. Sanchez motioned to approve Resolution 43-FY2017; Comm. Bamba seconded.

The Commission said they reviewed and discussed this resolution in detail during the work session and has no further discussion.

On the motion, there was no further discussion or objection and the motion passed.

4.2.5 Resolution 44-FY2017 Relative to Route 2 Sewer Line Replacement Project

The objective of this project is to replace approximately 16 manholes and approximately 2,200 linear feet of sewer pipelines along Route 2, in the village of Agat. Construction activities will be limited to the government easements of the sewer infrastructure elements identified by GWA, through an SSES investigation, to be subjected to excessive infiltration and inflow (I&I) and surcharging. Successful completion of this project will result in reduced I&I within the wastewater collection system and decreased storm water volume that enters into the collection system tributary to the Agat-Santa Rita WWTP GWA and USEPA agree that efforts to rehabilitate, repair or replace the sewer line are necessary.

The construction services contract was proposed by ProPacific Builder Corporation at a total amount of Four Million Five Hundred Fifty Four Thousand Four Hundred Fifty One Dollars ($4,554,451.00). This contract amount, which is primarily based on unit pricing, includes the furnishing of all labor, tools, equipment and materials, and agency coordination needed to complete the sewer infrastructure replacement in the aforementioned locations. The construction contract length of this project is 365 calendar days after an NTP is issued to the contractor. Estimated completion of construction is in Fall 2018.

GWA management is also seeking a ten percent (10%) contingency of the total contract amount of Four Hundred Fifty Five Thousand Four Hundred Forty Five Dollars and Ten Cents ($455,445.10), which brings the total authorized funding amount to a maximum of Five Million Nine Thousand Eight Hundred Ninety Six Dollars and Ten Cents ($5,009,896.10). It was said that the funding for this project will be from USEPA SRF Grant Funds and, if necessary, GWA Bond Funds applicable to the project.

Comm. Sanchez motioned to approve Resolution 44-FY2017; Comm. Bamba seconded.

It was again mentioned that the Commission reviewed and discussed aspects of the details of this request at the GWA Work Session and are ready to render a vote.

On the motion, there was no further discussion and the motion passed unanimously.

4.2.6 Resolution 45-FY2017 Relative to On-site Representative/CM Umatac-Merizo WWTP Design Build Proj

The objective of this project is to provide construction management services for upgrades to the Umatac-Merizo WWTP. It is a Design-Build contract so the Owner Site Representative/construction manager services are necessary, and will focus on monitoring the progress of the design work, construction progress on the site by the Design-Builder, to ensure compliance with plans and specifications, reviewing the construction schedule relative to actual construction progress, reviewing Design-Builder pay applications in comparison with construction work performed, receiving and logging Design-Builder submittals, and keeping GWA advised and informed as to project progress and cost, just to name a few activities.

The approval of the Owner Site Representative (Construction Management) Services Contract and ultimately execution of the contract will tie into the completion schedule for this Court Order project. There is an immediate need for the CM given the WWTP upgrades are currently under design.

The construction management services proposal by SSFM International is One Million Two Hundred Seventy Eight Thousand Fifty Dollars ($1,278,050.00). GWA management is also seeking a 10% contingency of One Hundred Twenty Seven Thousand Eight Hundred Five Dollars ($127,805.00), for a total funding amount of One Million Four Hundred Five Thousand Eight Hundred Fifty Five Dollars ($1,405,855.00). The funding for this project will be from the GWA Bond Funds, System Development Charge Funds, as applicable, and Internally Funded CIP. The project completion is anticipated to be December 2018.

Comm. Sanchez motioned to approve Resolution 45-FY2017 and Comm. Guthertz seconded. There was no further discussion or objection and the motion passed.

4.2.7 Resolution 46-FY2017 Relative to Change Order D-Series Well Rehabilitation Project

When approved Resolution 46-FY2017 will enable a well maintenance rig (well pump hoist) to the Island-wide Well Site Rehabilitation project. The rig has been identified as critical equipment for GWA to regularly perform well maintenance and timely repairs. Additional funding is needed for Change Order No. 6 and additional electrical work. The additional electrical work was determined to be necessary after award of the contract to complete the power supply requirements for the project. Due to the urgency of completing the power supply to the well sites located at Groundwater Wells D-03, D-17, D-18, D-22, and M-09 within the villages of Dededo and Mangilao. Additional funding is requested before a formal change order is requested.

The funding for this project will be from USEPA Grant and, if necessary, GWA Bond Funds applicable to the project. The original contract value for this project is Four Million Six Hundred Eighty Nine Thousand Eight Hundred Eighty Eight Dollars ($4,689,888.00), plus a ten percent (10%) contingency of Four Hundred Sixty Eight Thousand Nine Hundred Eighty Eight Dollars and Eighty Cents ($468,988.80).

The proposed Change Order No. 6 will require funding in the amount of Eight Hundred Seventeen Thousand One Hundred Forty Seven Dollars ($817,147.00) to proceed with the purchase of the well maintenance rig and supporting equipment.

The additional electrical work necessary to complete the well power supply is estimated to be Two Hundred Thousand Dollars ($200,000.00). This brings the total authorized funding amount to a maximum of Six Million One Hundred Seventy Six Thousand Twenty Three Dollars and Eighty Cents ($6,176,023.80).

The shipment of the rig and supporting equipment will arrive four months after the approval of this Change Order. The electrical work is expected to be completed in October 2017.

Comm. Bamba motioned to approve Resolution 46-FY2017; Comm. Sanchez seconded. There was no further discussion or objection and the motion passed.

4.2.8 Resolution 47-FY2017 Relative to Design Services Northern District WWTP Upgrades

This project is to design the necessary upgrades to the NDWWTP to secondary treatment as part of the wastewater improvements in support of the relocation of U.S. Marines and their dependents to Guam and which is funded through a General Assistance Grant from the U.S. Department of Defense, Office of Economic Adjustment. The project is located at the existing Northern District WWTP as well as the adjacent property northwest of the existing plant that is going through final acquisition proceedings.

The scope of work in general involves engineering design, permitting, and engineering services during construction. The urgency of approving the project intent and fee range is GWA's internal milestone deadline to issue the Notice to Proceed to the design firm by the end of July 2017 to meet timelines established in the Office of Economic Adjustment grant requirements and coordinated with the Guam Water and Wastewater Intergovernmental Support Team.

The final cost for the engineering design services is being negotiated, and GWA management seeks the support of the CCU to approve the intent of the design project and approve and authorize the funding not to exceed GWA Engineering's estimate and grant budget amount of Nine Million Dollars ($9,000,000.00). GWA Management's negotiations so far indicate a fair and reasonable cost for engineering design and services during construction for the negotiated scope of work below the budgeted amount. The design firm will be required to provide services to the overall project which has a completion deadline of December 31, 2021.

Comm. Guthertz moved to approve Resolution 47-FY2017; Comm. Bamba seconded. There was no further discussion or objection and the motion passed.

Comm. Bamba commended GM Bordallo for moving this project forward.

4.2.9 Resolution 48-FY2017 Relative to Funding Agat-Santa Rita WWTP ConstrMgmtContract

Management is asking the Commission for an increase to fund the additional construction management services by GHD to oversee construction activities at the Agat Santa Rita WWTP along Route 2 where off-site waterline improvements are on-going. The reason for the required funding increase is that GWA management executed Change Order to the Contractor, Sumitomo Construction that extended their contract completion date to December 2017 due to permitting and rain delays. Therefore in order to have continued CM services during the extended contract period, GHD contract services must also be extended to cover this period.

There is currently potential for further delays by the contractor related to adverse weather conditions and the H2-B visa program, which could impact the construction completion period for SMCC an additional one to three months past their current December 2017 deadline. If such potential delays are confirmed, CM services may also be needed to cover this additional period.

The funding for this project will be from the bond funds under the line item - WW 11-08 "Agat/ Santa Rita STP Replacement". The additional fund amount requested is Five Hundred Eighty One Thousand Four Hundred Thirty One Dollars ($581,431.00) plus Four Hundred Thirty Two Thousand Nine Hundred Eighty One Dollars ($432,981.00) to cover CM services should there be an extension to the SMCC contract completion period for a total funding increase of One Million Fourteen Thousand Four Hundred Twelve Dollars ($1,014,412.00)

With this funding increase on top of the original approval of Three Million Two Hundred Eighty Eight Thousand Six Hundred Fifty Three Dollars ($3,288,653.00), the funding total for the CM services is Four Million Three Hundred Three Thousand Forty Seven Dollars ($4,303,047.00). The CM services will continue up until December 2017 however should there be any extension to the construction contractor's completion the CM services will cover up until March 2018.

Comm. Sanchez moved to approve Resolution 48-FY2017; Comm. Guthertz seconded. There was no further discussion or objection and the motion passed.

4.2.10 Resolution 49-FY2017 Relative to Ratification of Expenditures for Chlorine Contract

Liquid Chlorine is necessary for the treatment of drinking water to disinfect improprieties and is a requirement by the Safe Drinking Water Act and required by local and federal laws. Its procurement will benefit the various well locations island-wide.

The 3 Year contract cost for this procurement is 150lbs. Chlorine Cylinder $558.75 each, 1 Ton Chlorine Cylinder $5,807.40 each. The Bid Specified amount estimated for 150lbs. is 1,260 cylinders per annum and for 1 Ton it is 12 cylinders per annum

The total expenditure for the 3-year contract term is $2,460,984.00 (Average $820,328/yr.) and the term for 2 year for renewal with a 5% price increase is 150lbs. Chlorine Cylinder $586.68 each and 1 Ton Chlorine Cylinder $6,097.78 each.

The Estimated Cost for 150lbs. Chlorine Cylinder $586.68/$739,216.80 annually and for 1 Ton. Chlorine Cylinder it is $6,097.78/$73,173.36 annually, totaling $812,390.16 Estimated Annually – all funded through O&M.

Comm. Bamba motioned to approve Resolution 49-FY2017; Comm. Guthertz seconded.

In discussion Comm. Guthertz asked if the contract provides for an extension if needed and GM Bordallo said yes.

On the motion there was no further discussion or objection and the motion passed.

4.2.11 Resolution 50-FY2017 Relative to Additional Purchase of Membrane Modules for Ugum WTP

If approved, Resolution 50-FY2017 will replace the balance of four hundred sixty-four (464) existing membrane filters that have met their manufacturer life expectancy at the Ugum Water Treatment Plant and to ensure the plant continues to meet Surface Water Treatment Rules and Safe Drinking Water Standards. GWA has already replaced four hundred (400) membrane filters procured under previous authorization from the CCU.

The purchase of 464 membrane filters at a cost of One Thousand Four-Hundred Twenty Dollars ($1420.00) each will cost Six Hundred Fifty-Eight Thousand Eight-Hundred Eighty Dollars ($658,880.00) and will be funded through Internally Funded Capital Improvement Projects (IFCIP). The anticipated project completion date is September 30, 2017.

Comm. Guthertz asked if this procurement will go out for bid and GM Bordallo confirmed yes. Comm. Santos asked if this was for back up and GM said it is for immediate replacement upon arrival. CCU asked when the next series of replacements would be and GM Bordallo said that because this item does have a shelf life management does not want to order too much; as far as date of next replacement, it was not mentioned.

Comm. Bamba moved to approve Resolution 50-FY2017; Comm. Guthertz seconded. There was no further discussion or objection and the motion passed.

4.2.12 Resolution 51-FY2017 Relative to Refunding of 2010 Series GWA Water& Wastewater Sys.Rev.Bonds

If approved, Resolution 51-FY2017 will refund GWA's 2010 system Revenue Bonds and capitalize on lower municipal bond interest rates which in turn will produce lower debt service. Upon the approval of the CCU, GEDA and the Public Utilities Commission, it is estimated the sale will be completed sometime around the end of September 2017 and the pricing and sale will take place in New York City, New York.

Approximately $1.7 million is estimated to pay for typical issuance costs to cover expenses and fees of GWA's Bond Underwriter, the Guam Public Utilities Commission, GWA and GEDA. The cost of the refunding will be paid from proceeds of the refunding bonds.

CFO Cruz said GWA management is requesting the CCU to allow GWA to refund 2010 revenue bond. The Bond has Call features allowing to call prior to its first redemption date. He added that the interest rate is in GWA's favor and will save $10M in debt service thru 2040. This represents $8M in savings in net present value over 22 years. CFO Cruz gave savings scenario that shows at what point savings will start to deteriorate if no action is taken.

Comm. Sanchez wants to make sure that management is clear to the PUC relative to the savings and definitions of savings. He asked about the timeline for effective date and the CFO said about 60days. Comm. Sanchez asked about the projected interest rate that may exist in the market and the CFO said the average is about 5.6% and the new anticipated rate is 4.15% .He further restated that n2 things have happ3nd interest rates are down and GWA has improved their credit rating. Because of this GWA's consultants are recommending that the balance of bonds be refinanced to take advantage of the current market status. It was noted that the last Refi in 2014 was approved by the PUC with a premium and with net present value above 2%. Prepare a summary of previous date approved by PUC showing when there were premiums applied. It is important that they understand that the premium is not paid by GWA but the investor buying the new bonds is paying GWA. He told management he wants to work very hard to be clear with PUC.

It was mentioned that this resolution does not need legislative approval but must be approved by PUC & GEDA. Comm. Guthertz asked when will this initiative with PUC occur; the response was as soon as CCU approves this resolution.

Comm. Guthertz moved to approve Resolution 51-FY2017; Comm. Bamba seconded. There was no further discussion or objection and the motion passed.

5. OLD BUSINESS – None

6. ANNOUNCEMENTS

6.1 Next CCU Meetings: GWA Work Session: Aug 16; GPA Work Session: Aug 17; CCU Meeting: Aug 22

The Chairman announced that the next meeting would be a work session for GWA on Aug. 16 and GPA on Aug 17, followed by the CCU regular monthly meeting on Aug. 22.

Commissioner Sanchez said he would be traveling and asked if the August meetings could be pushed back a week being that he would like to take part in the discussions. Chairman Duenas said he will discuss this request with management and the other Commissioners and advise.

7. ADJOURNMENT

There was no further business to bring before the Commission and the meeting was adjourned at 6:51 p.m.

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bls

Attested:

_____	_____
JOSEPH T. DUENAS, Chairman	J. GEORGE BAMBA, Secretary

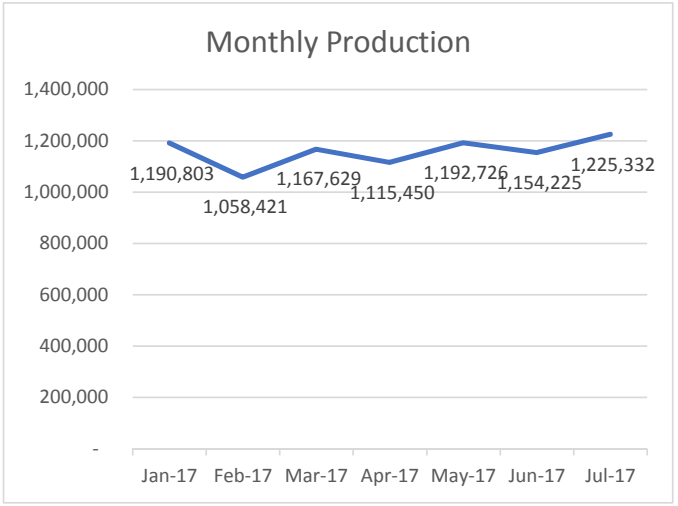
GUAM WATERWORKS AUTHORITY

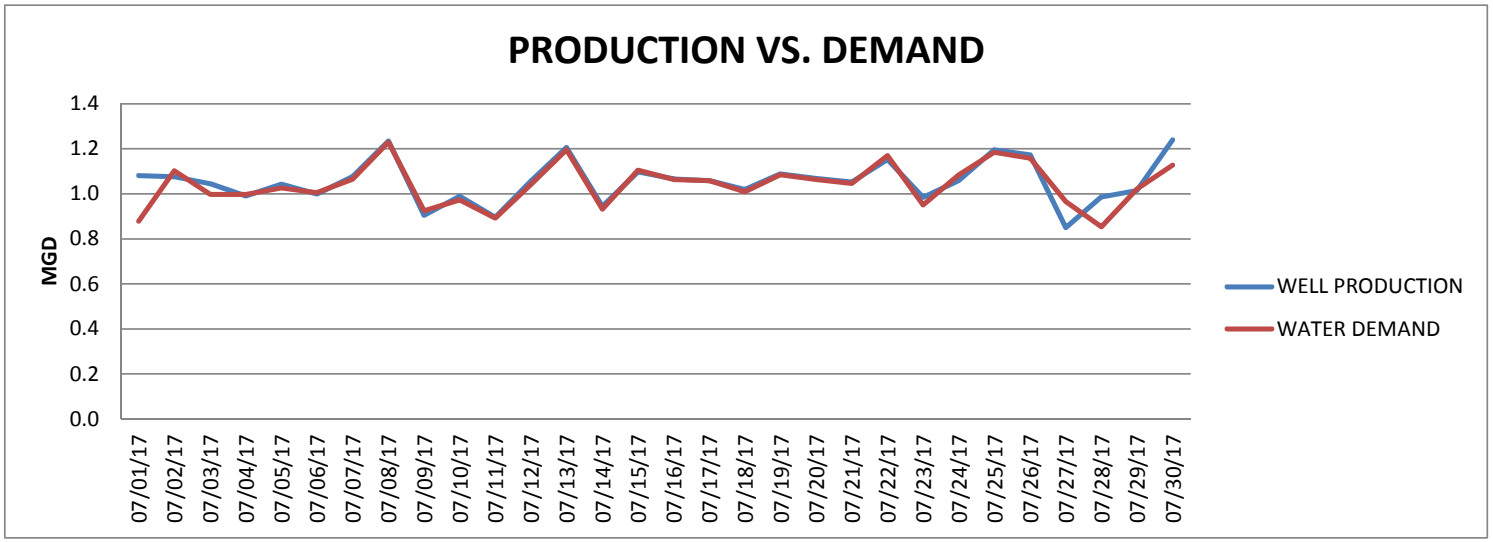
General Manager's Report
GPWA CCU Meeting, August 29, 2017

Operations Update

Production

Monthly Production Summary - July 2017				
Deep Wells			36.8	MGD
Active wells =	96	of 120		
Avg days in operation =	30.52	days		
Total Production =	1,122,633	Kgals		
Springs			0.2	MGD
Avg days in operation =	31	days		
Total Production =	5194	Kgals		
Ugum Surface Water Plant			2.1	MGD
Avg days in operation =	31	days		
Total Production =	64,946	Kgals		
Tumon Maui Well			1.05	MGD
Avg days in operation =	31	days		
Total Production =	32,559	Kgals		
	1,225,332	Kgals	40.1	MGD



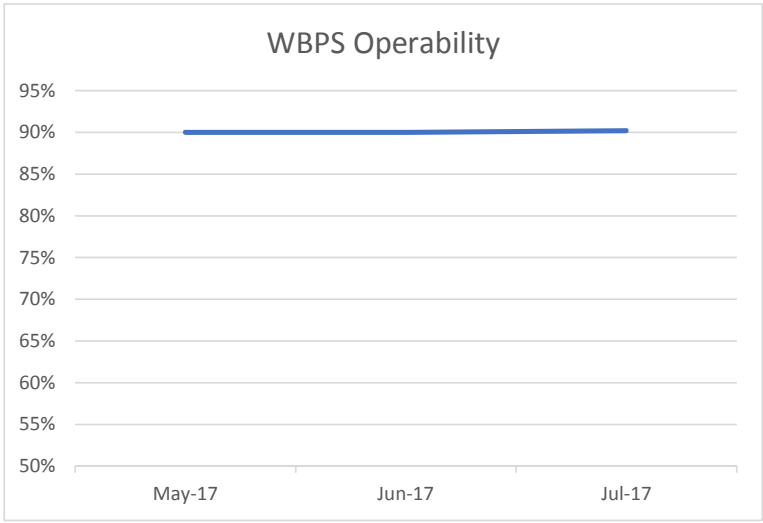


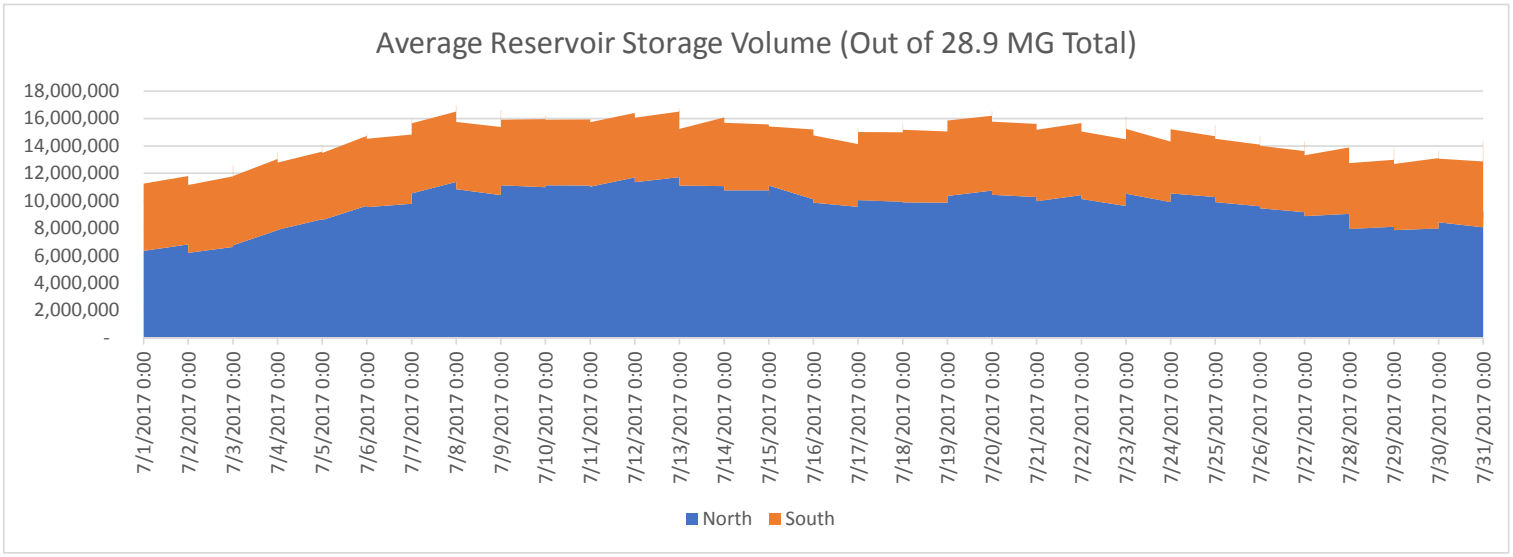
Distribution

Monthly Distribution Summary - July 2017

Water Booster Pump Stations

District	No. of Stations	Total Pumps	Pumps Operating	% Operational
Northern	11	21	19	90.5%
Central	7	15	12	80.0%
Southern	7	15	15	100.0%
	25	51	46	90.2%





Wastewater Collections

Monthly Collections Summary - July 2017*				
Wastewater Pump Stations				
District	No. of Stations	Total Pumps	Pumps Operating	% Operational
Northern	22	52	46	88.5%
Central	29	65	62	95.4%
Southern	25	51	49	96.1%
	76	168	157	93.5%

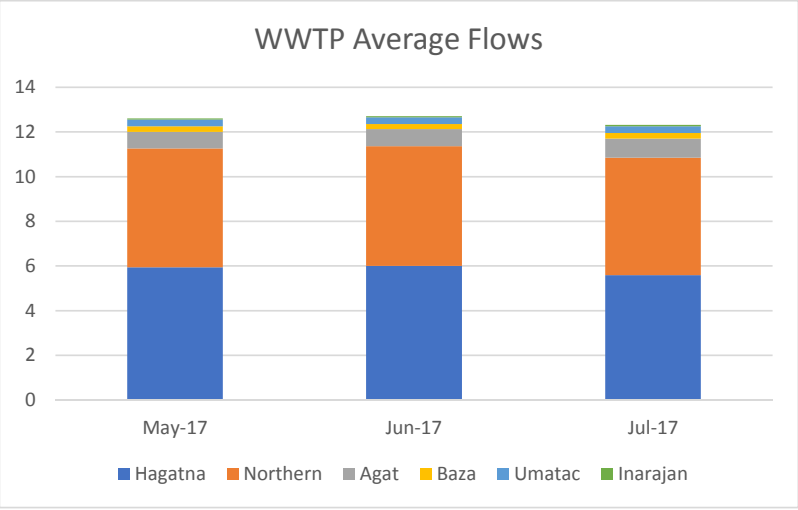
* pending verification

Wastewater Treatment

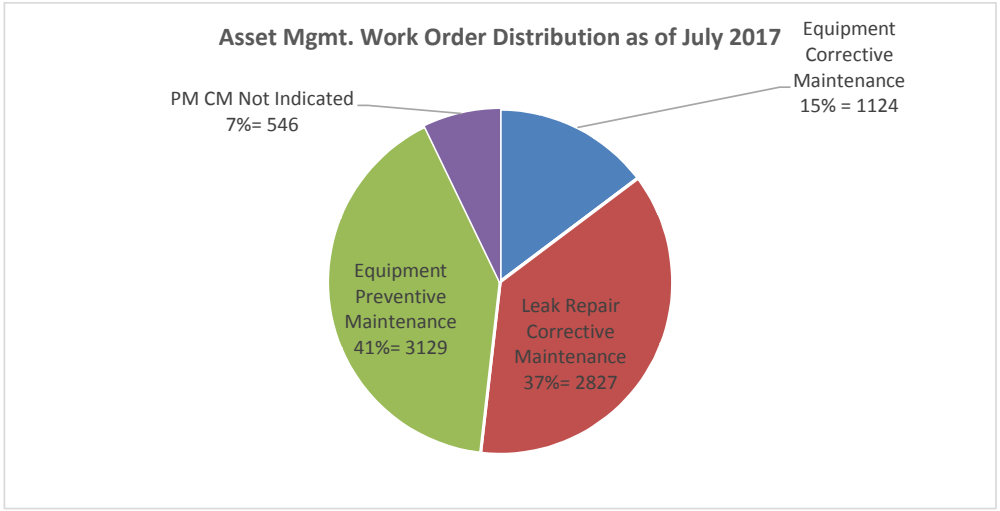
Monthly Wastewater Treatment Summary - July 2017

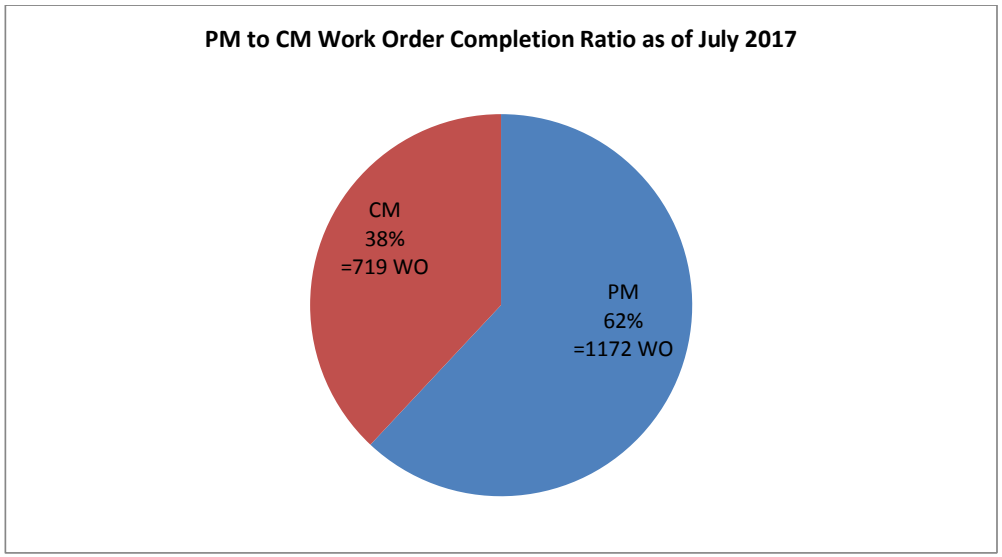
WW Treatment Plants - Flows

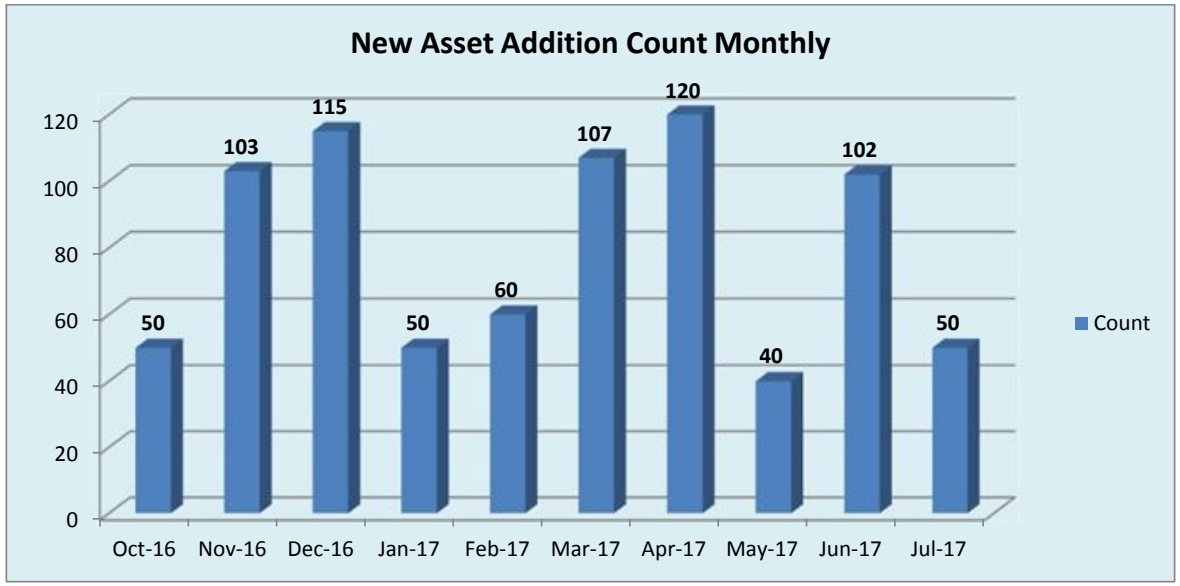
Facility	Avg. Daily Flows (MGD)	Sludge (lbs)	Sludge Disp. ($)
Hagatna	5.94	462,420	$ 41,618
Northern	5.33	1,423,168	$ 128,085
Agat	0.74		
Baza	0.25		
Umatac	0.30		
Inarajan	0.05		
	12.61	1,885,588	$ 169,703



Asset Management







On-Going Asset Management Activities

- Ongoing routine asset condition assessment for all water and wastewater assets and update asset registry. **Goal:** once a year for critical assets and every three years for non-critical.
- Risk identification based on asset condition
- Improved PM scheduling
- Establishment of an Asset Management System based on ISO 5500 standards through effective and efficient management of GWA assets.

Operational Issues

- Heavy weather events affecting production for Yigo and Barrigada/Tiyan areas
  - Yigo main break – 14-ft crack; suspected water hammer; loss of levels in Yigo reservoir;
  - Tripped wells affected production
  - M21 Pullout completed 8/29/17
  - Y12 Pullout on-going
- Action taken:
  - Main isolated – required securing of several high production wells
  - Main break repaired
  - M21 pullout completed with assistance of GPA
  - Critical wells isolated from grid for short term to stabilize production and distribution system
  - System adjustments to increase flows to Barrigada and Tiyan areas

Meter Changeout NC/LC Accounts

- As of August 19, 2017:
  - Field activities completed: 3378
  - Meter changeouts: **2627** (Crews verified 751 meters did not require changeout)
  - Field activity reports created for completed changeouts: 1228
  - Accounts backbilled: 341 (as of 8/26/17)
- Week of 8/20/17 through 8/26/17
  - Field Changeouts: 359
  - Field activity reports pending posting: 241
  - Meter Test Facility field activity reports pending posting: 133
- Meter Inventory
  - In stock: 3117
  - Programmed: 1165

Marbo (Andy-South) Wells – Status

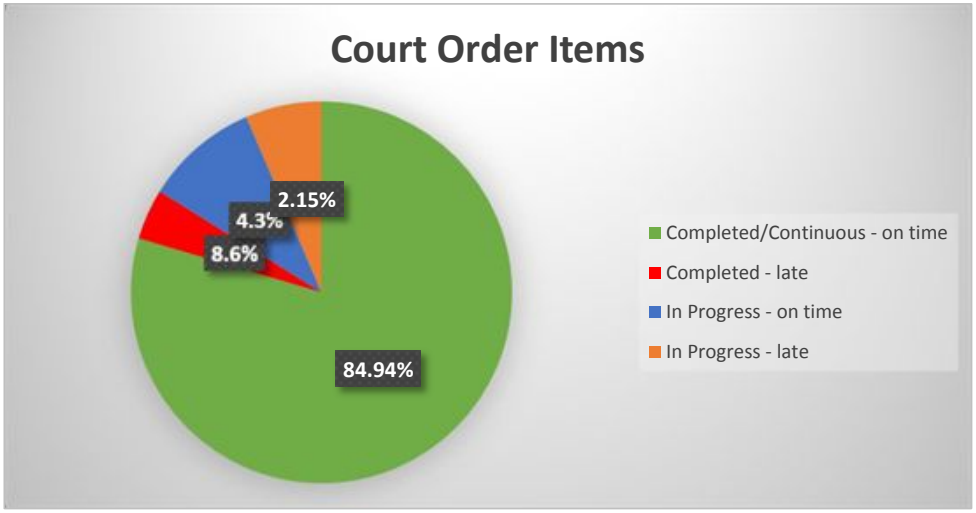
See attached meeting summary.

One Guam Update

- Potts Junction Service Lateral: Completed; MOU conditions now met.
- Santa Rosa Intertie: Draft MOU in progress; hydraulic modeling pending; grant of easement in progress
- Hydraulic model: shared / integrated model still in discussion; investigating technical issues re: software and data

Court Order

	Items	On-time Items Completed/Continuous	Items Delayed	Completed Late	Items on Schedule	Performance %
Court order total	93	79	2	8	4	97.8%



Status Information

- 2 items delayed
  - Cl Residual Monitors
  - Meters
- Final Date to complete all Court Order items is December 31, 2020.
- Overflow or Bypass events reported to USEPA:
  - 1 WW spill in Yigo due to FOG
  - 1 WW spill in Inarajan due to FOG
- The new Agat/SR WWTP is operating well and the UV system well exceeds the permit limits

CIP and Grant Project Status

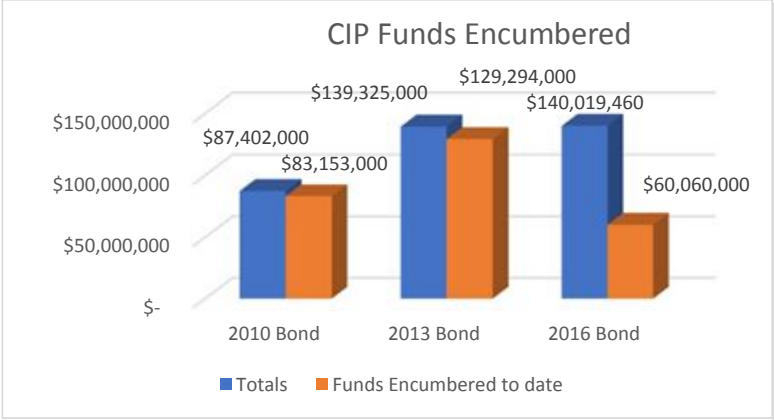
CIP Summary

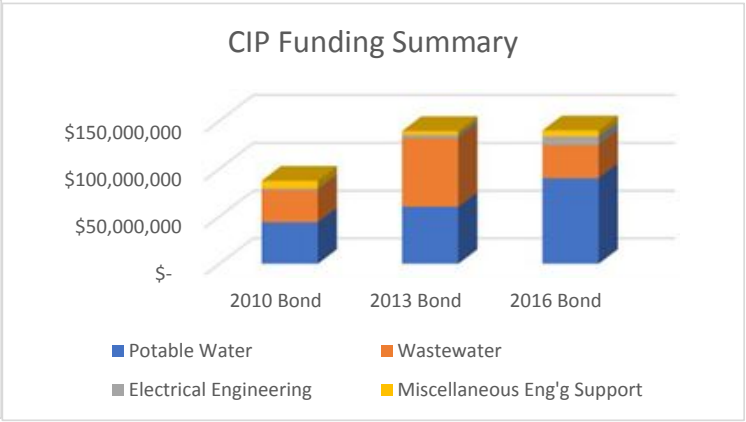
CIP Summary: Project Encumbrance

	2010 Bond		2013 Bond		2016 Bond			
	Funded	Complete	Funded	Complete	Funded	Complete	Total CIP Projects	%
Potable Water	28	17	21	7	20	0	35	49%
Wastewater	16	13	7	3	8	1	22	31%
Electrical Engineering	5	5	6	1	5	0	10	14%
Miscellaneous Eng'g Support	2	0	3	1	4	1	4	6%
Totals	51	35	37	12	37	2	71	100%
% of Total CIP by Fund Source	72%		52%		52%			

CIP Summary: Project Amounts

	2010 Bond		2013 Bond		2016 Bond			
	Funded	%	Funded	%	Funded	%	Total CIP Projects	%
Potable Water	$ 41,903,305	48%	$ 58,317,117	42%	$ 64,647,830	46%	$ 164,868,252	45%
Wastewater	$ 36,009,577	41%	$ 73,837,883	53%	$ 60,227,170	43%	$ 170,074,630	46%
Electrical Engineering	$ 1,748,118	2%	$ 3,395,000	2%	$ 8,750,000	6%	$ 13,893,118	4%
Miscellaneous Eng'g Support	$ 7,741,000	9%	$ 3,775,000	3%	$ 6,394,460	5%	$ 17,910,460	5%
Totals	$ 87,402,000	100%	$ 139,325,000	100%	$ 140,019,460	100%	$ 366,746,460	100%
Funds Encumbered to date	$ 83,153,000	95%	$ 129,294,000	93%	$ 60,060,000	43%		
% of Total CIP Funding	23.8%		38.0%		38.2%			

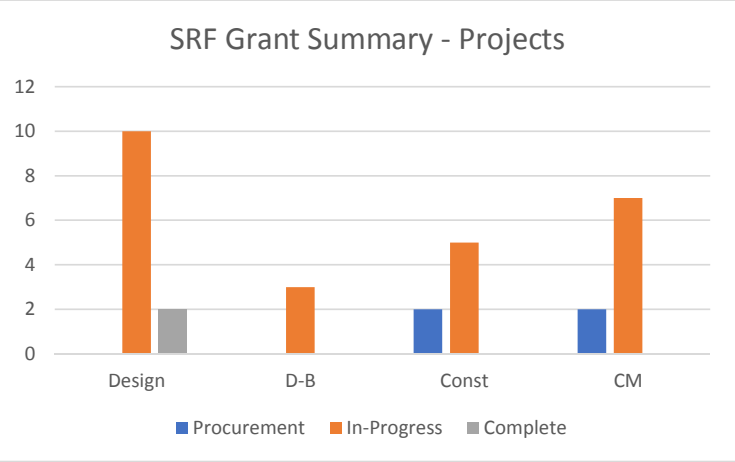


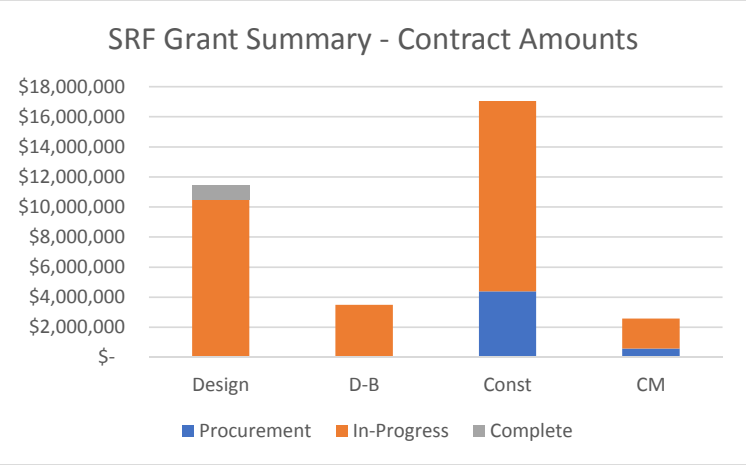


SRF Grant Summary

SRF Grant Summary - Contract Amounts

	Procurement	In-Progress	Complete	Totals	%
Design	$ -	$ 10,490,197	976,151	$ 11,466,348	33%
D-B	$ -	$ 3,502,453		$ 3,502,453	10%
Construction	$ 4,392,765	$ 12,650,479		$ 17,043,244	49%
CM	$ 584,725	$ 1,989,176		$ 2,573,901	7%
Totals	$ 4,977,490	$ 28,632,305	$ 976,151	$ 34,585,946	
%	14%	83%	3%		





OEA Grant Summary

- NDWWTP Upgrades
  - Designer on Board
  - Kick-off Meeting: 8/30/17
- Outfall Diffuser
  - Design in progress; GWA waiting for review set
  - 30% due June 2017 (per PM/CM Schedule)
- Interceptor
  - Bridging Documents for Design-Build procurement in progress; GWA waiting for review set
  - Due June 2017 (per PM/CM Schedule)
- NGLA Monitoring Wells
  - UOG-WERI-USGS MOA executed
  - Design in progress; GWA waiting for review set
  - 30% due November 2017

Action Item	Date (Target)	Date (Actual)	Status	Remarks
Project Funds Available	July-16	AUG-30-16	Completed	
Land Acquisition	Jan-17	Jan-17 (Compensation Pending)	Pending	Survey complete, appraisals complete – under review
Procure PM/CM Firm	Jan-17	Jan-17 (NTP Issued Feb 10th)	Completed	
Procure Design Firm	Jul-17		Completed	Contract issued; kickoff pending
Design -- 30/60/90/Final -- Review	Jun-18		On-target	
NEPA Analysis and Determination	Feb-17		Delayed	USEPA work on-going; procurement of contractor completed
Procure Construction Firm	Dec-18		On-target	
Construction Complete/Commence Operations	Nov-21		On-target	
Sewer line connection from MCB to GWA infrastructure	Jul-19		On-target	
MCB Initial Operating Capability	Jul-22		On-target	

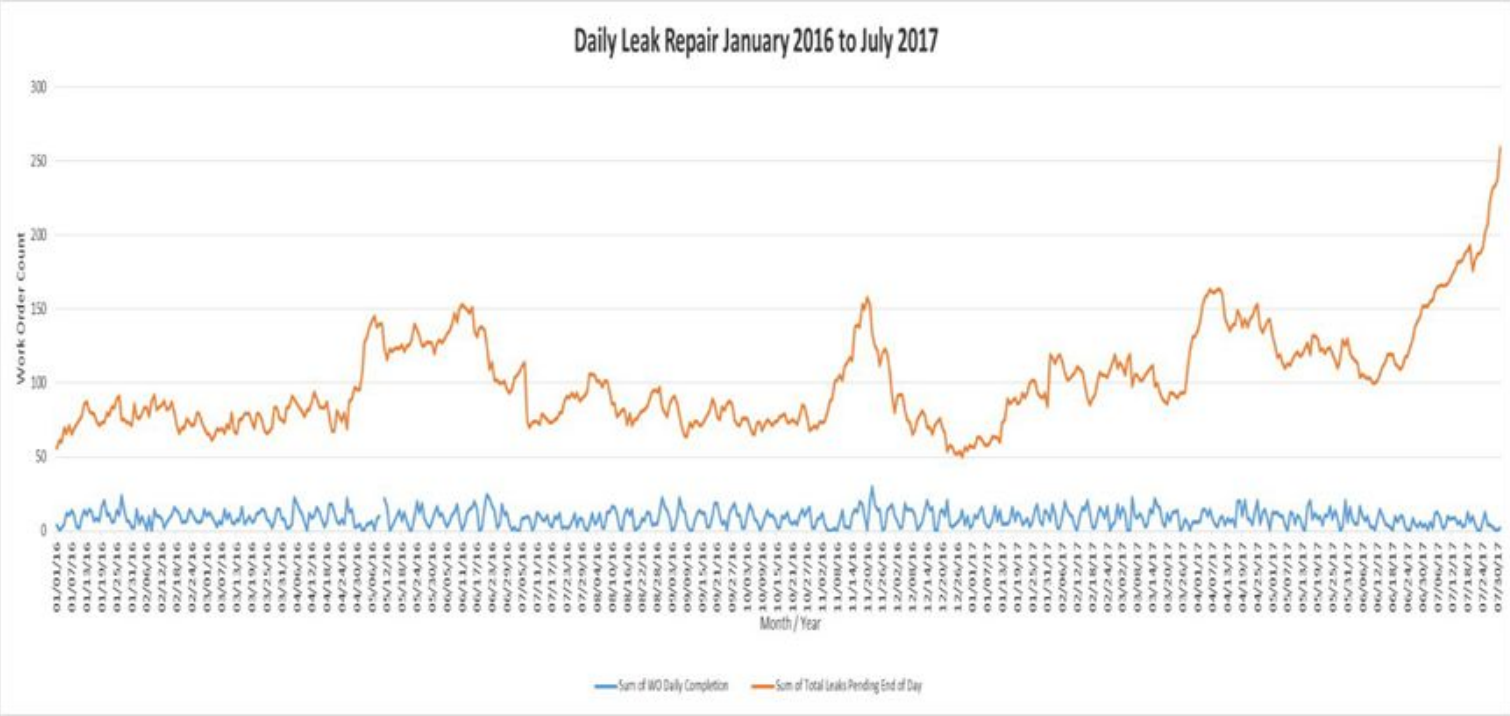
Land Acquisition Summary

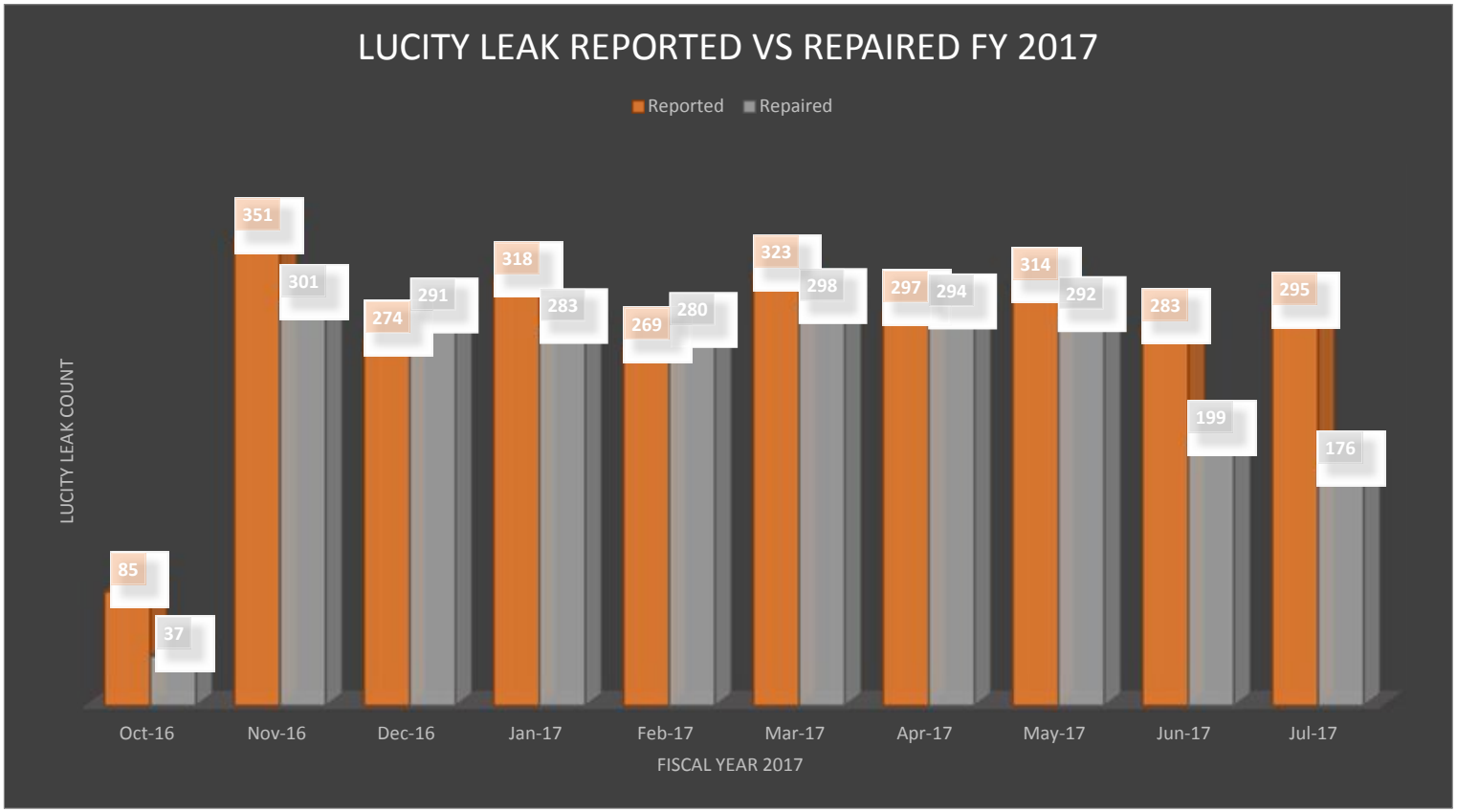
GWA Facility	Location	Gov. or Private Property	Land Acquisition Status
	Ugum	Private	Pending change order from TGE for GWA approval.
	Manenggon	Private	Property Ownership vested in GWA 05/02/17.
	Santa Rita	Gov't. – CLTC	Property Ownership vested in GWA 08/04/17.
	Astumbo	Gov't. - CLTC	GWA and DLM working together on Land Registration process. Abstract of Title sent to GWA for review 06/26/17. Pending technical description from DLM survey division.
	Upper Tumon	Gov't. - CLTC	Property Ownership vested in GWA 08/03/17.
	Piti	Private	GWA consultants drafting Letter of Intent for private property owners. GWA to draft Letter of Interest to Parks & Rec for possible use of portion of park area for Booster Pump Station 08/21/17.
Expansion of the Northern District Wastewater Treatment Plant (NDWWTP)	Dededo	Gov't - GALC	Lot Parceling Survey Map sent to DLM for review and comments 08/07/17. Appraisal Reports completed 08/11/17. GWA Land Agent to review reports.
Deep Well	Y-8	Gov't. - CLTC	DCA currently working on severance property map.
	AG-12	Dept. of Agriculture/Manhita Farms	Preliminary Land Registration Survey Map forwarded to GWA for review 08/14/17. Appraisal process to begin once review and comments are forwarded to DCA.
Booster Pump Station	Brigade	Private	Escrow services opened with Security Title on 07/17/17

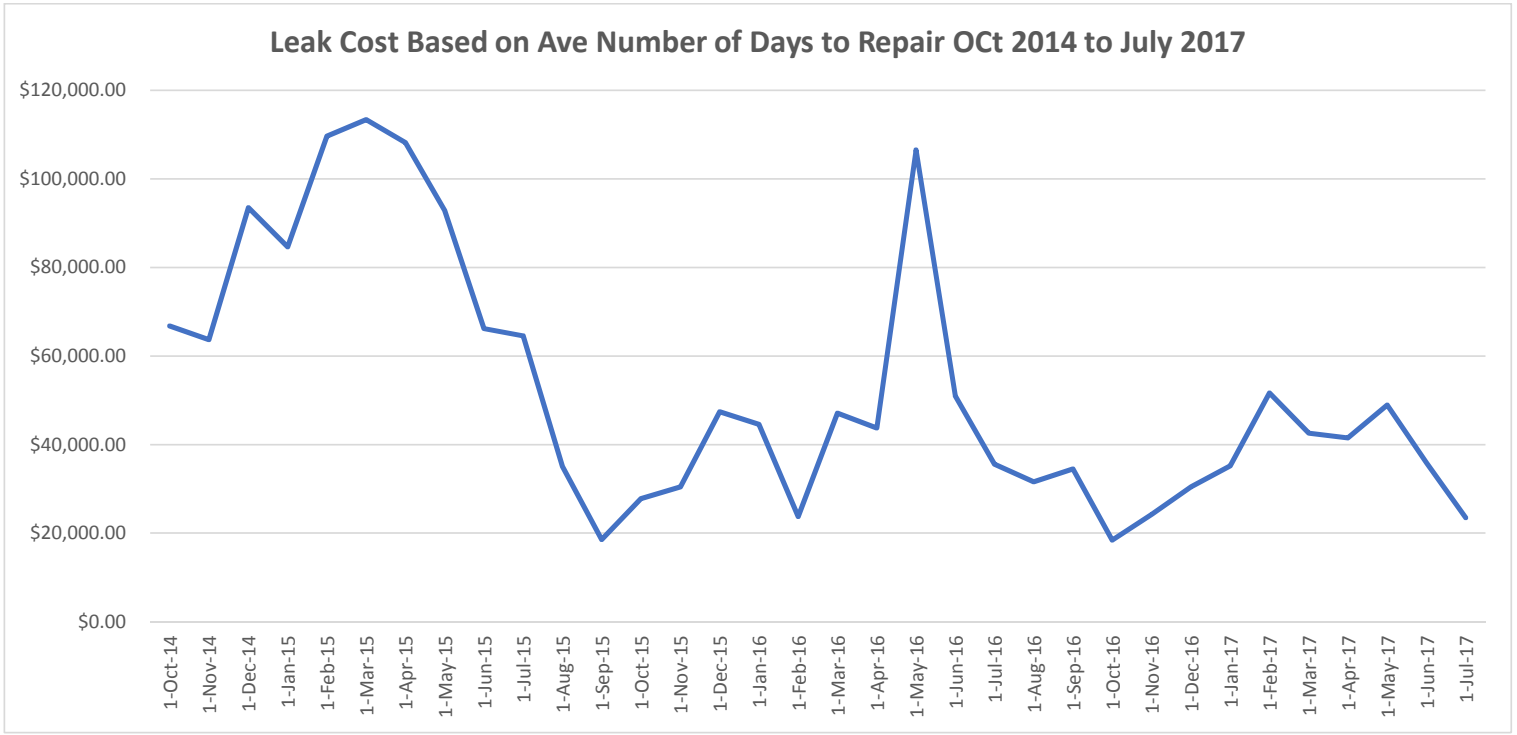
NRW – Update

- Water Audit update on-going
  - Production rates are being reviewed for accuracy and refined
  - Unmetered, Authorized uses are being quantified
  - Meter and billing inaccuracies are being reviewed and refined

Leak Repair Summary




LUCITY LEAK REPORTED VS REPAIRED FY 2017
Reported
Repaired
LUCITY LEAK COUNT
85
37
351
301
274
291
318
283
269
280
323
298
297
294
314
292
283
199
295
176
Oct-16
Nov-16
Dec-16
Jan-17
Feb-17
Mar-17
Apr-17
May-17
Jun-17
Jul-17
FISCAL YEAR 2017



Assumptions:

1. Leak rate = 4 gpm
2. Cost per kgal = $4.00

Update on Marbo Property meetings August 7th and 8th in DC.

To: the CCU Commissioners

From: GWA General Counsel

Date: 8/15/17

GWA's contingent of the GM, Commissioner Santos and myself met first with Director Patrick J. O'Brien and James Holland, Program Director for BRAC and Downsizing, of the DOD-Office of Economic Adjustment earlier in the morning on Tuesday, August 8th.

From the type of direct questions presented by Mr. Obrien, specifically in regard to legal authorization and process for the development of wells on the property, it was clear he had spent some time researching and speaking with others about this matter. He explained the process for reversion, indicating that USDOE would get the title to the property back, and then it would be turned over to USGSA by USDOE if they felt that the original intent to serve a public "educational need" no longer existed. He therefore felt that it would be unlikely that GWA could assert its "public benefit need" to USDOE for retention of the property, as it would not be in line with USDOE's original intent for educational public benefit.

As for GWA securing the property to retain the operation of the wells, Mr. O'Brien did have some recommendations for us. First, that GWA should divorce its position from the Guam DOE as the USGSA appears to have determined that there will be no redemption of the property by GDOE and that GDOE had no credibility upon which to negotiate a solution.

Mr. Obrien suggested that the USGSA was in a somewhat awkward position where once they filed the notice of entry with DLM and regain title, they then would be stuck with dealing with 3 critical water wells and "ownership" or way to manage the use of them. One path he suggested was for GWA to petition the US Dept. of Health and Human Services for a conveyance of the property from USGSA when it regains title. The deed, he thought, would be similar to the deed GDOE failed to live up to, and if made through a public benefit conveyance, could be a no-cost option for GWA to secure the property. In GWA's case the property would need to be used for purpose related to the health and welfare of the public. He emphasized that support from Guam's Congressional Delegate would be critical to the success of such a course of action. Something that comes to mind are some project collaborations with WERI and/or GEPA.

The meeting with USDOE was later in the morning. The meeting attendees are attached hereto. There were no surprises. It was clear from several on the USDOE end of the table that the property was going to be taken back by the GSA very soon and that USDOE was merely waiting on the GSA for direction and timing. USDOE stated on more than one occasion that the Navy had expressed a need for the property, and any future disposition was between the USGSA and the Navy; USDOE had no say in the matter. The critical nature of the wells and GWA's willingness to work with them was clearly conveyed by the GM to the USDOE officials and they appeared grasp the importance of conveying that to the USGSA people and promised to do so.

In the interim, Commissioner Santos was able to get us a meeting with Delegate Bordallo for later in the afternoon which went very well. Her Legislative staffer, Jason McMahon had some contacts and would

set up meetings as early as the week of the 14th to get started on outlining a path to get through the USGSA, DHHS conveyance process.

In the interim, it was understood by both the USDOE and the Delegate's office that GWA needs to set up a direct relationship with the USGSA office responsible for the property so that we can negotiate a license or other instrument to facilitate the operation of the wells on an interim basis with the proper authorizations. Once Gov. Guam no longer has title to the parcel, the operation of the wells would be problematic for the USGSA, and therefore, they may be willing to work with us to reach a solution to avoid that problem.

DASHBOARD

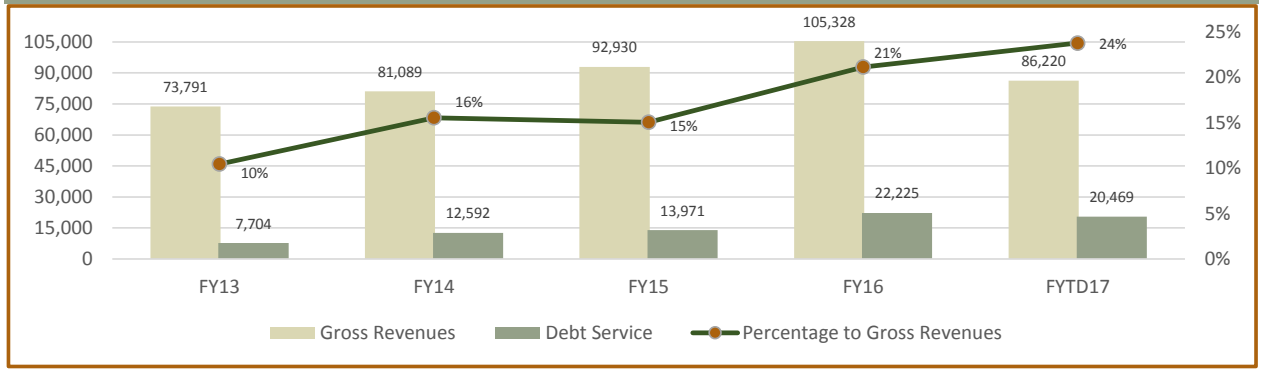
July 2017 YTD Budget vs Actual ($000)

Category	Description	Budget FY17	Actual FY17	Variance
Rate Based Revenues	Water	$58,723	$54,310	($4,413)
	Wastewater	33,791	31,441	(2,350)
	Total	92,514	85,752	(6,762)
Operations & Maintenance	Salaries & Benefits	21,841	16,502	(5,339)
	Power	10,618	9,805	(813)
	Water Purchases	6,764	6,048	(715)
	A&G	9,070	6,989	(2,081)
	Contractual	3,233	3,092	(141)
	Total	$67,614	$57,346	($10,268)

Key Financial Ratios ($000)

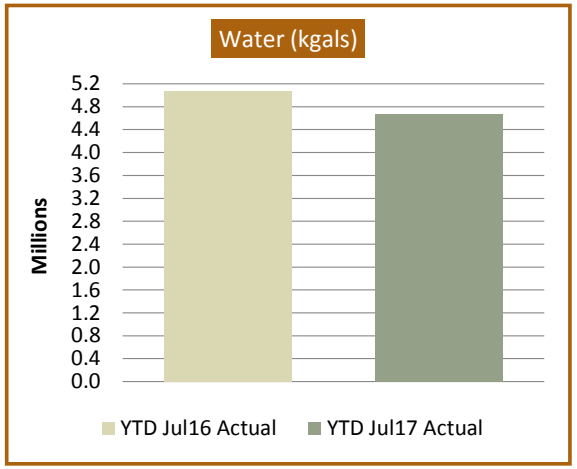
Category	FY17	FY16
Accounts Payable $$/Days	$4,480 / 53 days	$4,909 / 53 days
Accounts Receivable $$/Days	$19,006 / 53 days	$16,709 / 51 days
Days Cash On Hand	190 days	178 days
Annual Debt Service (Revenue Bonds)	$24,563	$22,225
Debt Service Coverage (Bond/PUC)	2.06 / 2.52	2.33 / 2.54

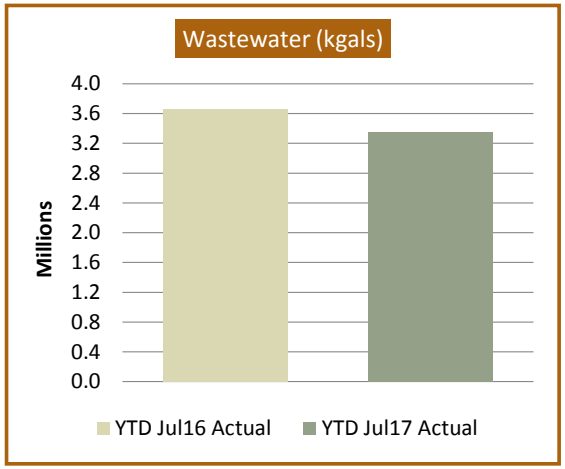
Debt as a Percent to Gross Revenue

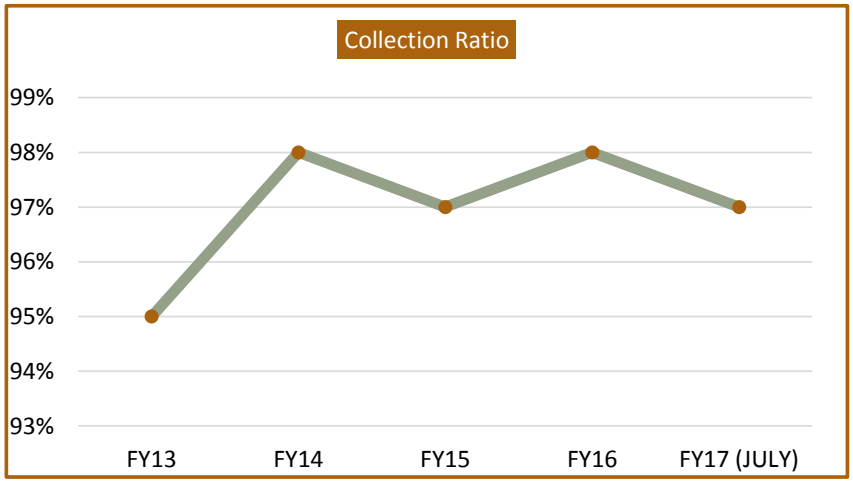


(1) Gross Revenues excludes SDC
(2) Debt Service Excludes Cap I

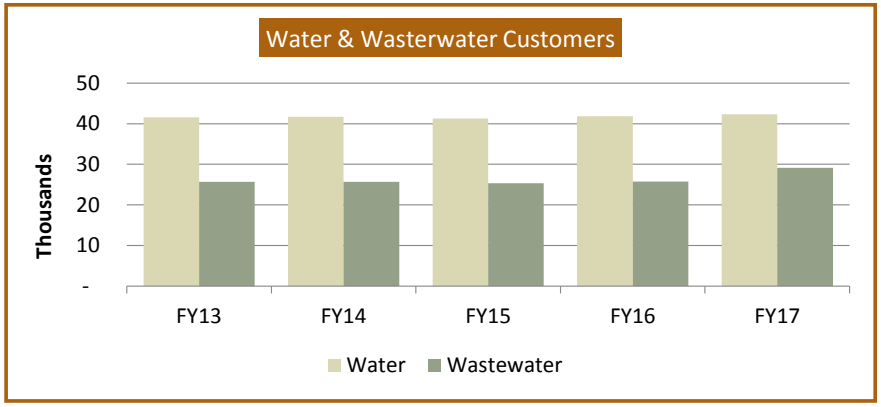
Water & Wastewater Analytics

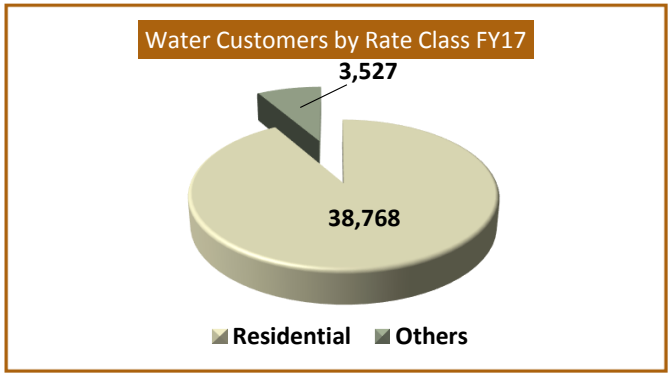


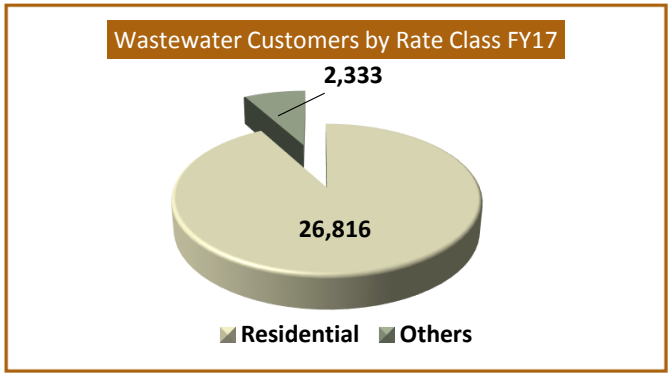


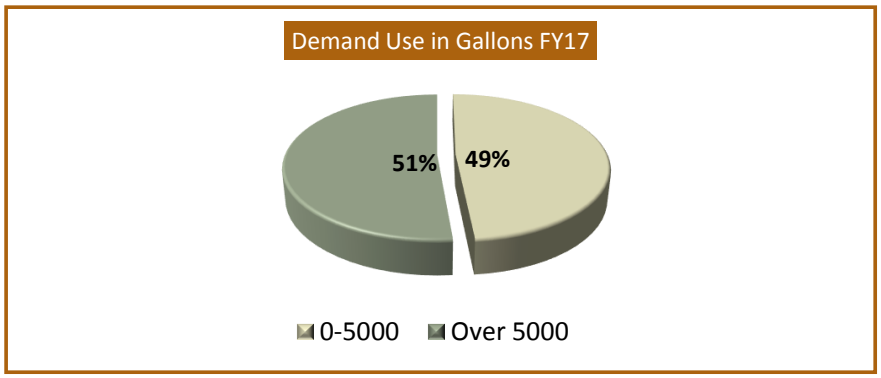


Water & Wastewater Customers





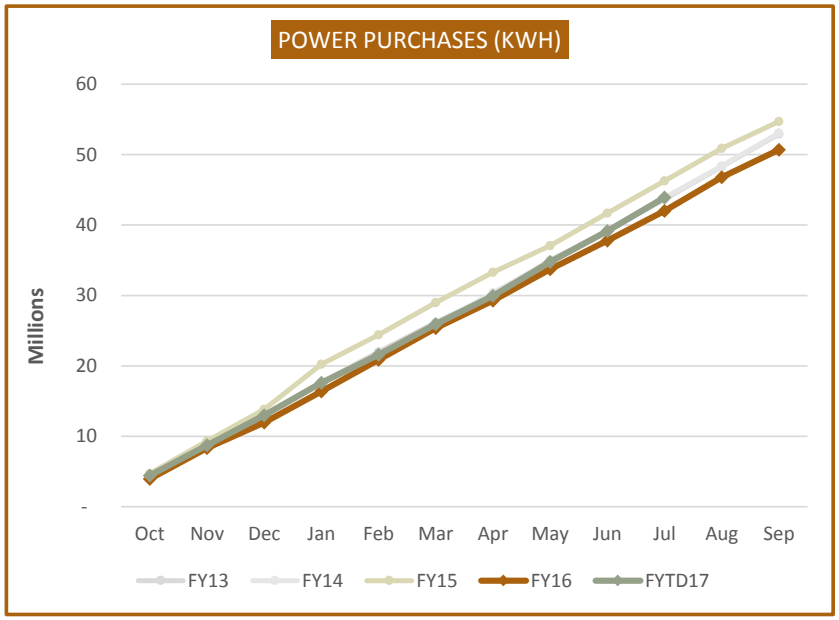


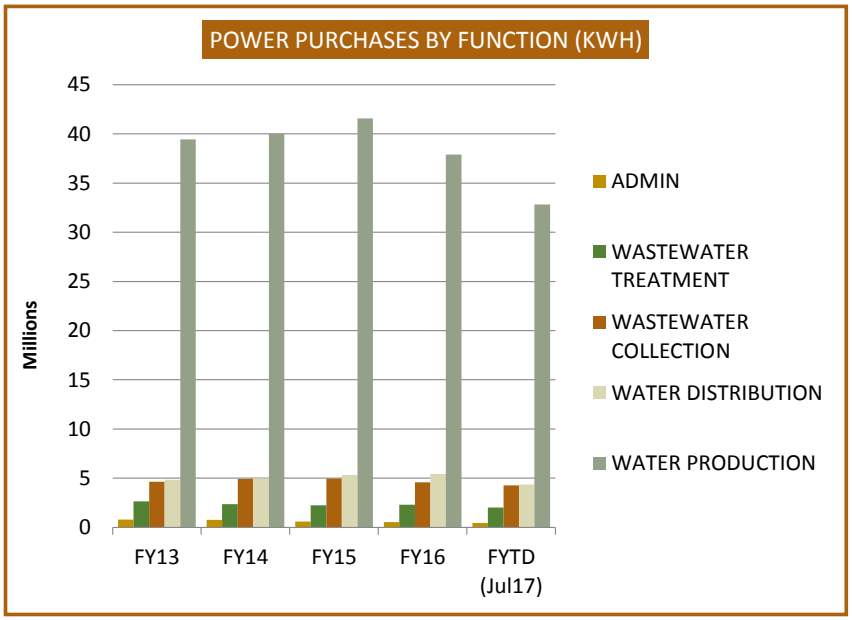


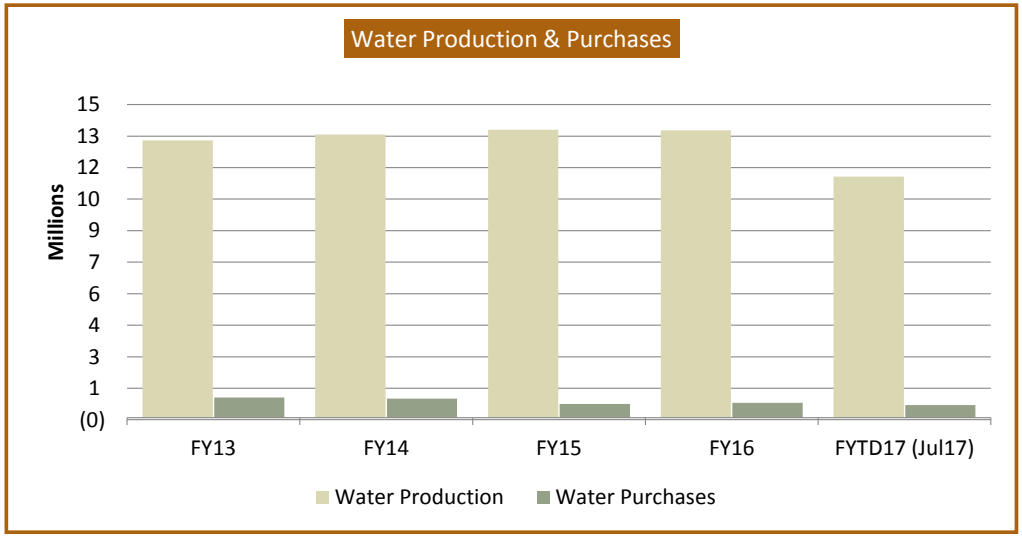
Top Ten Largest Water and Wastewater Customers – July 2017

Water			Wastewater		
Customer Name	FY17 YTD Revenues	% of Total	Customer Name	FY17 YTD Revenues	% of Total
1) MDI GUAM CORPORATION/LEOPALACE	$1,099,676	2.02%	1) AIR FORCE DOD	$3,231,668	10.28%
2) PACIFIC ISLANDS CLUB	1,002,831	1.85%	2) NAVY DOD	1,387,067	4.41%
3) HOTELS OF THE MARIANAS INC	826,014	1.52%	3) HOTELS OF THE MARIANAS INC	883,330	2.81%
4) SHERATON LAGUNA GUAM RESORT	723,165	1.33%	4) SHERATON LAGUNA GUAM RESORT	774,076	2.46%
5) HYATT	707,590	1.30%	5) HYATT	757,348	2.41%
6) HOTEL NIKKO GUAM	676,853	1.25%	6) HOTEL NIKKO GUAM	723,129	2.30%
7) PACIFIC STAR RESORT & SPA	541,621	1.00%	7) PACIFIC STAR RESORT & SPA	577,887	1.84%
8) GUAM REEF HOTEL INC	528,069	0.97%	8) GUAM REEF HOTEL INC	564,539	1.80%
9) MDI GUAM CORPORATION/WESTIN	527,279	0.97%	9) MDI GUAM CORPORATION/WESTIN	563,691	1.79%
10) OUTRIGGER GUAM RESORT	497,476	0.92%	10) OUTRIGGER GUAM RESORT	532,890	1.70%
Total	**$7,130,573**	**13.12%**	**Total**	**$9,995,626**	**31.81%**

Power, Water Purchases and Water Production

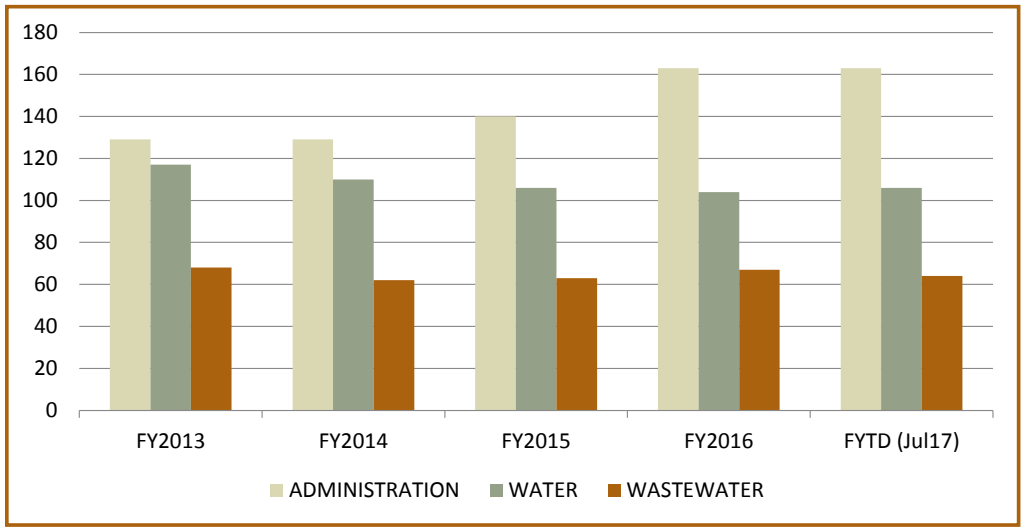






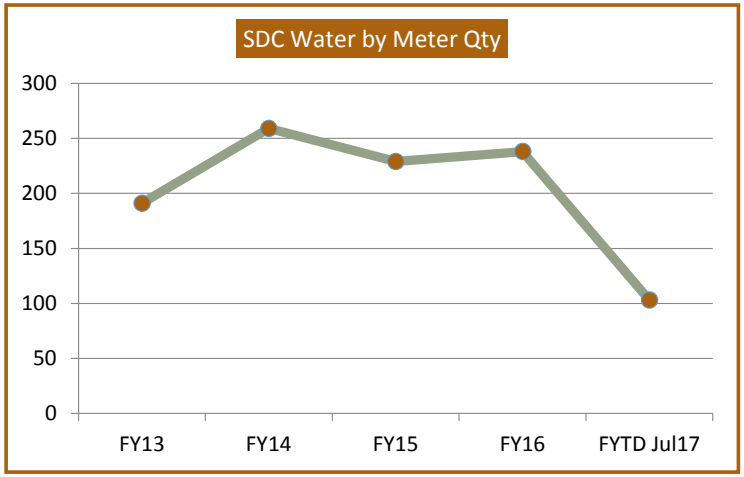
FTE by Major Division

DIVISION	FY2013	FY2014	FY2015	FY2016	FYTD (Jul17)
ADMINISTRATION	129	129	140	163	163
WATER	117	110	106	104	106
WASTEWATER	68	62	63	67	64
TOTAL NUMBER OF STAFF	314	301	309	334	333
Gross Salaries & Wages ($000)	14,929	15,532	15,805	16,442	13,963
Water Customers	41,582	41,702	41,274	42,259	42,295
Staff to Customers Ratio	0.76%	0.72%	0.75%	0.79%	0.79%

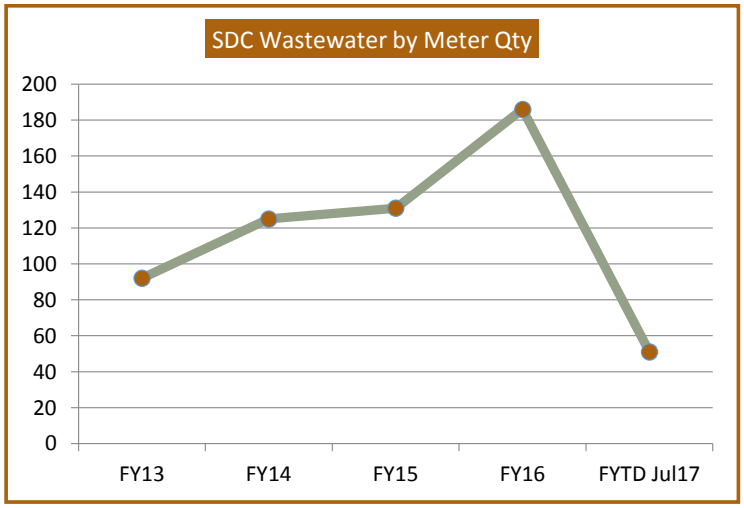


Note: FYTD17 number of employees 333 is as of July 2017

SDC Water & Wastewater (Meter Quantity)



Actual Meter Sizes (Inches)	FY 2013	FY 2014	FY 2015	FY 2016	FYTD (Jul17)
5/8 x 3/4	179	248	220	239	99
1	-	5	5	7	2
1 1/2	5	1	1	1	1
2	4	3	2	4	2
3	-	1	-	1	-
4	3	-	1	-	-
6	-	-	-	-	1
8	-	1	-	-	-
10	-	-	-	-	-
Total SDC by Water	191	259	229	252	105



Actual Meter Sizes (Inches)	FY 2013	FY 2014	FY 2015	FY 2016	FYTD (Jul17)
5/8 x 3/4	80	115	124	179	47
1	-	4	3	2	-
1 1/2	5	1	1	1	1
2	4	3	2	3	2
3	-	1	-	1	-
4	3	-	1	-	-
6	-	-	-	-	1
8	-	1	-	-	-
10	-	-	-	-	-
Total SDC by Wastewater	92	125	131	186	51

GUAM WATERWORKS AUTHORITY
JULY 31, 2017
FINANCIAL AND RELATED REPORTS
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GUAM WATERWORKS AUTHORITY
Balance Sheet
July 31, 2017

SCHEDULE A

ASSETS	Unaudited July 31, 2017	Audited September 30, 2016	Increase (Decrease)
Current Assets:			
Cash:			
Unrestricted (Schedule G)	4,233,844	5,157,430	(923,586)
Restricted Funds (Schedule G)	63,314,605	51,436,547	11,878,059
Accounts Receivable Trade, Net of Allowance for Doubtful Receivables of $11,927,579 at Jul 31, 2017 and $11,302,579 at Sep 30, 2016	15,446,311	14,562,072	884,239
Other Receivable	3,559,323	2,147,155	1,412,169
Materials & Supplies Inventory, Net of Allowance for Obsolescence of $457,370 at Jul 31, 2017 and Sep 30, 2016	1,865,432	2,269,775	(404,343)
Total Current Assets	88,419,516	75,572,979	12,846,537
Property, Plant and Equipment			
Utility plant in service:			
Water system	309,160,290	306,262,568	2,897,722
Wastewater system	279,994,424	259,512,407	20,482,017
Non-utility property	22,987,128	22,474,787	512,341
Total property	612,141,841	588,249,761	23,892,080
Less Accumulated Depreciation	(296,127,693)	(282,837,613)	(13,290,080)
Land	1,110,998	254,288	856,710
Construction Work in Progress	116,234,951	81,877,561	34,357,391
Property, Plant and Equipment, net	433,360,098	387,543,997	45,816,101
Other noncurrent assets			
Restricted cash (Schedule G)	244,834,009	285,277,784	(40,443,775)
Investments (Schedule G)	36,970,211	41,029,262	(4,059,052)
Other Prepaid Expenses	911,322	652,000	259,321
Total other noncurrent assets	282,715,541	326,959,047	(44,243,505)
TOTAL ASSETS	804,495,155	790,076,022	14,419,133
Deferred outflows of resources:			
Debt defeasance loss on refunding	1,726,418	1,878,602	(152,184)
Deferred outflows from pension	3,623,203	4,668,010	(1,044,807)
Total Assets and Deferred Outflows of Resources	**809,844,776**	**796,622,635**	**13,222,142**
LIABILITIES AND NET ASSETS			
Current Liabilities:			
Current maturities of long-term debt			
-Series 2010 Bond	1,655,000	1,655,000	-
-Series 2014 Refunding	3,385,000	3,385,000	-
-Notes Payable	2,873,988	2,873,988	-
Accounts Payable -Trade	4,479,859	4,909,146	(429,287)
Accrued Expense	42,126	42,126	0
Interest Payable	2,249,826	6,748,638	(4,498,812)
Accrued Payroll and Employee Benefits	1,942,549	1,692,622	249,927
Accrued Annual Leave	1,760,094	1,641,497	118,597
Current portion of employee annual leave	533,038	548,845	(15,807)
Contractors' Payable	7,672,518	3,436,908	4,235,610
Customer and Other Deposits	2,053,737	2,228,235	(174,499)
Total Current Liabilities	28,647,733	29,162,004	(514,271)
Long Term Debt, less current maturities			
Series 2010 Revenue Bond	112,870,000	114,525,000	(1,655,000)
Series 2013 Revenue Bond	172,630,000	172,630,000	-
Series 2014 Refunding	72,610,000	75,995,000	(3,385,000)
Series 2016 Revenue Bond	143,310,000	143,310,000	-
Unamortized Discount - Bond 2010	(1,880,972)	(1,948,205)	67,234
Unamortized Discount - Bond 2013	(1,347,267)	(1,389,850)	42,583
Unamortized Premium - Bond 2014	4,849,129	5,071,307	(222,178)
Unamortized Premium - Bond 2016	17,364,224	17,870,470	(506,246)
Notes Payable	6,238,873.78	8,578,203	(2,339,329)
Unfunded Ret Liability (GASB 67/68)	35,966,167	38,195,938	(2,229,771)
Employee Annual Leave, Less Current Portion	861,534	887,084	(25,550)
TOTAL LIABILITIES	592,119,422	602,886,951	(10,767,528)
Net Assets	**217,725,354**	**193,735,684**	**23,989,670**
Total Liabilities and Net Assets	**809,844,776**	**796,622,635**	**13,222,141**

GUAM WATERWORKS AUTHORITY
Statement of Operations and Retained Earnings (Unaudited) **SCHEDULE B**
Comparative Budget vs. Actual for the period ending July 31, 2017

	Month to Date			Variance
	Budget July-17	Encumbered July-17	Actual (Unaudited) July-17	Increase / (Decrease)
OPERATING REVENUES				
Water Revenues	5,678,548		5,492,685	(185,862)
Wastewater Revenues	3,284,461		3,029,723	(254,738)
Legislative Surcharge	288,387		272,792	(15,595)
Other Revenues	43,750		29,496	(14,254)
System Development Charge	133,333		39,669	(93,665)
Total Operating Revenues	9,428,479		8,864,365	(564,114)
OPERATING AND MAINTENANCE EXPENSES				
Water Purchases	676,391		607,400	(68,990)
Power Purchases	1,061,804		1,020,128	(41,676)
Total Utility Costs	1,738,195		1,627,528	(110,666)
Salaries and Wages	1,586,470		1,423,556	(162,915)
Pension and Benefits	597,585		246,390	(351,194)
Total Salaries and Benefits	2,184,055		1,669,946	(514,109)
Capitalized Labor and Benefits	(292,554)		(200,000)	92,554
Net Salaries and Benefits	1,891,501		1,469,946	(421,555)
Administrative and General Expenses				
Sludge removal	135,395	-	134,690	(705)
Chemicals	205,222	-	161,429	(43,793)
Materials & Supplies	204,856	-	204,690	(165)
Transportation	71,419	26,510	35,055	(9,854)
Communications	14,152	1,300	11,575	(1,277)
Claims	38,284	-	38,190	(93)
Insurance	76,312	-	75,480	(832)
Training & Travel	9,570	-	9,269	(301)
Advertising	7,045	-	5,794	(1,251)
Miscellaneous	95,363	3,146	59,054	(33,163)
Total Administrative and General Expense	857,616	30,956	735,226	(91,434)
Regulatory Expense	21,791	-	16,458	(5,332)
Bad Debts Provision	62,500	-	62,496	(4)
Depreciation Expense	1,529,550	-	1,329,008	(200,542)
Contractual Expense				
Audit & Computer Maint.	78,630	7,294	54,078	(17,258)
Building rental	38,368	-	36,582	(1,785)
Equipment rental	42,270	-	36,527	(5,743)
Legal	439	-	-	(439)
Laboratory	10,086	-	10,035	(51)
Other	202,892	-	202,813	(78)
Total Contractual Expense	372,685	7,294	340,036	(25,355)
Retiree Supp. Annuities and health care costs	239,312		229,333	(9,979)
Contribution to Government of Guam	49,500		49,500	-
Total Retiree Benefits	288,812		278,833	(9,979)
Total Operating Expenses	6,762,648	38,250	5,859,531	(864,868)
Earnings (Loss) from Operations	2,665,830	(38,250)	3,004,834	300,754
Interest Income-2010/13/14/16 Series Bond	1,029		121,552	120,524
Interest Income-Other Funds	642		17,675	17,033
Interest Income-SDC	-		748	748
Interest Expense- 2010/13/14/16 Series Bond	(2,223,983)		(2,211,025)	12,959
Interest Expense- ST BOG	(46,124)		(44,181)	1,943
Federal Expenditures	-		-	-
Loss on Asset Disposal	-		-	-
AFUDC	625,000		625,000	-
Amortization of Discount, Premium and Issuance Costs	37,738		61,861	24,123
Loss on Defeasance Bond05 Refunding	(19,483)		(15,218)	4,265
Deferred outflows from pension	(66,928)		(104,481)	(37,552)
Prior Year Adjustment	-		-	-
Total non-operating revenues (expenses)	(1,692,111)	-	(1,548,068)	144,042
Net Income (Loss) before capital contributions	973,720	(38,250)	1,456,766	444,796
Capital Contributions				
Grants from US Government	250,000		2,178,134	1,928,134
Grants from GovGuam & Others	-		-	-
Other Contributions	-		-	-
Total Capital Contributions	250,000	-	2,178,134	1,928,134
Change in Net Assets	1,223,720	(38,250)	3,634,900	2,372,930
Debt Service Calculation				
Earnings From Operations	2,665,830		3,004,834	
System Development Charge	(133,333)		(39,669)	
Interest/Investment Income	642		17,675	
Depreciation	1,529,550		1,329,008	
Balance Available for Debt Service per Section 6.12	4,062,689		4,311,849	
Working Capital Reserve Available for Debt Service	632,083		932,134	
Transfer to Working Capital Debt Service Reserve	(304,167)		-	
Balance Available for Debt Service inclusive of reserves	4,390,606		5,243,983	
Debt Service				
Principal	420,000		420,000	
Interest	1,626,858		1,626,858	
Total	2,046,858		2,046,858	
Debt Service Coverage (1.25X)- per Section 6.12 (Indenture)	1.98		2.11	
Debt Service Coverage (1.75X) inclusive of reserves (PUC)	2.15		2.56	

GUAM WATERWORKS AUTHORITY
Statement of Operations and Retained Earnings (Unaudited) **SCHEDULE C**
Comparative for the period ending July 31, 2017 and 2016

	Month to Date		Variance
	Actual (Unaudited) July-17	Actual (Audited) July-16	Increase / (Decrease)
OPERATING REVENUES			
Water Revenues	5,492,685	5,361,643	131,043
Wastewater Revenues	3,029,723	3,102,398	(72,676)
Legislative Surcharge	272,792	241,527	31,265
Other Revenues	29,496	43,325	(13,828)
System Development Charge	39,669	119,028	(79,359)
Total Operating Revenues	8,864,365	8,867,921	(3,556)
OPERATING AND MAINTENANCE EXPENSES			
Water Purchases	607,400	531,170	76,231
Power Purchases	1,020,128	935,490	84,638
Total Utility Costs	1,627,528	1,466,660	160,868
Salaries and Wages	1,423,556	1,333,993	89,563
Pension and Benefits	246,390	454,904	(208,514)
Total Salaries and Benefits	1,669,946	1,788,897	(118,951)
Capitalized Labor and Benefits	(200,000)	(248,363)	48,363
Net Salaries and Benefits	1,469,946	1,540,534	(70,588)
Administrative and General Expenses			
Sludge removal	134,690	130,423	4,267
Chemicals	161,429	186,596	(25,167)
Materials & Supplies	204,690	103,711	100,979
Transportation	35,055	47,876	(12,821)
Communications	11,575	10,265	1,310
Claims	38,190	10,618	27,573
Insurance	75,480	101,111	(25,631)
Training & Travel	9,269	12,457	(3,187)
Advertising	5,794	15,907	(10,114)
Miscellaneous	59,054	68,429	(9,375)
Total Administrative and General Expense	735,226	687,393	47,834
Regulatory Expense	16,458	27,104	(10,646)
Bad Debts Provision	62,496	86,193	(23,697)
Depreciation Expense	1,329,008	1,279,008	50,000
Contractual Expense			
Audit & Computer Maint.	54,078	86,467	(32,390)
Building rental	36,582	33,279	3,304
Equipment rental	36,527	58,162	(21,635)
Legal	-	362	(362)
Laboratory	10,035	10,234	(199)
Other	202,813	154,589	48,224
Total Contractual Expense	340,036	343,094	(3,058)
Retiree Supp. Annuities and health care costs	229,333	230,355	(1,023)
Contribution to Government of Guam	49,500	48,667	833
Total Retiree Benefits	278,833	279,022	(189)
Total Operating Expenses	5,859,531	5,709,007	150,523
Earnings (Loss) from Operations	3,004,834	3,158,914	(154,079)
Interest Income-2010/13/14/16 Series Bond	121,552	2,083	119,470
Interest Income-Other Funds	17,675	1,281	16,394
Interest Income-SDC	748	1,896	(1,147)
Interest Expense- 2010/13/14/16 Series Bond	(2,211,025)	(1,994,375)	(216,650)
Interest Expense- ST BOG	(44,181)	(59,096)	14,915
Federal Expenditures	-	(88,189)	88,189
Loss on Asset Disposal	-	(4,150)	4,150
AFUDC	625,000	1,142,370	(517,370)
Amortization of Discount, Premium and Issuance Costs	61,861	(160,812)	222,672
Loss on Defeasance Bond05 Refunding	(15,218)	(19,483)	4,265
Deferred outflows from pension	(104,481)	(7,452)	(97,029)
Prior Year Adjustment	-	(51,397)	51,397
Total non-operating revenues (expenses)	(1,548,068)	(1,237,323)	(310,746)
Net Income (Loss) before capital contributions	1,456,766	1,921,591	(464,825)
Capital Contributions			
Grants from US Government	2,178,134	434,254	1,743,880
Grants from GovGuam & Others	-	23,151	(23,151)
Other Contributions	-	-	-
Total Capital Contributions	2,178,134	457,405	1,720,729
Change in Net Assets	3,634,900	2,378,996	1,255,904
Debt Service Calculation			
Earnings From Operations	3,004,834	3,158,914	
System Development Charge	(39,669)	(119,028)	
Interest/Investment Income	17,675	1,281	
Depreciation	1,329,008	1,279,008	
Balance Available for Debt Service per Section 6.12	4,311,849	4,320,176	
Working Capital Reserve Available for Debt Service	932,134	382,083	
Transfer to Working Capital Debt Service Reserve	-	-	
Balance Available for Debt Service inclusive of reserves	5,243,983	4,702,259	
Debt Service			
Principal	420,000	409,167	
Interest	1,626,858	1,442,950	
Total	2,046,858	1,852,116	
Debt Service Coverage (1.25X)- per Section 6.12 (Indenture)	2.11	2.33	
Debt Service Coverage (1.75X) inclusive of reserves (PUC)	2.56	2.54	

GUAM WATERWORKS AUTHORITY
Statement of Operations and Retained Earnings (Unaudited) **SCHEDULE D**
Comparative Budget vs. Actual for the period ending July 31, 2017

	Year to Date			Variance
	Budget July-17	Encumbered July-17	Actual (Unaudited) July-17	Increase / (Decrease)
OPERATING REVENUES				
Water Revenues	56,785,476		52,540,853	(4,244,623)
Wastewater Revenues	32,844,606		30,583,117	(2,261,488)
Legislative Surcharge	2,883,870		2,627,751	(256,119)
Other Revenues	437,500		468,404	30,904
System Development Charge	1,333,333		760,815	(572,519)
Total Operating Revenues	94,284,785		86,980,941	(7,303,844)
OPERATING AND MAINTENANCE EXPENSES				
Water Purchases	6,763,906		6,048,415	(715,491)
Power Purchases	10,618,040		9,805,467	(812,573)
Total Utility Costs	17,381,946		15,853,882	(1,528,064)
Salaries and Wages	15,864,703		13,962,898	(1,901,804)
Pension and Benefits	5,975,846		2,538,929	(3,436,917)
Total Salaries and Benefits	21,840,548		16,501,827	(5,338,721)
Capitalized Labor and Benefits	(2,925,543)		(2,000,000)	925,543
Net Salaries and Benefits	18,915,006		14,501,827	(4,413,179)
Administrative and General Expenses				
Sludge removal	1,743,947	348,455	1,394,599	(893)
Chemicals	2,052,220	147,465	1,798,913	(105,842)
Materials & Supplies	1,654,306	355,190	1,298,397	(718)
Transportation	714,192	328,143	368,648	(17,401)
Communications	141,518	31,083	106,835	(3,600)
Claims	115,838	-	115,100	(738)
Insurance	1,353,117	-	936,272	(416,844)
Training & Travel	169,698	-	169,220	(478)
Advertising	95,445	-	94,212	(1,233)
Miscellaneous	1,029,633	39,358	707,055	(283,219)
Total Administrative and General Expense	9,069,913	1,249,694	6,989,251	(830,968)
Regulatory Expense	217,905	-	189,206	(28,699)
Bad Debts Provision	625,000	-	624,948	(52)
Depreciation Expense	15,295,500	-	13,290,080	(2,005,420)
Contractual Expense				
Audit & Computer Maint.	968,303	-	933,931	(34,372)
Building rental	383,677	-	365,514	(18,163)
Equipment rental	510,698	-	504,368	(6,330)
Legal	6,588	-	6,132	(456)
Laboratory	100,863	52,308	46,603	(1,952)
Other	1,262,918	-	1,235,354	(27,564)
Total Contractual Expense	3,233,045	52,308	3,091,901	(88,836)
Retiree Supp. Annuities and health care costs	2,393,117		2,310,170	(82,946)
Contribution to Government of Guam	495,050		495,000	(50)
Total Retiree Benefits	2,888,167	-	2,805,170	(82,996)
Total Operating Expenses	67,626,482	1,302,002	57,346,266	(8,978,214)
Earnings (Loss) from Operations	26,658,303	(1,302,002)	29,634,675	1,674,369
Interest Income-2010/13/14/16 Series Bond	10,287		487,730	477,444
Interest Income-Other Funds	6,418		75,997	69,579
Interest Income-SDC	-		17,506	17,506
Interest Expense- 2010/13/14/16 Series Bond	(22,239,834)		(22,226,876)	12,959
Interest Expense- ST BOG	(461,241)		(472,785)	(11,544)
Federal Expenditures	-		(256,661)	(256,661)
Loss on Asset Disposal	-		-	-
AFUDC	6,250,000		6,250,000	-
Amortization of Discount, Premium and Issuance Costs	377,375		618,607	241,232
Loss on Defeasance Bond05 Refunding	(194,830)		(152,184)	42,646
Deferred outflows from pension	(669,282)		(1,044,807)	(375,525)
Prior Year Adjustment	-		(557,890)	(557,890)
Total non-operating revenues (expenses)	(16,921,107)	-	(17,261,361)	(340,255)
Net Income (Loss) before capital contributions	9,737,197	(1,302,002)	12,373,313	1,334,115
Capital Contributions				
Grants from US Government	2,500,000		11,614,471	9,114,471
Grants from GovGuam & Others	-		1,886	1,886
Other Contributions	-		-	-
Total Capital Contributions	2,500,000	-	11,616,356	9,116,356
Change in Net Assets	12,237,197	(1,302,002)	23,989,670	10,450,471
Debt Service Calculation				
Earnings From Operations	26,658,303		29,634,675	
System Development Charge	(1,333,333)		(760,815)	
Interest/Investment Income	6,418		75,997	
Depreciation	15,295,500		13,290,080	
Balance Available for Debt Service per Section 6.12	40,626,888		42,239,937	
Working Capital Reserve Available for Debt Service	6,320,833		9,321,342	
Transfer to Working Capital Debt Service Reserve	(3,041,667)		-	
Balance Available for Debt Service inclusive of reserves	43,906,055		51,561,279	
Debt Service				
Principal	4,200,000		4,200,000	
Interest	16,268,584		16,268,584	
Total	20,468,584		20,468,584	
Debt Service Coverage (1.25X)- per Section 6.12 (Indenture)	1.98		2.06	
Debt Service Coverage (1.75X) inclusive of reserves (PUC)	2.15		2.52	

GUAM WATERWORKS AUTHORITY
Statement of Operations and Retained Earnings (Unaudited)
Comparative for the period ending July 31, 2017 and 2016

SCHEDULE E

	Year to Date ACTUAL (Unaudited) July-17	ACTUAL (Audited) July-16	Variance Increase / (Decrease)
OPERATING REVENUES			
Water Revenues	52,540,853	53,616,428	(1,075,576)
Wastewater Revenues	30,583,117	31,023,984	(440,867)
Legislative Surcharge	2,627,751	2,415,271	212,481
Other Revenues	468,404	433,249	35,155
System Development Charge	760,815	1,190,277	(429,462)
Total Operating Revenues	86,980,941	88,679,209	(1,698,268)
OPERATING AND MAINTENANCE EXPENSES			
Water Purchases	6,048,415	5,311,696	736,719
Power Purchases	9,805,467	9,354,903	450,564
Total Utility Costs	15,853,882	14,666,599	1,187,282
Salaries and Wages	13,962,898	13,339,929	622,970
Pension and Benefits	2,538,929	4,549,042	(2,010,114)
Total Salaries and Benefits	16,501,827	17,888,971	(1,387,144)
Capitalized Labor and Benefits	(2,000,000)	(2,483,632)	483,632
Net Salaries and Benefits	14,501,827	15,405,339	(903,512)
Administrative and General Expenses			
Sludge removal	1,394,599	1,304,233	90,366
Chemicals	1,798,913	1,865,956	(67,043)
Materials & Supplies	1,298,397	1,037,113	261,285
Transportation	368,648	478,758	(110,111)
Communications	106,835	102,649	4,187
Claims	115,100	106,177	8,923
Insurance	936,272	1,011,106	(74,833)
Training & Travel	169,220	124,567	44,653
Advertising	94,212	159,074	(64,862)
Miscellaneous	707,055	684,293	22,762
Total Administrative and General Expense	6,989,251	6,873,925	115,326
Regulatory Expense	189,206	271,043	(81,837)
Bad Debts Provision	624,948	861,925	(236,977)
Depreciation Expense	13,290,080	12,790,084	499,996
Contractual Expense			
Audit & Computer Maint.	933,931	864,674	69,257
Building rental	365,514	332,786	32,728
Equipment rental	504,368	581,619	(77,251)
Legal	6,132	3,623	2,509
Laboratory	46,603	102,341	(55,738)
Other	1,235,354	1,545,892	(310,538)
Total Contractual Expense	3,091,901	3,430,935	(339,034)
Retiree Supp. Annuities and health care costs	2,310,170	2,303,552	6,618
Contribution to Government of Guam	495,000	486,667	8,333
Total Retiree Benefits	2,805,170	2,790,219	14,952
Total Operating Expenses	57,346,266	57,090,070	256,196
Earnings (Loss) from Operations	29,634,675	31,589,138	(1,954,464)
Interest Income-2010/13/14/16 Series Bond	487,730	20,826	466,905
Interest Income-Other Funds	75,997	12,815	63,183
Interest Income-SDC	17,506	18,955	(1,449)
Interest Expense- 2010/13/14/16 Series Bond	(22,226,876)	(19,943,750)	(2,283,125)
Interest Expense- ST BOG	(472,785)	(590,955)	118,170
Federal Expenditures	(256,661)	(881,885)	625,224
Loss on Asset Disposal	-	(41,497)	41,497
AFUDC	6,250,000	11,423,701	(5,173,701)
Amortization of Discount, Premium and Issuance Costs	618,607	(1,608,116)	2,226,723
Loss on Defeasance Bond05 Refunding	(152,184)	(194,830)	42,646
Deferred outflows from pension	(1,044,807)	(74,517)	(970,290)
Prior Year Adjustment	(557,890)	(513,972)	(43,918)
Total non-operating revenues (expenses)	(17,261,361)	(12,373,227)	(4,888,135)
Net Income (Loss) before capital contributions	12,373,313	19,215,911	(6,842,598)
Capital Contributions			
Grants from US Government	11,614,471	4,342,537	7,271,933
Grants from GovGuam & Others	1,886	231,515	(229,629)
Other Contributions	-	-	-
Total Capital Contributions	11,616,356	4,574,052	7,042,304
Change in Net Assets	23,989,670	23,789,963	199,706
Debt Service Calculation			
Earnings From Operations	29,634,675	31,589,138	
System Development Charge	(760,815)	(1,190,277)	
Interest/Investment Income	75,997	12,815	
Depreciation	13,290,080	12,790,084	
Balance Available for Debt Service per Section 6.12	42,239,937	43,201,761	
Working Capital Reserve Available for Debt Service	9,321,342	3,820,833	
Transfer to Working Capital Debt Service Reserve	-	-	
Balance Available for Debt Service inclusive of reserves	51,561,279	47,022,594	
Debt Service			
Principal	4,200,000	4,091,667	
Interest	16,268,584	14,429,496	
Total	20,468,584	18,521,163	
Debt Service Coverage (1.25X)- per Section 6.12 (Indenture)	2.06	2.33	
Debt Service Coverage (1.75X) inclusive of reserves (PUC)	2.52	2.54	

SCHEDULE F

Bond Compliance		($$$) Per Indenture	As of 07/31/17 ($$$) Bond 2010/2013/2014/2016
• Operation and Maintenance Fund-BOG	*Equivalent to 55 days of the annual O&M budget less depreciation*	$10.5M	$10.5M
• Bond Reserve Fund - US Bank	*Fully funded- Principal and Interest (Bond Series 2010, 2013, 2014 Refunding and 2016)*	$34.9M	$34.9M
• Operation, Maintenance, Renewal and Replacement Reserve Fund-BOG Trust	*Equivalent to 1/4 of the annual O&M budget & CIP budget to be funded in 5 years ($2M/year)*	$17.4M	$17.4M
• Capital Improvement Fund & BOG Reserves	*Balance remaining in the Revenue Fund after the foregoing deposits*	$3.9K	$4.5K
• Capitalized Interest Fund			$1.8M

GUAM WATERWORKS AUTHORITY
Restricted and Unrestricted Cash Summary
FY 2017

SCHEDULE G

Description	Unaudited July 31, 2017	Audited September 30, 2016	Increase (Decrease)
UNRESTRICTED			
Change Fund	2,000	2,000	0
Petty Cash	5,000	5,000	0
BOG - General Fund	4,196,805	5,126,177	(929,372)
BOG - PRN Payroll	30,039	24,253	5,786
Sub-total Unrestricted	4,233,844	5,157,430	(923,586)
RESTRICTED			
BOG - Credit Card-Sweep	-	-	0
BOG - On Line Payment	-	-	0
BOG - Sweep Account	(2)	76	(78)
Bank of Hawaii	137,461	121,322	16,139
ANZ Bank	1	229	(228)
First Hawaiian Bank	13,643	47,741	(34,098)
Bank Pacific	10,111	14,194	(4,083)
Community First FCU	4,248	4,638	(390)
BOG - Customer Refunds	1,839,397	1,431,631	407,766
Bank Pacific - Surcharge	693,615	666,763	26,853
Bank Pacific - Escrow Deposit	665,870	845,734	(179,864)
BOG Emergency Reserve Fund	6,121	6,114	6
BOG - Revenue Trust	244,166	3,095,751	(2,851,585)
BOG Revenue Trust Fund	6,886,332	8,182,472	(1,296,140)
BOG Capital Improvement Fund-Bond	4,500	3,933	567
BOG Capital Improvement Revenue Fund	3,055,656.10	-	3,055,656
BOG-O & M Reserve	13,022,598	4,050,319	8,972,279
BOG-Debt Service Reserve	11,205,736	11,185,610	20,127
BOG-CAPEX Reserve	11,630,418	8,710,383	2,920,035
BOG Sewer Hookup Revolving Fund	63,398	62,132	1,266
BOG Short Term Loan DSF	-	-	0
BOG Subord. Sec. Fund	859,233	859,233	0
BOG Operation and Maintenance Fund	3,083,482	3,083,482	0
	53,425,984	42,371,755	11,054,229
BOG - SDC Deposit	2,138,621	1,064,792	1,073,830
BOG - SDC CDs	7,750,000	8,000,000	(250,000)
Total Restricted	63,314,605	51,436,547	11,878,059
Reserve Funds			
BOG Series 05 OMRRRF Fund	17,423,213	17,423,213	0
BOG Series 10 Construction Fund	9,642,675	11,725,749	(2,083,073)
BOG Series 13 Construction Fund	79,247,076	107,622,618	(28,375,541)
BOG Series 13 CAP I Fund	-	-	0
BOG Series 14 Refunding Construction Fund	822,012	820,529	1,483
BOG Series 16 Construction Fund	135,917,916	138,748,131	(2,830,215)
BOG Series 16 Cap Int Fund	1,781,117	8,937,545	(7,156,428)
BOG Series 16 COI Fund	-	-	0
Total Restricted - Held by Trustee	244,834,009	285,277,784	(40,443,775)
USB Series 2010 Debt Service Fund	675,087	2,016,414	(1,341,326)
USB Series 2010 Debt Service Reserve Fund	7,566,460	7,566,460	0
USB Series 2013 Debt Service Fund	780,544	2,333,083	(1,552,539)
USB Series 2013 Debt Service Reserve Fund	12,031,688	12,031,688	0
USB Series 2014 Refunding Debt Service Fund	600,829	1,791,266	(1,190,437)
USB Series 2014 Refunding Debt Service Reserve Func	7,727,350	7,707,628	19,723
USB Series 2016 Debt Service Fund	43	-	43
USB Series 2016 Debt Service Reserve Fund	7,588,209	7,582,725	5,484
Total Investments	36,970,211	41,029,262	(4,059,052)
Total Restricted and Unrestricted Cash	349,352,669	382,901,023	(33,548,353)

SCHEDULE H

Guam Waterworks Authority **Statement of Cash Flows (Unaudited)** **FY 2017**	**YTD** **Jul-17**
Increase (decrease) in cash	
Cash flows from operating activities:	
Cash received from trade and others	84,752,252
Cash payments to suppliers/contractors for goods and services	(26,482,536)
Cash payments to employees for services	(18,174,396)
Net cash provided by operating activities	40,095,320
Cash flows from capital and related financing activities:	
Contributed capital received (grants)	9,807,015
Acquisition of utility plant	(48,366,282)
Repayment of Long Term Debt	(7,363,527)
Interest expense	(28,785,083)
Net cash provided by (used in) capital and related financing activities	(74,707,878)
Cash flows from investing activities:	
Transfers from (to) restricted fund	33,125,244
Interest income received	563,728
Net cash provided by investing activities	33,688,972
Net increase (decrease) in cash	(923,586)
Unrestricted cash at beginning of the period	5,157,430
Unrestricted cash at end of period	4,233,844
Reconciliation of operating loss to net cash provided by operating activities:	
Operating Income (loss)	28,932,987
Adjustments to reconcile to net cash provided by operating activities:	
Depreciation expense	13,290,080
Other Expense/income	
(Increase) decrease in assets:	
Accounts receivable	(668,376)
Materials and supplies inventory	404,342
Other Assets	(259,322)
Increase (decrease) in liabilities:	
Accounts payable, Contractors, Retention & Escrow Deposit	(592,408)
Accrued payroll	(837,433)
Customer deposits	(174,550)
Net cash provided by operating activities	40,095,320

Guam Waterworks Authority
Accounts Receivable - Government
As of July 31, 2017

SCHEDULE I

		AGING				
Customer Name	**No of Accounts**	**Current Balance**	**31-60 days**	**61-90 days**	**91-120 days**	**Over 120 days**	**Outstanding Bal.**
GUAM POWER AUTHORITY	24	104,975	50,478	64,134	84,302	843	304,732
GUAM INT'L AIRPORT AUTHORITY	10	45,734	29,956	25,239	27,977	162,077	290,983
PORT AUTHORITY OF GUAM	2	37,172	39,473	-	-	-	76,645
UNIVERSITY OF GUAM	5	5,487	-	-	-	-	5,487
GUAM MEMORIAL HOSPITAL AUTHORITY	1	3,386	-	-	-	-	3,386
GUAM HOUSING & URBAN RENEWAL AUTHORITY	3	274	-	-	-	92	366
GUAM HOUSING CORPORATION	1	29	-	-	-	-	29
AUTONOMOUS AGENCIES	**46**	**197,056**	**119,907**	**89,373**	**112,279**	**163,012**	**681,627**
DEPT OF EDUCATION	50	142,755	234,821	250,972	13,214	163,825	805,587
DEPT OF PARKS & RECREATION	21	37,660	40,395	27,302	42,316	102,344	250,017
DEPT OF CORRECTIONS	8	117,212	55	-	-	-	117,267
DEPT OF PUBLIC HEALTH & SOCIAL SERVICES	5	2,006	1,959	932	372	103,195	108,465
MAYORS' COUNCIL OF GUAM	52	11,425	20,848	529	0	-	32,802
DEPT OF CHAMORRO AFFAIRS	2	16,119	-	-	-	-	16,119
GUAM FIRE DEPARTMENT	7	10,176	2,457	-	-	-	12,633
GUAM POLICE DEPARTMENT	2	12,083	-	-	-	-	12,083
DEPT OF AGRICULTURE	2	4,433	5,891	-	-	-	10,324
DIVISION OF SENIOR CITIZENS, DPH&SS	2	3,782	202	149	-	-	4,133
DEPT OF PUBLIC WORKS	8	1,600	647	-	-	-	2,248
OFFICE OF THE GOVERNOR	2	1,965	-	-	-	-	1,965
DEPT OF ADMINISTRATION	2	1,542	-	-	-	-	1,542
SANCTUARY INC	1	1,252	-	-	-	-	1,252
GHURA-AGAFU GUMAS PARK	1	119	278	34	34	258	723
GUAM VETERANS AFFAIRS OFFICE	2	347	-	-	-	-	347
GUAM PUBLIC LIBRARY	1	31	-	-	-	-	31
GUAM SOLID WASTE AUTHORITY	1	23	-	-	-	-	23
							-
LINE AGENCIES	**169**	**364,529**	**307,553**	**279,918**	**55,935**	**369,622**	**1,377,558**
TOTAL June 31, 2017	**215**	**561,585**	**427,460**	**369,292**	**168,214**	**532,634**	**2,059,185**
TOTAL September 30, 2016	**243**	**1,516,081**	**325,256**	**94,308**	**95,259**	**717,692**	**2,748,597**
% INCREASE/ (DECREASE)	**-12%**	**-63%**	**31%**	**292%**	**77%**	**-26%**	**-25%**

GUAM WATERWORKS AUTHORITY
2010 Series Bond Project Status
As of July 31, 2017

SCHEDULE J

PROJECT NAME	ORIGINAL APPROVED PROJECT COST	Adjusted Project Cost	EXPENDITURES AS OF 07/31/17	OUTSTANDING ENCUMBRANCES	TOTAL EXPENDITURES AND ENCUMBRANCES	UNOBLIGATED PROJECT COST	Construction fund balance AS OF 07/31/17
Ground Water Disinfection	$ -	$ 500,000	$ 438,141	$ 61,859	$ 500,000	$ 0	$ 61,859
"A" Series Well Transmission Line	$ 600,000	$ 518,144	$ 474,434	$ 1,274	$ 475,709	$ 42,435	$ 43,710
Water Booster Pump Station	$ 500,000	$ 500,000	$ 418,844	$ 81,156	$ 500,000	$ (0)	$ 81,156
Meter Replacement Program	$ 2,500,000	$ 10,300,000	$ 10,254,220	$ 19,409	$ 10,273,628	$ 26,372	$ 45,780
Barrigada Tank Repair/Replacement	$ -	$ 5,450,000	$ 5,442,302	$ 7,698	$ 5,450,000	$ 0	$ 7,698
Leak Detection		$ 200,000	$ -	$ 200,000	$ 200,000	$ -	$ 200,000
Potable Water System Planning	$ 200,000	$ 200,000	$ 179,638	$ 20,362	$ 200,000	$ -	$ 20,362
Implement Ground Water Rule		$ 1,700,000	$ 1,499,464	$ 200,535	$ 1,700,000	$ 1	$ 200,536
Brigade II (Ugum Lift) BPS Upgrade	$ 1,200,000	$ 1,700,000	$ 83,395	$ 202,199	$ 285,595	$ 1,414,405	$ 1,616,605
Deep Well Rehabilitation	$ 548,000	$ 548,000	$ 548,000	$ -	$ 548,000	$ -	$ -
New Deep Wells at Down Hard	$ 3,773,000	$ 638,252	$ 485,743	$ -	$ 485,743	$ 152,509	$ 152,509
Rehabilitation of Asan Springs	$ 900,000	$ 900,000	$ 188,771	$ 152,068	$ 340,838	$ 559,162	$ 711,229
Master Meters	$ 1,600,000	$ 1,600,000	$ 1,421,267	$ 68,690	$ 1,489,957	$ 110,043	$ 178,733
Ugum Water Treatment Plant Intake	$ 3,670,000	$ 700,000	$ 543,615	$ 156,385	$ 700,000	$ -	$ 156,385
Water Wells	$ 2,000,000	$ -	$ -		$ -	$ -	$ -
Water Distribution System	$ 384,000	$ 3,174,748	$ 3,174,748	$ -	$ 3,174,748	$ (0)	$ (0)
Pressure Zone Realignment /	$ 3,550,000	$ -	$ -		$ -	$ -	$ -
Northern System Water Distribution	$ 2,725,000	$ -	$ -	$ -	$ -	$ -	$ -
Central Water Distribution System 2005	$ 1,200,000	$ 900,000	$ 634,830	$ 140,172	$ 775,002	$ 124,998	$ 265,170
Southern Water Distribution System	$ 1,800,000	$ -	$ -		$ -	$ -	$ -
Mechanical/Electrical Equipment	$ 1,360,000	$ 1,200,000	$ 1,079,495	$ 120,505	$ 1,200,000	$ (0)	$ 120,505
Water Reservoir Internal/External	$ 500,000	$ 2,000,000	$ 855,242	$ 584,234	$ 1,439,476	$ 560,524	$ 1,144,758
Water Reservoir Internal/External	$ 2,400,000	$ -	$ -		$ -	$ -	$ -
Water System Reservoirs 2005 Improvements	$ 11,697,000	$ 1,050,000	$ 1,050,000		$ 1,050,000	$ 0	$ 0
Distribution System Upgrades	$ 3,182,000	$ 474,160	$ 451,462	$ 22,698	$ 474,160	$ 0	$ 22,698
Ugum Water Treatment Plant Reservoir	$ 3,672,000	$ -	$ -		$ -	$ -	$ -
Water Audit Program & Water Loss Control Plan		$ 100,000	$ 15,031	$ 63,428	$ 78,459	$ 21,541	$ 84,970
Production Plan / Reduce Navy Purchases		$ 100,000	$ 94,286	$ 5,714	$ 100,000	$ -	$ 5,714
Hydraulic Assessment of Tank		$ 500,000	$ 497,004	$ 2,996	$ 500,000	$ -	$ 2,996
Agana Heights & Chaot Tanks		$ 4,700,000	$ 4,237,959	$ 462,041	$ 4,700,000	$ -	$ 462,041
Tank Major Repair Yigo#1 Mangilao#2 Agat#2		$ 1,900,000	$ 1,750,355	$ 97,659	$ 1,848,013	$ 51,987	$ 149,645
Tank Major Repair Yigo#1 Mangilao#2 Agat#2		$ -			$ -	$ -	$ -
Assessment of malojloj Elevetad & Yigo Elevated		$ 200,000	$ 200,000	$ -	$ 200,000	$ -	$ -
Public Water System Asser Inventory/Condition Assesment		$ 100,000	$ 96,554	$ 3,446	$ 100,000	$ -	$ 3,446
Public Water System GIS & Mapping		$ 50,000	$ 50,000	$ -	$ 50,000	$ -	$ -
		$ -			$ -	$ -	$ -
Wastewater System Planning	$ 1,500,000	$ 1,500,000	$ 1,465,858	$ 8,142	$ 1,474,000	$ 26,000	$ 34,142
Wastewater Vehicles	$ 235,000	$ 235,000	$ 209,795	$ 25,205	$ 235,000	$ 0	$ 25,205
NDWWTP - Chlorine Tanks	$ 250,000	$ 250,000	$ 250,000		$ 250,000	$ -	$ -
Tumon Bay Sewer Upgrades	$ 100,000	$ -	$ -		$ -	$ -	$ -
Wastewater Collection System Repl/Rehab		$ 1,105,000	$ 718,036	$ 283,287	$ 1,001,323	$ 103,677	$ 386,964
Facilities Plan/Design for Baza Gardens WWTP	$ 1,250,000	$ 1,250,000	$ 1,239,250	$ 10,750	$ 1,250,000	$ -	$ 10,750
Facilities Plan/Design for Agat-Santa Rita WWTP	$ 900,000	$ 899,630	$ 881,749	$ 17,881	$ 899,630	$ -	$ 17,881
Priority 1 Sewer Upgrades – Baza Gardens WWTP	$ 650,000	$ -	$ -		$ -	$ -	$ -
Baza Gardens STP Replacement	$ 3,567,000	$ 1,301,947	$ 268,150	$ 48,850	$ 317,000	$ 984,947	$ 1,033,797
Facilities Plan/Design for Umatac Merizo WWTP		$ 900,000	$ 553,310	$ 117,481	$ 670,791	$ 229,209	$ 346,690
Agat/Santa Rita STP Replacement	$ 2,968,000	$ 2,218,000	$ 2,215,591	$ 387	$ 2,215,978	$ 2,022	$ 2,409
Northern District WWTP Primary Treatment Upgrades	$ -	$ 11,750,000	$ 11,363,439	$ 211,161	$ 11,574,600	$ 175,400	$ 386,561
Biosolids Management Plan		$ 200,000	$ 196,414	$ 3,586	$ 200,000	$ -	$ 3,586
Agana WWTP Interim Measures	$ -	$ 11,500,000	$ 11,242,386	$ 57,614	$ 11,300,000	$ 200,000	$ 257,614
I&I SSES Southern		$ 800,000	$ 692,882	$ 107,118	$ 800,000	$ (0)	$ 107,118
I&I SSES Central		$ 850,000	$ 794,325	$ 55,675	$ 850,000	$ -	$ 55,675
I&I SSES Northern		$ -			$ -	$ -	$ -
Umatac Merizo Replacement		$ 250,000	$ 247,431	$ 2,569	$ 250,000	$ -	$ 2,569
Northern District WWTP Secondary Treatment Upgrades		$ 1,000,000					$ 1,000,000
		$ -					
Well Electrical Protection	$ 26,000	$ -	$ -		$ -	$ -	$ -
SCADA Pilot Project	$ 300,000	$ 61,950	$ 19,812	$ 42,138	$ 61,950	$ (0)	$ 42,138
Electrical Upgrade - Water Wells	$ 3,000,000	$ 354,227	$ 335,378	$ 18,849	$ 354,227	$ 0	$ 18,849
Electrical Upgrade - Water Booster	$ 325,000	$ -	$ -		$ -	$ -	$ -
Electrical Upgrade -Water Booster	$ 350,000	$ -	$ -		$ -	$ -	$ -
Electrical Upgrade - Other Water	$ 250,000	$ -			$ -	$ -	$ -
SCADA Improvements – Phase 1	$ 250,000	$ 250,000	$ 193,989	$ 56,011	$ 250,000	$ -	$ 56,011
SCADA Improvements – Phase 2	$ 1,100,000	$ 1,056,986	$ 1,027,424	$ 29,562	$ 1,056,986	$ -	$ 29,562
SCADA Improvements – Phase 3	$ 2,500,000	$ 24,956	$ 24,956	$ -	$ 24,956	$ 0	$ 0
SCADA Improvements – Phase 4	$ 850,000	$ -	$ -		$ -	$ -	$ -
		$ -					
Laboratory Modernization	$ 1,200,000	$ -	$ -		$ -	$ -	$ -
Land Survey	$ 1,500,000	$ 500,000	$ 461,986	$ 37,701	$ 499,687	$ 313	$ 38,014
General Plant Improvements / Water	$ 14,370,000	$ 7,241,000	$ 7,241,000	$ 0	$ 7,241,000	$ 0	$ 0
Interest Earned							$ 48,637
Total Construction Fund (2010 Series Revenue Bond)	**$ 87,402,000**	**$ 87,402,000**	**$ 77,807,962**	**$ 3,808,493**	**$ 81,616,454**	**$ 4,785,546**	**$ 9,642,676**

1.) PUC's Docket 11-01 $29,000,000.00 dated
09/19/11authorized GWA for reallocation
2) PUC's Docket 11-01 Reallocation of $23,246,000.00 dated 07/30/12
3) PUC's Dockect Reallocation dated February 2013

GUAM WATERWORKS AUTHORITY
2013 Series Bond Project Status
As of July 31, 2017

SCHEDULE K

PROJECT NAME	ORIGINAL APPROVED PROJECT COST	Adjusted Project Cost	EXPENDITURES AS OF 07/31/17	OUTSTANDING ENCUMBRANCES	TOTAL EXPENDITURES AND ENCUMBRANCES	UNOBLIGATED PROJECT COST	Construction fund balance AS OF 07/31/17
Santa Rita Springs Booster Pump Rehab Phase II	$ 100,000	$ 100,000	24,098	75,902	$ 100,000	$ -	$ 75,902
"A" Series Well Transmission Line	$ 400,000	$ 400,000	314,479	55,367	$ 369,846	$ 30,154	$ 85,521
Water Booster Pump Station	$ 6,000,000	$ 1,861,000	1,656,279	23,685	$ 1,679,964	$ 181,036	$ 204,721
Meter Replacement Program		$ 999,000	996,532	-	$ 996,532	$ 2,468	$ 2,468
Barrigada Tank Repair/Replacement	$ 6,000,000	$ 4,987,000	4,924,959	62,041	$ 4,987,000	$ 0	$ 62,041
Leak Detection	$ 100,000	$ 20,000	16,916	-	$ 16,916	$ 3,084	$ 3,084
Potable Water System Planning	$ 800,000	$ 624,000	598,453	25,547	$ 624,000	$ (0)	$ 25,547
Implement Ground Water Rule	$ 1,000,000	$ 1,000,000	1,000,000	-	$ 1,000,000	$ -	$ -
Deep Well Rehabilitation	$ 800,000	$ 200,000	189,780	10,220	$ 200,000	$ -	$ 10,220
New Deep Wells at Down Hard	$ 2,000,000	$ 810,000			$ -	$ 810,000	$ 810,000
Master Meters	$ 4,000,000	$ 784,000	531,188	180,872	$ 712,060	$ 71,940	$ 252,812
Ugum Water Treatment Plant Intake	$ 1,000,000	$ 982,000	578,549	281,252	$ 859,801	$ 122,199	$ 403,451
Water Wells	$ 4,200,000	$ 4,200,000	1,415,921	760,700	$ 2,176,621	$ 2,023,379	$ 2,784,079
Water Distribution System	$ 12,000,000	$ 11,151,000	4,177,802	4,627,558	$ 8,805,360	$ 2,345,640	$ 6,973,198
Pressure Zone Realignment /	$ 1,000,000	$ 431,000	321,464	1,260	$ 322,725	$ 108,275	$ 109,536
Mechanical/Electrical Equipment	$ 430,000	$ 430,000	328,686	98,112	$ 426,798	$ 3,202	$ 101,314
Water Reservoir Internal/External	$ 800,000	$ -			$ -	$ -	$ -
Water System Reservoirs 2005 Improvements	$ 21,000,000	$ 13,878,000	8,022,203	4,613,055	$ 12,635,258	$ 1,242,742	$ 5,855,797
Ugum Water Treatment Plant Reservoir	$ 7,000,000	$ 90,000			$ -	$ 90,000	$ 90,000
Agana Heights & Chaot Tanks	$ 4,500,000	$ 3,280,000	233,265	47,022	$ 280,287	$ 2,999,713	$ 3,046,735
Tank Major Repair Yigo#1 Mangilao#2 Agat#2	$ 13,500,000	$ 11,605,000	676,523	10,928,477	$ 11,605,000	$ 0	$ 10,928,478
Tank Major Repair Yigo#1 Mangilao#2 Agat#2	$ 8,000,000	$ -			$ -	$ -	$ -
Assessment of maloiloi Elevetad & Yigo Elevated	$ 500,000	$ 485,117	461,813	23,304	$ 485,117	$ -	$ 23,304
Fire Hydrant Replacement Program	$ -	$ -			$ -	$ -	$ -
		$ -					
Wastewater System Planning	$ 800,000	$ 651,000	550,453	100,547	$ 651,000	$ (0)	$ 100,547
Lift Station Upgrades	$ 5,000,000	$ 946,000	561,748	363	$ 562,111	$ 383,889	$ 384,252
Wastewater Collection System Repl/Rehab	$ 6,500,000	$ 780,000	377,153	264,595	$ 641,748	$ 138,253	$ 402,847
Baza Gardens STP Replacement		$ 3,114,883	889,234	2,225,634	$ 3,114,869	$ 15	$ 2,225,649
Facilities Plan/Design for Umatac-Merizo WWTP		$ 473,000	334,627	37,072	$ 371,699	$ 101,301	$ 138,373
Agat/Santa Rita STP Replacement	$ 19,000,000	$ 67,200,000	26,433,338	40,457,263	$ 66,890,601	$ 309,399	$ 40,766,662
Agana WWTP Interim Measures		$ 673,000	547,981	125,019	$ 673,000	$ (0)	$ 125,019
Umatac Merizo Replacement	$ 2,000,000	$ -			$ -	$ -	$ -
		$ -					
Wastewater Pump Station Electrical Upgrade	$ 620,000	$ 620,000	91,274	8,587	$ 99,861	$ 520,139	$ 528,726
Electrical Upgrade - Water Wells	$ 1,500,000	$ 1,500,000	1,480,583	19,417	$ 1,500,000	$ 0	$ 19,417
Electrical Upgrade - Water Booster	$ 325,000	$ 2,000			$ -	$ 2,000	$ 2,000
Electrical Upgrade -Water Booster	$ 350,000	$ 200,000	977	-	$ 977	$ 199,023	$ 199,023
Electrical Upgrade - Other Water	$ 250,000	$ 150,000	60,700	-	$ 60,700	$ 89,300	$ 89,300
SCADA Improvements – Phase 3	$ 1,850,000	$ 923,000	425,984	296,376	$ 722,359	$ 200,641	$ 497,017
SCADA Improvements – Phase 4	$ 500,000	$ -			$ -	$ -	$ -
		$ -					$ -
Laboratory Modernization	$ 1,500,000	$ 1,173,000	1,051,903	119,562	$ 1,171,465	$ 1,535	$ 121,097
Land Survey	$ 2,000,000	$ 2,000	1,038	15	$ 1,053	$ 948	$ 963
General Plant Improvements / Water	$ 2,000,000	$ 2,600,000	1,265,043	1,176,695	$ 2,441,737	$ 158,263	$ 1,334,957
Allowance for COI							$ 275,005
Interest Earned							$ 188,013
Total Construction Fund (2013 Series Revenue Bond)	**$ 139,325,000**	**$ 139,325,000**	**$ 60,540,943**	**$ 66,645,521**	**$ 127,186,464**	**$ 12,138,536**	**$ 79,247,075**

PUC's Docket 14-04 dated February 25, 2014

GUAM WATERWORKS AUTHORITY
2014 Series Refunded Bond Project Status
As of July 31, 2017

SCHEDULE L

PROJECT NAME	ORIGINAL APPROVED PROJECT	ADJUSTED PROJECT COST	EXPENDITURES AS OF 07/31/17	OUTSTANDING ENCUMBRANCES	TOTAL EXPENDITURES AND ENCUMBRANCES	UNOBLIGATED PROJECT COST	20% PUC AS OF 07/31/17	Construction fund balance AS OF 07/31/17
Agana Treatment Plant	$ 10,475,000	$ 11,065,512	11,065,512	$ -	$ 11,065,512	$ (0)	$ 2,095,000	$ (0)
								$ -
Agana Outfall	$ 5,030,000	$ 10,127,198	10,127,198	$ -	$ 10,127,198	$ 0	$ 1,006,000	$ 0
								$ -
								$ -
Northern District (Outfall)	$ 4,700,000	$ 10,251,423	10,251,423	$ -	$ 10,251,423	$ 0	$ 940,000	$ 0
Northern District WWTP Upgrade		$ 173,681	173,681		$ 173,681	$ -		$ -
Northern Treatment Plant		$ -	-		$ -	$ -		$ -
Baza Gardens Wastewater Treatment Plant	$ 500,000	$ 297,177	297,177	$ -	$ 297,177	$ (0)	$ 100,000	$ (0)
Interim Disinfection Facilities	$ 581,000	$ 3,437,311	3,408,599	$ 28,712	$ 3,437,311	$ (0)	$ 116,200	$ 28,712
						$ -		$ -
Electrical Protection	$ 1,000,000	$ 1,512,483	1,512,483.3	$ -	$ 1,512,483	$ (0)	$ 200,000	$ (0)
Well Vulnerability Reduction	$ 600,000	$ 185,522	185,522	$ -	$ 185,522	$ 0	$ 120,000	$ 0
Old Agat Wastewater Collection (I/I Reductic	$ 2,155,000	$ 1,931,659	1,931,659	$ -	$ 1,931,659	$ (0)	$ 431,000	$ (0)
				$ -		$ -		$ -
Chaot WW Pump Station/Collection System	$ 410,000	$ 399,120	399,120	$ -	$ 399,120	$ -	$ 82,000	$ -
Lift Station Upgrades	$ 230,000	$ 149,895	149,895	$ -	$ 149,895	$ 0	$ 46,000	$ 0
Collection Line Upgrades	$ 200,000	$ 62,755	62,755	$ -	$ 62,755	$ 0	$ 40,000	$ 0
"A" Well Transmission Line	$ 2,413,000	$ 3,833,175	3,790,888	$ 42,287	$ 3,833,175	$ (0)	$ 482,600	$ 42,287
					$ -	$ -		$ -
Santa Rita Springs - Booster Pump Rehab.	$ 648,000	$ 306,841	306,841	-	$ 306,841	$ (0)	$ 129,600	$ (0)
						$ -	$ -	$ -
Fena Bypass Transmission line		$ 160,913	160,913	$ -	$ 160,913	$ (0)	$ -	$ (0)
Storage Additions	$ 950,000	$ -			$ -	$ -	$ 190,000	$ -
Booster Station Upgrades	$ 390,000	$ 66,734	66,734	$ -	$ 66,734	$ -	$ 78,000	$ -
Mangilao Tank Repair	$ 800,000	$ 398,367	397,933	$ 434	$ 398,367	$ (0)	$ 160,000	$ 434
Ugum Tank Replacement	$ 2,500,000	$ -			$ -	$ -	$ 500,000	$ -
Ugum WTPlant Refurbishment ($1.724,970EPA)		$ 6,588,473	6,531,525	$ 56,949	$ 6,588,473	$ (0)		$ 56,948
Barrigada Tank Repair/Replacement	$ 3,000,000	$ 65,019	65,019	$ -	$ 65,019	$ 0	$ 600,000	$ 0
						$ -		$ -
Water Reservoir Condition Assessment		$ 1,250,000	1,207,250.62	$ 42,749	$ 1,250,000	$ 0	$ -	$ 42,749
EarthTech Well Buyout	$ 5,000,000	$ 5,975,000	5,975,000	$ -	$ 5,975,000	$ -	$ 1,000,000	$ -
Water Wastewater Master Plan	$ 4,900,000	$ 4,881,308	4,881,308	$ -	$ 4,881,308	$ 0	$ 980,000	$ 0
Laboratory Modernization	$ 800,000	$ 135,055	135,055	$ -	$ 135,055	$ 0	$ 160,000	$ 0
Land Survey	$ 800,000	$ 577,836	556,037	$ 21,799	$ 577,836	$ 0	$ 160,000	$ 21,799
Ground Water Disinfection		$ -				$ -		$ -
GWUDI Study		$ 262,234	260,430	1,804	$ 262,234	$ -		$ 1,804
						$ -		$ -
Contingency	$ 12,276,023	$ 154	-	$ -	$ -	$ -		$ 732
						$ -		$ -
						$ -		$ -
						$ -		$ -
						$ -		$ -
						$ -		$ -
Vehicles	$ 1,100,000	$ 1,280,000	2,130,305	$ (850,305)	$ 1,280,000	$ -	$ 220,000	$ -
Generation Equipment	$ 700,000	$ 880,000	2,712	$ 877,288	$ 880,000	$ 0		$ 27,033
Leak Detection/Line Replacement	$ 8,200,000	$ 5,988,494	5,988,494	$ -	$ 5,988,494	$ -	$ 1,640,000	$ -
						$ -		$ -
						$ -		$ -
Automated Meter Reading	$ 12,572,063	$ 17,468,359	16,870,522	$ 537,157	$ 17,468,359.32	$ 0	$ 2,514,413	$ 597,837
Total Construction Fund (2014 Series Refu	$ 82,930,086	$ 89,711,698	88,891,990	$ 758,873.38	$ 89,711,543	$ 1	$ 13,990,813	$ 820,336
Interest Earned	$ 6,781,612	$ (0)				$ (0)		$ 1,677
Total Project Cost Funding	**$ 89,711,698**	**$ 89,711,698**	**88,891,990**	**$ 758,873.38**	**$ 89,711,543**	**$ 1**	**$ 13,990,813**	**$ 822,013**

GUAM WATERWORKS AUTHORITY
2016 Series Bond Project Status
As of July 31, 2017

SCHEDULE M

PROJECT NAME	ORIGINAL APPROVED PROJECT COST	Adjusted Project Cost	EXPENDITURES AS OF 07/31/17	OUTSTANDING ENCUMBRANCES	TOTAL EXPENDITURES AND ENCUMBRANCES	UNOBLIGATED PROJECT COST	Construction fund balance AS OF 07/31/17
Water Booster Pump Station	$ 4,139,000	$ 4,139,000			$ -	$ 4,139,000	$ 4,139,000
Meter Replacement Program	$ 4,501,000	$ 4,501,000		150,000.00	$ 150,000	$ 4,351,000	$ 4,501,000
Barrigada Tank Repair/Replacement	$ 1,013,000	$ 1,013,000		-	$ -	$ 1,013,000	$ 1,013,000
Leak Detection	$ 1,180,000	$ 1,180,000		-	$ -	$ 1,180,000	$ 1,180,000
Potable Water System Planning	$ 2,276,000	$ 2,276,000	77,999	398,295.15	$ 476,294	$ 1,799,706	$ 2,198,001
Deep Well Rehabilitation	$ 250,000	$ 250,000		-	$ -	$ 250,000	$ 250,000
New Deep Wells at Down Hard	$ 1,190,000	$ 1,190,000			$ -	$ 1,190,000	$ 1,190,000
Master Meters	$ 3,616,000	$ 3,616,000		151,539.00	$ 151,539	$ 3,464,461	$ 3,616,000
Ugum Water Treatment Plant Intake	$ 18,000	$ 18,000			$ -	$ 18,000	$ 18,000
Water Wells	$ 2,500,000	$ 2,500,000			$ -	$ 2,500,000	$ 2,500,000
Water Distribution System	$ 2,049,000	$ 49,000			$ -	$ 49,000	$ 49,000
Pressure Zone Realignment /	$ 1,141,000	$ 1,141,000			$ -	$ 1,141,000	$ 1,141,000
Mechanical/Electrical Equipment	$ 100,000	$ 100,000			$ -	$ 100,000	$ 100,000
Water Reservoir Internal/External	$ 800,000	$ 800,000			$ -	$ 800,000	$ 800,000
Water System Reservoirs 2005 Improvements	$ 42,350,000	$ 28,350,000	456,038	1,893,343.00	$ 2,349,381	$ 26,000,620	$ 27,893,963
Ugum Water Treatment Plant Reservoir	$ 6,410,000	$ -			$ -	$ -	$ -
Water Audit Program & Water Loss Control Plan	$ 1,000,000	$ 1,000,000				$ 1,000,000	$ 1,000,000
Agana Heights & Chaot Tanks	$ 1,220,000	$ 1,220,000			$ -	$ 1,220,000	$ 1,220,000
Tank Major Repair Yigo#1 Mangilao#2 Agat#2	$ 1,895,000	$ 1,895,000			$ -	$ 1,895,000	$ 1,895,000
Tank Major Repair Yigo#1 Mangilao#2 Agat#2	$ 10,500,000	$ 7,409,830		1,822,132.80	$ 1,822,133	$ 5,587,697	$ 7,409,830
Fire Hydrant Replacement Program	$ 2,000,000	$ 2,000,000			$ -	$ 2,000,000	$ 2,000,000
						$ -	
Wastewater System Planning	$ 349,000	$ 349,000	15,054	297,928.76	$ 312,983	$ 36,017	$ 333,946
Lift Station Upgrades	$ 2,404,000	$ 2,404,000	17,800	200,000.00	$ 217,800	$ 2,186,200	$ 2,386,200
Wastewater Collection System Repl/Rehab	$ 2,920,000	$ 2,920,000			$ -	$ 2,920,000	$ 2,920,000
Baza Gardens STP Replacement	$ 16,700,000	$ 29,400,170	2,421,109	26,979,060.99	$ 29,400,170	$ (0)	$ 26,979,061
Facilities Plan/Design for Umatac-Merizo WWTP	$ 527,000	$ 527,000	94,666	157,438.78	$ 252,105	$ 274,895	$ 432,334
Agat/Santa Rita STP Replacement	$ 3,000,000	$ 3,000,000	165,646	281,604.29	$ 447,250	$ 2,552,750	$ 2,834,354
Agana WWTP Interim Measures	$ 827,000	$ 827,000			$ -	$ 827,000	$ 827,000
Umatac Merizo Replacement	$ 8,000,000	$ 20,800,000	21,192	19,347,234.76	$ 19,368,427	$ 1,431,573	$ 20,778,808
						$ -	
Wastewater Pump Station Electrical Upgrade	$ 100,000	$ 100,000			$ -	$ 100,000	$ 100,000
Electrical Upgrade - Water Wells	$ 650,000	$ 650,000			$ -	$ 650,000	$ 650,000
Electrical Upgrade - Water Booster	$ 323,000	$ 323,000			$ -	$ 323,000	$ 323,000
SCADA Improvements – Phase 3	$ 1,177,000	$ 1,177,000		432,705.00	$ 432,705	$ 744,295	$ 1,177,000
SCADA Improvements – Phase 4	$ 6,500,000	$ 6,500,000			$ -	$ 6,500,000	$ 6,500,000
						$ -	
Laboratory Modernization	$ 1,127,000	$ 1,127,000	702,723	424,276.85	$ 1,127,000	$ -	$ 424,277
Land Survey	$ 1,998,000	$ 1,998,000		107,000.00	$ 107,000	$ 1,891,000	$ 1,998,000
General Plant Improvements / Water	$ 2,769,463	$ 2,769,463	119,592	1,357,138.23	$ 1,476,730	$ 1,292,733	$ 2,649,871
Information Technology Integration Improvements	$ 500,000	$ 500,000	244,068	-		$ 500,000	$ 255,932
Interest Earned		$ -					$ 234,339
		$ -					
Total Construction Fund (2016 Series Revenue Bond)	**$ 140,019,463**	**$ 140,019,463**	**$ 4,335,886**	**$ 53,999,698**	**$ 58,091,516**	**$ 81,927,947**	**$ 135,917,915**

GUAM WATERWORKS AUTHORITY
Schedule of Series 2010, 2013, 2014 Refunding and 2016 Bond Bank Accounts
As of July 31, 2017

SCHEDULE N

	7/31/2017
BANK OF GUAM	
BOG - Revenue Account	6,886,332
BOG - Operations and Maintenance Reserve	3,083,482
BOG - Operations, Maintenance, Renewal and Replacement Reserve Fund	17,423,213
BOG - Capital Improvement Fund	3,060,156
BOG - O & M Reserve	13,022,598
BOG - Debt Service Reserve	11,205,736
BOG - CAPEX Reserve	11,630,418
Total BOG Bank Account Balance	**66,311,935**
Series 2010 Bond:	
BOG - Construction Account	9,642,675
USB - Debt Service Fund	675,087
USB - Debt Service Reserve Fund	7,566,460
Total Series 2010 Bond Bank Balance	**17,884,223**
Series 2013 Bond:	
BOG - Construction Fund	79,247,076
BOG - Capitalized Interest Fund	-
USB - Debt Service Fund	780,544
USB - Debt Service Reserve Fund	12,031,688
Total Series 2013 Bond Bank Balance	**92,059,308**
Series 2014 Refunding Bond:	
BOG - Construction Fund	822,012
USB - Debt Service Fund	600,829
USB - Debt Service Reserve Fund	7,727,350
Total Series 2014 Refunding Bond Bank Balance	**9,150,191**
Series 2016 Bond:	
BOG - Construction Account	135,917,916
BOG - Capitalized Interest Fund	1,781,117
BOG - Cost of Issuance Fund	-
USB - Debt Service Fund	43
USB - Debt Service Reserve Fund	7,588,209
Total Series 2016 Bond Bank Balance	**145,287,285**

GUAM WATERWORKS AUTHORITY
"Better Water, Better Lives."
Gloria B. Nelson Public Service Building| 688 Route 15 | Mangilao, Guam 96913
Tel: (671) 300-6846

Issues for Decision

Resolution No. 52-FY2017
Relative to Approval of the System Development Charge Implementation Guidelines Update

What is the project's objective and is it necessary and urgent?
The System Development Charge (SDC) Implementation Guidelines required revision to correct inconsistences in order to allow the expenditure of SDC funds without potential conflict with the Guidelines. The Update is also needed to incorporate changes from public laws passed after the original Guidelines were adopted by the January 29, 2010 PUC Decision and Order Docket No. 08-08. The PUC Order also directed GWA to provide a policy or provision whereby GWA agrees to give credits or offsets to developers regarding SDC assessments under appropriate circumstances. An SDC Financial Offset Policy is included in the Resolution for CCU approval.

Provided in support of this Resolution is the Water Line Upgrade Guidance Document, which provides a basis for rating and prioritizing water system improvement projects that may qualify for SDC funding.

Where is the project located?
Island Wide

How much will it cost?
Cost per SDC-funded project will vary based on scope.

When will it be completed?
Once started, projects will be ongoing.

What is the funding source?
System Development Charge funds.

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 52-FY2017

RELATIVE TO APPROVAL OF THE SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION GUIDELINES UPDATE

WHEREAS, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities ("CCU") has plenary authority over financial, contractual and policy matters relative to the Guam Waterworks Authority ("GWA"); and

WHEREAS, the Guam Waterworks Authority ("GWA") is a Guam Public Corporation established and existing under the laws of Guam; and

WHEREAS, the SDC Implementation Guidelines were adopted as an Order of the Public Utilities Commission (PUC) per the January 29, 2010 PUC Decision and Order Docket No. 08-08 GWA System Development Charge (SDC); and

WHEREAS, the current Implementation Guidelines contained inconsistences that required clarification in order to allow the expenditure of SDC funds without potential conflict with the Guidelines and as such the SDC Implementation Guideline Update was generated (See Exhibit A); and

WHEREAS, Public Laws affecting SDC payment deadlines for residential construction, as well as allowing an Affordable Housing SDC, and were passed in 2013, requiring updates to the Implementation Guidelines; and

WHEREAS, the January 29, 2010 PUC Decision and Order Docket No. 08-08 GWA System Development Charge Ordering Provision 8 directed GWA to provide a policy or provision for GWA to give credits or offsets to developers regarding SDC assessments under appropriate circumstances and as such the SDC Financial Offset Policy was created (See Exhibit B).

NOW BE IT THEREFORE RESOLVED, the Consolidated Commission on Utilities does hereby approve and authorize the following:

1. The SDC Implementation Guidelines Update, attached as Exhibit A, is incorporated into this resolution in its entirety.

2. The SDC Financial Offset Policy, attached as Exhibit B, is incorporated into this resolution in its entirety.

3. GWA may seek PUC approval of the SDC Implementation Guidelines Update and Financial Offset Policy.

RESOLVED, that the Chairman certified and the Board Secretary attests to the adoption of this Resolution.

DULY AND REGULARLY ADOPTED AND APPROVED this 29th day of August, 2017.

Certified by:	Attested by:
_____	_____
JOSEPH T. DUENAS	**J. GEORGE BAMBA**
Chairperson	Secretary

I J. George Bamba, Board Secretary of the Consolidated Commission on Utilities as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular meeting by the members of the Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were present voted as follows:

AYES: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

EXHIBIT A

GUAM WATERWORKS AUTHORITY
SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION GUIDELINES
Revised August 2017

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Section 1. Short Title

This document shall be known and cited as the "Guam Waterworks Authority System Development Charge Implementation Guidelines."

Section 2. Purpose and Effect

These Guidelines are intended to assure the provision of adequate public water and sanitary sewer facilities in Guam to serve new development and accommodate changes to existing buildings or facilities where density is increased by requiring each development to pay its pro rata share of the costs of such improvements necessitated by and attributable to such new development. The SDCs established by these Guidelines are additional and supplemental to, and not in substitution of, any other requirements imposed by Guam law regarding the development of land, the issuance of building permits or the issuance of certificates of occupancy. Such SDCs are intended to be consistent with and in furtherance of the policies of Guam's building and subdivision laws and regulations and existing GWA Rules and Regulations relating to the provision of public water and sanitary sewer facilities in conjunction with the development of land.

Section 3. Authority

These Guidelines are adopted by the Commission pursuant to 12 G.C.A. § 12015.5, enacted into law by Public Law 26-164, and amended by Public Law 29-133, and the Commission's inherent authority. The provisions of these Guidelines shall not be construed to limit the power of GWA to utilize other methods authorized under Guam law or pursuant to other GWA powers to accomplish the purposes set forth herein, either in substitution for or in conjunction with these Guidelines. Additional policies, not inconsistent with these Guidelines, may be developed by a Resolution of the GWA Governing Board to implement and administer the requirements hereunder.

Section 4. Definitions

The following definitions shall apply under these Guidelines:

"Affordable Housing System Development Charge" or **"AHSDC"** means the SDC made available to any person who constructs, or causes to construct, affordable homes as their primary residence or for an immediate family member where the total cost of the home and lot does not exceed $210,000, pursuant to Section 19 of these Guidelines.

"Amortized System Development Charge" or **"ASDC"** means the amortized SDC made available to all residents building a single family dwelling, regardless of income, pursuant to Section 19 of these Guidelines.

"**Assessment"** means the determination of the amount of the maximum SDC per service unit which can be imposed by GWA on new development pursuant to these Guidelines.

"Capital Improvement" means either a water or sanitary sewer facility to be owned and operated by or on behalf of GWA, and involving assets greater than or equal to $5,000.00 and/or will extend the life of an existing GWA asset.

"Commission" means the Guam Public Utilities Commission.

"Facilities Expansion" means either a water facility expansion or a sanitary sewer facility expansion or the construction of any new facility designed to expand the water or sewer system for future customers. Pursuant to § 12015.5, both uses above can include system repairs servicing existing customers but which also provide additional capacity to the system that can be used to accommodate new users. For the purposes of determining the capital amount recoverable from SDCs only that portion of a water or sanitary sewer facility's capital costs incurred to accommodate new users shall be eligible for inclusion in the SDC.

"Governing Board" means the Guam Consolidated Commission on Utilities or its legal successor.

"Island Water and Sewer Infrastructure Development Fund" means the fund created under 12 G.C.A. § 12015.5(c) and administered by GWA into which all SDC revenues shall be deposited. The use of all funds so deposited shall require advance approval from the Commission. A full accounting of the receipts and expenditures into and from the Fund shall be filed annually for Commission review and approval.

"Land Use Assumptions" means the projections of population and employment growth and associated changes in land uses and densities adopted by GWA, as may be amended by GWA's Governing Board from time to time, upon which the SDC Capital Improvement plan is based or as contained in any Guam Master Plan or other water or sanitary sewer improvement plan that is used by GWA for the same purpose and approved by the GWA Governing Board for such use.

"New Development" means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of land which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity and which requires either the approval of the Guam Land Use Commission (GLUC), adherence to Guam's subdivision laws and regulations, the issuance of a building permit or a substantial change in the demand or loading of such project through an existing connection to GWA's water or sanitary sewer system, respectively.

"Offset"' means the amount of the reduction of the applicable SDC designed to fairly reflect the value of area-related facilities provided by a developer pursuant to Guam's development regulations or requirements. An offset requires approval by the General Manager, in accordance with the SDC Financial Offset Policy.

"Offsite" means outside the boundaries of the property for which a new development is proposed.

"Plan Approval" means the point at which the applicant has complied with all conditions of approval set by the GLUC and/or the applicant has undertaken all steps to receive the approval by GWA that are a prerequisite to the issuance of a building permit (and can include conditions that are required by GWA after the building permit has been issued).

"Recoupment" means the imposition of an SDC to reimburse GWA for capital improvements which GWA has previously put in place that has sufficient capacity to serve new development and new capital improvements for the purpose of serving new development.

"Sanitary Sewer Facility" means an improvement for providing sanitary sewer service, including but not limited to land or easements, treatment and pre-treatment facilities, lift stations or force mains. Sanitary sewer facility excludes sanitary sewer lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by subsequent users of the facilities. Sanitary sewer facilities exclude site-related facilities.

"Sanitary Sewer Facility Expansion" means the expansion of the capacity of any existing sanitary sewer facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing sanitary sewer facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

"SDC Capital Improvements Plan" means either a water or sanitary sewer improvements plan formulated by GWA adopted or revised pursuant to this Article, including but not limited to, the GWA five-year Capital Improvements Plan, the GWA Master Plan as it may be amended from time to time by GWA's Governing Board, and any capital improvement plan approved by the Governing Board. The SDC Capital Improvements Plan refers to the aggregation of capital improvements or facility expansions and the associated costs programmed for all service areas for a particular category of capital improvements or facility expansions which may be financed in whole, or in part, through SDCs.

"Service Area" means either the area currently served by GWA or the area which GWA has agreed to serve as evidenced by the signature of an authorized representative from GWA on a building permit.

"Service Unit" means the applicable standard units of measure shown on the conversion table in the SDC Capital Improvements Plan as defined herein which can be converted either to three-fourths inch (3/4") water meter equivalents, as the context indicates, which serves as the standardized measure of consumption, use or generation attributable to the

new unit of development. Service units may also be referred to as Equivalent Residential Units.

"Site-Related Facility" means an improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or sanitary sewer facilities to serve the new development, and which is not included in the SDC Capital Improvement Plan and for which the developer or property owner is solely responsible under subdivision laws or other applicable regulations (including GWA's).

"Subdivision" means an improved land divided or proposed to be divided into two or more divisions of land for the purpose of sale, lease, rental, transfer or title to or interest in any or all of such divisions, including resubdivisions, as approved by the Territorial Land Use Commission pursuant to GAR, Title 28, Chapter 2, Article 1 § 2102(61).

"System Development Charge," means a one-time impact fee or charge assessed by GWA on each user who is for the first time connecting property into GWA water or wastewater system, or to each builder if the density of development on the existing connection is increased pursuant to these Guidelines in order to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new development. SDCs **do not include** the dedication of rights-of-way or easements for such facilities nor the construction of improvements by the developer thereon. SDCs also do not include line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development regardless of type.

"Temporary Use" means any connection made by any person or entity for an activity not required to obtain a building permit that lasts for any period less than six (6) months. The uses contemplated herein includes but are not limited to, village fiestas, carnivals, public events or private uses where the activity has been sanctioned by the Government of Guam.

"Water Facility" means an improvement for providing water service, including but not limited to land or easements, water treatment facilities, water supply facilities or water distribution lines. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by subsequent users of the facilities. Water facility excludes site-related facilities.

"Water Facility Expansion" means the expansion of the capacity of any existing water facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing water facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

Section 5. Applicability

The provisions of these Guidelines apply to all "new development" as defined in Section 4 above aside from Temporary uses.

Section 6. SDCs as Condition of Development Approval

No application for new development shall be approved by GWA without assessment of SDCs pursuant to these Guidelines, and no building permit shall be issued unless the applicant has paid the SDCs with the exception of single family dwellings for which the SDC may be paid prior to initial occupancy pursuant to Public Law 32-075. With respect to new development eligible for the ASDC, a building permit may be issued if the applicant has paid the initial charge required under Section 19 of these Guidelines.

Section 7. Adoption of GWA's Capital Improvements Plans

The current GWA Capital Improvements Plan, as currently stated in the GWA Master Plan, was adopted by GWA's Governing Board on March 13, 2007, via Resolution No. 11 - FY2007. The current Plan will be updated and amended and new improvement plans adopted by GWA as it deems necessary, to include projects slated for SDC funding.

Section 8. Approval of the SDCs

The water and wastewater SDCs set forth in Schedule I were adopted by the Consolidated Commission on Utilities on October 13, 2009 via CCU Resolution No. 01 - FY2010 as provided under 12 G.C.A. § 12015.5(b).

Section 9. Service Area

GWA's service area is where GWA currently serves its customers or where it has agreed to serve future customers as evidenced by the signature of an authorized GWA official on a building permit.

Section 10. SDC Calculations

The American Water Works Association has established guidelines for the development of SDCs for water service in their M-1 manual on Water Fees and Related Charges. There are two generally accepted methodologies that are suggested; (1) the equity method, also known as the "buy-in" method; and (2) the "incremental" method. GWA's Governing Board has chosen to implement a "hybrid" of these two methods for several reasons, including but not limited to the following:

(1) The method results in a reasonable and equitable fee to new water customers; and

(2) The method achieves the financial objectives of the Board.

The equity or "buy-in" method achieves equity between new and existing customers in the investment of ratepayer capital into the water and wastewater systems. This approach assesses new customers a charge to approximate the average equity of the existing customers. With the equity method the new and existing customers share equally in the costs of current system and in new facilities.

The "incremental" method is similarly designed to achieve equity between new and existing customers by requiring that new customers pay for the additional capital investments needed to serve new customers. The "hybrid" method integrates into one SDC the capital due from new customers to fund new capital investment for growth while achieving equity between new and existing customers for their use of existing water and wastewater facilities. Under all methods, customers are assessed SDCs based on the size of the water meter needed to serve the customer's demand. Larger meters have the capacity to use more system assets; thus, a higher charge is necessary to establish equity between large and small users of the system. An equivalent unit of service is used to determine the fee for each meter size. Meter sizes are expressed in terms of equivalent meters, based on the relative capacity of the various meter sizes. Larger meters are assessed the SDC based on a ratio of the larger meter's capacity to the equivalent unit's capacity. An equivalent unit is defined as a ¾" water meter service

The SDCs due for the new development shall be collected prior to or at the time of issuance of the building permit (with the exception of single family dwellings for which the SDC may be paid prior to initial occupancy) or prior to or at the time of connection to the GWA's water or sanitary sewer system if no building permit is required.

Following the filing and acceptance of an application for a building permit or the request for connection to GWA's water or sanitary sewer system, GWA shall compute the SDCs due for the new development in the following manner:

1. The amount of each SDC due shall be determined based on the number of meters and service units required by the new development or expanded by an existing development, per Schedule I below.

2. If appropriate, and as condition precedent to connection to GWA's water or sanitary sewer line, GWA may adjust the assessment if the developer has expanded the required number of service units beyond that contained in the original assessment from GWA.

Section 11. <u>Assessment of SDCs</u>

A. The approval of any new development shall include, as a condition, the assessment of the SDCs applicable to such development. Assessment shall occur at the time application is made for the building permit or utility connection based upon the engineering plans submitted to GWA for approval, provided that a new assessment may be undertaken by GWA, if for any reason, the plans are modified

in any manner which causes GWA to change the size and/or quantity of the meter(s). All assessments under this provision shall be pursuant to Schedule I below.

B. Following the lapse or expiration of a building permit approval for a particular development, a new assessment shall be made prior to the final approval of a new development on the same tract of land. However, no further assessment shall be charged if there are no changes to the design requiring an increase in meter size and/or quantity for the development, provided that an SDC had been paid and a refund had not been made.

Section 12. Computation and Collection of SDCs

A. All SDCs assessed under the provisions of Section 11 of these Guidelines shall be collected by GWA prior to the issuance of any building permit.

B. The SDCs collected by GWA shall be deposited within two (2) business days into the Island Water and Sewer Infrastructure Development Fund (IWSIDF) which shall be created and administered by GWA as provided in Section 13 of these Guidelines.

C. In the case of a new assessment done for the reapplication of an expired building permit with paid SDCs, any applicable additional SDCs shall be collected.

D. Whenever the property owner of a development proposes to increase the number of service units requiring an increase in meter size and/or quantity, the additional SDCs collected for such new service units shall be assessed at the time the new application is filed in the same manner as required for an original building permit.

Section 13. Establishment of Accounts and Disbursements

A. The Chief Financial Officer for GWA shall establish an account for the IWSIDF as required under 12 G.C.A. § 12015.5(d). All SDCs collected under these Guidelines shall be deposited in said account.

B. GWA shall select the banking institution licensed on Guam that provides the best rates for deposit in relation to its fee structure and which also provides an opportunity for GWA to invest the funds into short-term guarantee investment contracts or other such investments with no penalty. The rates for such deposits shall be reviewed annually.

C. Fees to the bank to service the IWSIDF shall be agreed upon by GWA and the lending institution selected by GWA to hold such funds.

D. GWA shall ensure that the banking institution provides an annual report of on all transactions on the IWSIDF to the Commission and monthly reports to GWA.

E. Interest earned on the account shall be considered funds of the account and shall be used solely for the capital improvement projects provided for under these Guidelines.

F. Disbursement of funds shall be authorized by GWA at such times as are reasonably necessary to carry out the purposes and intent of these Guidelines, provide that such withdrawals must have been authorized by the Commission in accordance with 12 G.C.A. § 12015.5.

G. All SDCs collected by GWA shall be expended within a reasonable period of time, not to exceed ten (10) years from the date the SDCs were deposited into the account.

H. Execution of a design or construction contract by GWA shall be considered to be expenditure of funds of the account.

I. GWA shall maintain and keep financial records for all SDCs collected and for all expenditures made under these Guidelines. The records of the account for which the SDCs are deposited shall be open for public inspection and copying during ordinary business hours. GWA may assess fees for copying services in accordance with the Guam Sunshine Act of 1999.

Section 14. Use of Proceeds of SDC Accounts

The SDCs collected by GWA pursuant to these Guidelines may be used to finance or to recoup all or a portion of the costs of any capital improvement or facility expansion identified in GWA's applicable capital improvements plan, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the SDC capital improvements plan who is not an employee of the political subdivision. SDCs may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of GWA to finance such capital improvements or facilities expansions or renovations.

Section 15. Refunds

A. Any SDC or portion thereof collected pursuant to these Guidelines, which has not been expended within the service area within ten (10) years from the date full payment was received by GWA, shall be refunded, upon application, to the record owner of the property at the time the refund is paid; or if the fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the average fee of interest earned on the deposited funds.

B. All amounts collected under these Guidelines shall be considered expended on a first-in, first out basis.

C. If a refund is due and a portion of an assessed amount has been expended, GWA shall pro-rate the refund by subtracting the amount expended from the total paid and then adding the interest earned on the unexpended amount in the same manner as in Section 2980A above.

D. If the building permit for a new development for which an SDC has been paid has expired, and a modified or new application has not been filed, GWA shall, upon written application, refund the amount of the SDCs to the applicant. If no such application is made within 5 years from the date the permit has expired, no application for refund may be made.

Section 16. Updates to Plan and Revision of SDCs

A. GWA shall update its SDC Capital Improvement Plan in accordance with a schedule set by the GWA board. Regardless of whether such plans are modified, GWA shall at a minimum present annual requests for capital expenditures from the IWSIDF pursuant to 12 G.C.A. § 12015.5(c).

B. The Governing Board, with the approval of the Commission, may amend the tables in Schedule I if it deems it necessary.

Section 17. Agreement for Capital Improvements

Owners of any new development(s) may construct or finance a capital improvement or facility expansion designated in the SDC Capital Improvements Plan or rated under the Utility Line Upgrade Guidance Document as qualifying for SDC funding. An agreement must be entered with GWA prior to the issuance of any building permit for the development. The agreement shall meet GWA's requirements for SDC offsets, shall identify the estimated cost of the improvement or expansion, the schedule for initiation and completion of the improvement or expansion, a requirement that the improvement be designed and completed to GWA standards and such other terms and conditions as deemed necessary by GWA. GWA may require that the capital improvement or facility expansion be bonded in GWA's favor at a minimum of 100%, per GWA's bond policy.

If SDC offsets are included in the agreement, the total cost of the project shall not be less than the cost of the SDC based on an assessment of the development's meter quantity and size, per the SDC Financial Offset Policy.

Section 18. Procedures to Contest SDCs

A. Any person may file a written protest at any time prior to the issuance of a building permit. However, until the protest is resolved as provided herein, no building permit shall issue.

B. All protests shall be prepared in the form prescribed by GWA and be hand-delivered to either GWA's legal counsel or to GWA's General Manager.

C. The written protest shall contain information that GWA may reasonably require, including but not limited to, a detailed summary of the grounds upon which the person is disputing the assessment. The protest must also contain the following information:

1. General description of development, including lot number and village.
2. All approved plans for the development.
3. Appraised value of the land and off-site facilities.
4. Total estimated SDCs that the owner feels is appropriate.
5. Approvals from the GLUC if required by law.
6. Name, address, fax and phone number for owner owner's representative.

D. GWA shall provide a written response to the protest within thirty (30) days following the receipt of such protest which either rejects the protest outright (for cause, deficiency in the protest or other valid reason) or grants an adjustment to the assessed amount. No SDC shall be waived in its entirety if the construction is for "new development" as defined in these Guidelines.

E. If a party is dissatisfied with GWA's response, within 30 days from the receipt of GWA's response, they may file a Petition of Review with the Commission asking the Commission to review GWA's findings. A copy of the Petition must also be filed with GWA on the same date the Petition is filed with Commission.

Section 19. <u>Amortized System Development Charge or ASDC</u>

A. Pursuant to 12 GCA § 12116.5(b), eligible persons constructing or purchasing a single family dwelling intended for their personal residence and/or for immediate family members may be entitled to amortize the cost of the applicable SDCs. The schedule of Amortized System Development Charges is shown on Schedule II attached to these Guidelines. The applicable ASDC shall be added to the monthly GWA bill for the dwelling.

B. A person whose application for an ASDC is denied can file a written protest in the manner provided by Section 18 of these Guidelines, and, if dissatisfied with GWA's response to the protest, file a Petition for Review with the Commission.

C. The ASDC shall not apply to any commercial development or the construction of multi-family dwellings.

D. The ASDC is not transferable. Prior to selling or conveying title to the affected dwelling to any person who is not an immediate family member or who is not himself or herself eligible for an ASDC, a person paying an ASDC shall be

required to pay the entire unpaid balance of the ASDC in full, including any accrued interest, prior to selling or conveying the title. An applicant for an ASDC must sign and acknowledge a Notice, in the form of Schedule III to these Guidelines, evidencing this requirement, as a condition to approval of the application. This statement shall be recorded by GWA. No water or wastewater account shall be transferred to a new owner or occupant of the residence until the balance of the ASDC has been paid in full.

E. Eligible persons hereunder may exercise the option to amortize SDCs but are not required to do so. The option to amortize SDCs hereunder shall not apply to any commercial development or the construction of multi-family dwellings.

F. GWA may terminate water or wastewater service for non-payment of an amortized SDC in accordance with applicable procedures.

Section 20. Affordable Housing System Development Charge or AHSDC

A. Pursuant to 12 GCA § 12116.5(i), any person who constructs, or causes to construct, a home where said structure will be the primary residence for themselves or an immediate family member or with the intent to sell, shall be charged 1.01% for water connections and 1.65% for sewer connections of the actual cost to construct the home and purchase the land in the event the actual total cost is Two Hundred Ten Thousand Dollars ($210,000) or less.

B. GWA shall require reasonable proof to be provided showing that the home will in fact be a primary residence, pursuant to 12 GCA § 12116.5(i)

C. The AHSDC shall not apply to those persons who construct, or cause to be constructed, homes that do not meet the requirements of the Guam Building Code, nor shall the charge apply to persons renovating existing structures.

D. A person whose application for an AHSDC is denied can file a written protest in the manner provided by Section 18 of these Guidelines, and, if dissatisfied with GWA's response to the protest, file a Petition for Review with the Commission.

E. The ASDC shall not apply to any commercial development or the construction of multi-family dwellings.

F. At least once every five years, the Guam Waterworks Authority shall review the Median Household Income for Guam, as published by the HUD Median Income Statistic, and shall then adjust the total cost threshold requirement of the AHSDC, set at $210,000, accordingly.

SCHEDULE I

SCHEDULE OF WATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 x 3/4	$2,126
3/4	$3,190
1	$5,316
1 1/2	$10,632
2	$17,011
3	$34,022
4	$53,160
6	$106,320
8	$170,112
10	$244,536

SCHEDULE OF WASTEWATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 x 3/4	$3,474
3/4	$5,212
1	$8,686
1 1/2	$17,372
2	$27,795
3	$55,590
4	$86,860
6	$173,720
8	$277,952
10	$399,556

SCHEDULE II

AMORTIZED SYSTEM DEVELOPMENT CHARGES

WATER:

INITIAL CHARGE--$500

MONTHLY CHARGE FOR 96 MONTHS (8 YEARS)--$22.58

WASTEWATER:

INITIAL CHARGE--$500

MONTHLY CHARGE FOR 96 MONTHS (8 YEARS)--$41.29

INTEREST AT THE RATE OF 7.5 PERCENT OVER THE EIGHT-YEAR AMORTIZATION PERIOD SHALL BE INCLUDED IN THE MONTHLY AMORTIZED SYSTEM DEVELOPMENT CHARGES.

SCHEDULE III

(SPACE ABOVE LINE FOR RECORDER'S USE ONLY)

NOTICE OF OBLIGATION TO PAY AMORTIZED SYSTEM DEVELOPMENT CHARGE

Notice is hereby given that [Names of Property Owners] ("Owner") was/were eligible for the Amortized System Development Charge ("ASDC") provided for under 12 GCA 12015(b), as amended by Guam P.L. 29-133, or pursuant to Section 20 of the Guam Waterworks Authority SDC Implementation Guidelines, in connection with the construction of a single-family residence on

[Property Description] (the "Property").

The ASDC is not transferable. Pursuant to 12 GCA 120 *15(b),* and Section 20 of the Guam Waterworks Authority SDC Implementation Guidelines, prior to the sale or transfer of the title to the Property to any person other than an immediate family member or a person also eligible to receive the benefit of the ASDC, the entire remaining balance of the ASDC, including any accrued and unpaid interest, must be paid in full.

Date: _____

GUAM WATERWORKS AUTHORITY

BY: _____
NAME: _____
ITS: _____

ACKNOWLEDGED AND AGREED TO:

[OWNER/OWNERS)

_____

_____

ACKNOWLEDGEMENTS

GUAM, U.S.A.)
) **ss:**
CITY OF HAGATNA)

ON THIS _____ day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the _____ of GUAM WATERWORKS AUTHORITY, a Government of Guam agency, whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said corporation, in such capacity, being fully authorized to do so, and for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
(official signature and seal of notary)

GUAM, U.S.A.)
) **ss:**
CITY OF HAGATNA)

ON THIS _____ day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the _____ of GUAM WATERWORKS AUTHORITY, a Government of Guam agency, whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said corporation, in such capacity, being fully authorized to do so, and for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
(official signature and seal of notary)

GUAM, U.S.A.)
) **ss:**
CITY OF HAGATNA)

ON THIS _____ day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the _____ of GUAM WATERWORKS AUTHORITY, a Government of Guam agency, whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said corporation, in such capacity, being fully authorized to do so, and for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
(official signature and seal of notary)

EXHIBIT B

GUAM WATERWORKS AUTHORITY

SYSTEM DEVELOPMENT CHARGE
FINANCIAL OFFSET POLICY
August 2017

I. PURPOSE

This policy shall provide the requirements and procedure for developers to request a System Development Charge (SDC) financial offset by constructing the offsite water and/or sewer system infrastructure needed to provide utility service to a proposed development without adversely impacting existing customers.

II. DEFINITIONS

"Project" means an offsite sanitary sewer or water facility expansion.

From the SDC Implementation Guidelines:
"Offset" means the amount of the reduction of the applicable SDC designed to fairly reflect the value of area-related facilities provided by a developer pursuant to Guam's development regulations or requirements.

"Offsite" means outside the boundaries of the property for which a new development is proposed.

"Sanitary Sewer Facility Expansion" means the expansion of the capacity of any existing sanitary sewer facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing sanitary sewer facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

"System Development Charge" means a one-time impact fee or charge assessed by GWA on each user who is for the first time connecting property into GWA water or wastewater system, or to each builder if the density of development on the existing connection is increased pursuant to these Guidelines in order to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new development. SDCs **do not include** the dedication of rights-of-way or easements for such facilities nor the construction of improvements by the developer thereon. SDCs also do not include line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development regardless of type.

"Water Facility Expansion" means the expansion of the capacity of any existing water facility for the purpose of serving new development, and may, under certain circumstances, include the

repair, maintenance, modernization or expansion of an existing water facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

III. COVERAGE

A. The following improvements or activities do not qualify for SDC offset, per the SDC definition:
   i. the dedication of rights-of-way or easements,
   ii. the construction of improvements by the developer thereon (on private property), and
   iii. line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development regardless of type.

B. The offsite improvement must meet the definition of Sanitary Sewer Facility Expansion or Water Facility Expansion, in Section 2.0.

C. The financial offset shall include costs associated with asset construction including, but not limited to design, permitting, construction, materials, and testing. Upon GWA's acceptance of the assets, GWA shall be responsible for operation and maintenance costs.

IV. GUIDELINES

A. The developer shall submit engineering plans and an estimate of the total project cost with the financial offset request, for GWA's review and approval. If the estimated cost is less than the SDC assessment (in accordance with Exhibit C, Schedule I of the GWA SDC Implementation Guidelines) then the developer will be required to pay the difference to GWA prior to GWA's approval of the building permit application.

B. Upon completion of the project, the developer shall submit actual costs for GWA's review and approval. If the actual cost is less than the SDC assessment, the developer shall pay the difference to GWA prior to GWA's approval of the development's occupancy permit application.

C. An agreement between GWA and the developer shall be signed to clearly identify the scope of offsite improvements prior to GWA's approval of a building permit application.

D. The developer shall be responsible for
   i. all Federal and Government of Guam permitting requirements and
   ii. all payments for the improvement construction including permitting, materials, and contractor fees.

E. GWA may require the developer to provide a 100% bond for the project, per SDC Implementation Guidelines Section 17.

F. All offsite improvements shall meet GWA design, material, construction, testing and inspection requirements. GWA may require the developer to employ a construction manager who shall, upon completion of construction, submit a construction report to GWA for review and approval.

G. The offsite improvement construction shall be completed and the assets accepted by GWA prior to GWA's approval of the development's occupancy permit.

H. In the case of phased development, the agreement shall identify offsite improvements required to be completed, placed into service, and accepted by GWA prior to occupancy permit approval for each phase of the development.

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

TO: **Consolidated Commission on Utilities**

FROM: **General Manager**

DATE: **August 24, 2017**

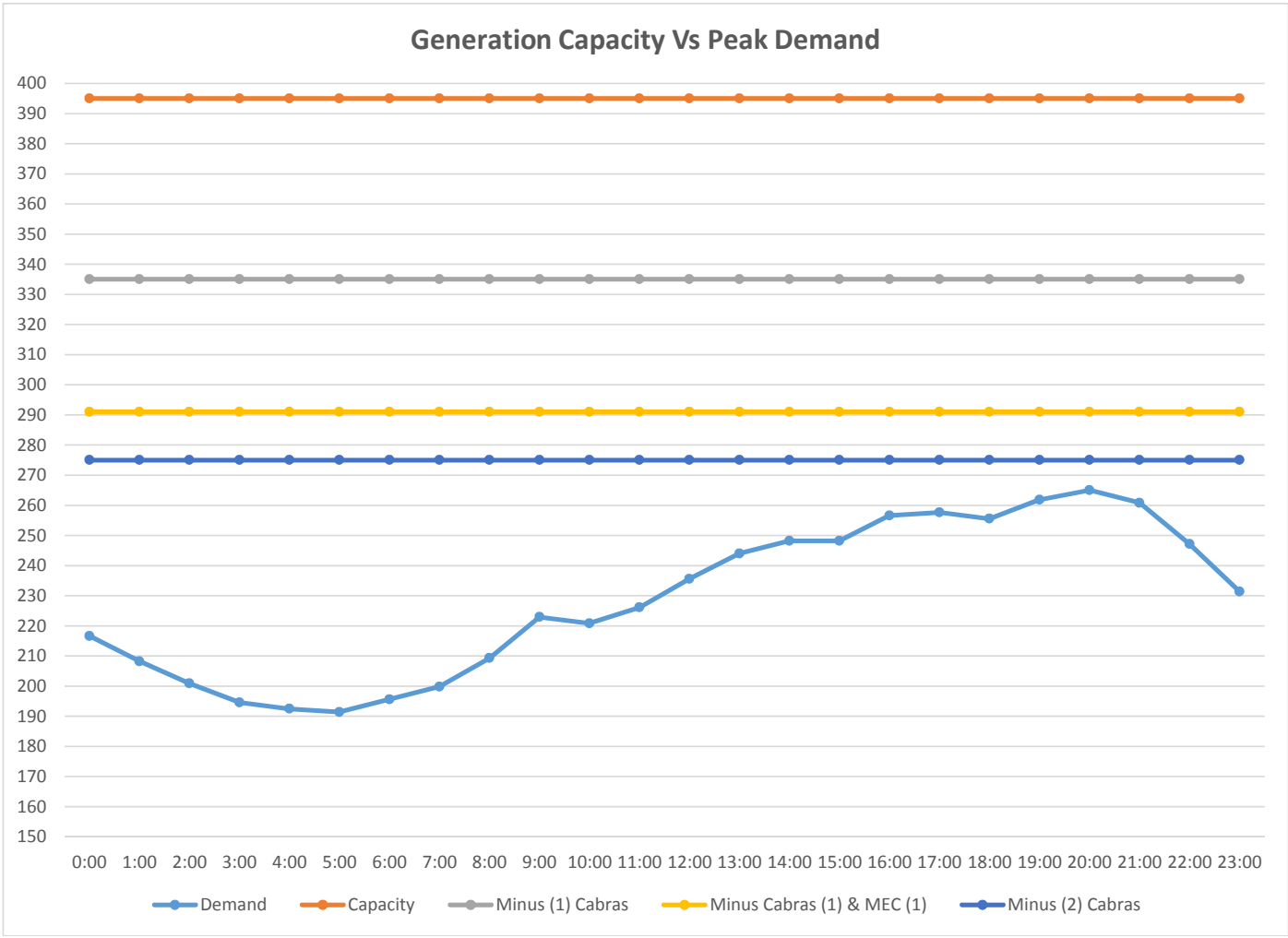
SUBJECT: **General Manager's Report**

1. Generation System Update:

- The Cabras #1 overhaul began Saturday, July 15th and is substantially ahead of scheduled. It is now anticipated that the unit will be operating and cleared for full load sometime next week.
- Navy had authorized the use of the Orote 18 MW plant for assistance under emergency conditions. We had one occasion during the overhaul period in which we utilized Orote. Thank you DoN…
- Once Cabras #1 is cleared for full load operation, we will operate Cabras #2 at a higher load (55 to 60 MW). We limited the unit to 42MW this past month in order to reduce risk of experiencing another boiler tube leak while reserve levels were down.
- The following table and graph projects our reserve level for September 2017 with the completion of the Cabras #1 overhaul. The system reserves could cover the loss of the two largest units for the anticipated peak demand of 265 MW in CY 2017.

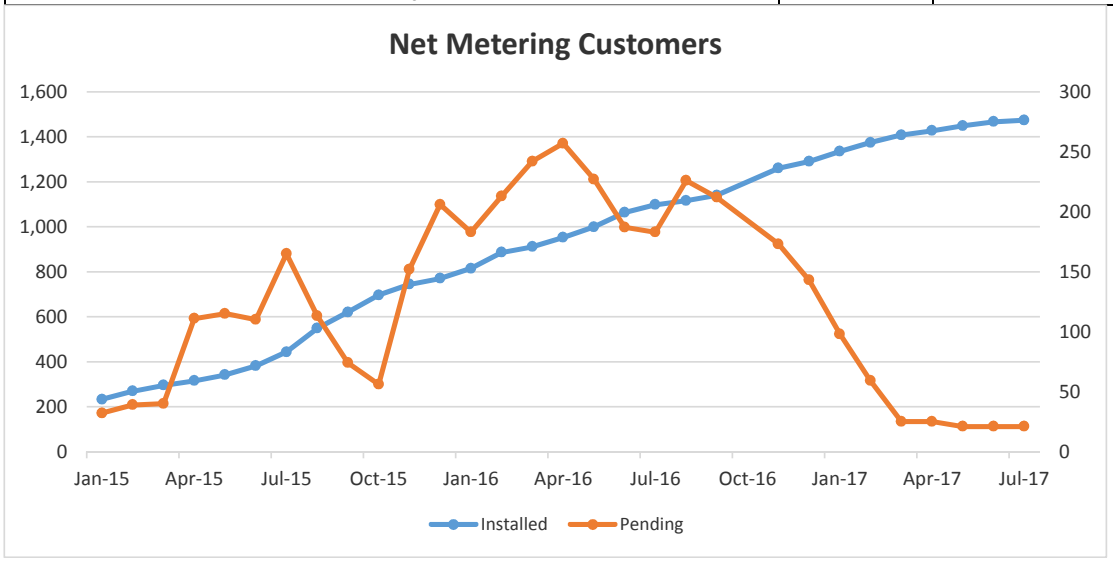
Generation Capacity Summary:

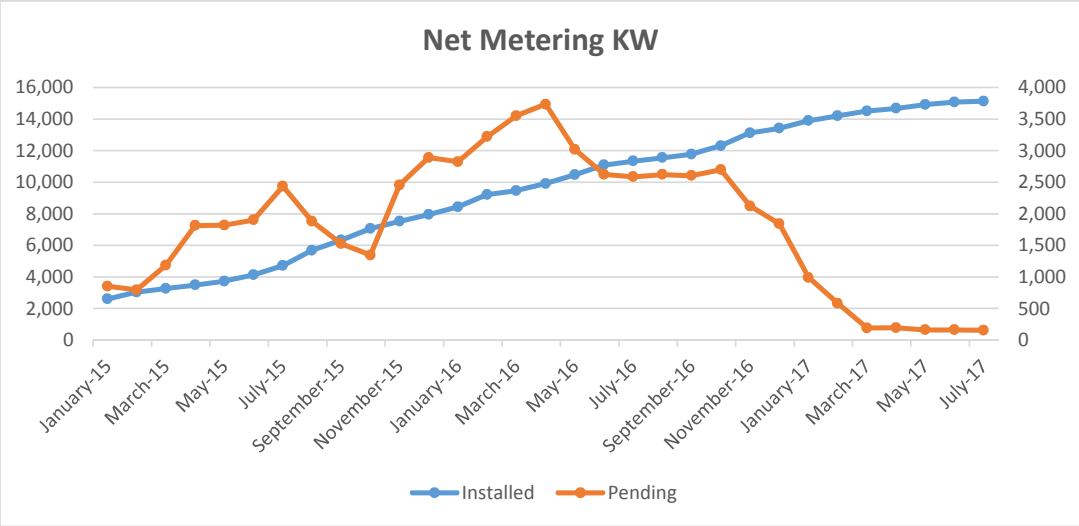
24-August-17	**September 1st, 2017 Reserve**
Generating Units:	
CABRAS 1	60
CABRAS 2	60
MEC 8	44
MEC 9	44
AGGREKO	36
MEDIUM SPEED DIESELS (8 Units)	32
YIGO CT	20
MACHECHE CT	20
TEMES CT	39
DEDEDO CT1	20
DEDEDO CT2	20
AVAILABLE CAPACITY	**395**
EXPECTED PEAK DEMAND (Highest to date in CY 2017 was 261 MW)	**265**
GPA SYSTEM RESERVE (Greater than two largest units)	**130**


Generation Capacity Vs Peak Demand
400
390
380
370
360
350
340
330
320
310
300
290
280
270
260
250
240
230
220
210
200
190
180
170
160
150
0:00 1:00 2:00 3:00 4:00 5:00 6:00 7:00 8:00 9:00 10:00 11:00 12:00 13:00 14:00 15:00 16:00 17:00 18:00 19:00 20:00 21:00 22:00 23:00
Demand
Capacity
Minus (1) Cabras
Minus Cabras (1) & MEC (1)
Minus (2) Cabras

2. Net metering Summary Ending July 2017:

Description:	Count	Kw	
Active	**1,474**	**15,123**	
Pending	21	155	
Totals:	1,495	15,278	
Service:	**Count**	**KW**	**Kw/Customer**
Residential	1,397	12,530	9.0
Others	77	2,593	33.7
Total:	1,474	15,123	10.3
% Residential	**94.8%**	**82.9%**	
Estimated 12 Months Revenue Impact:	**$2,808,535**		

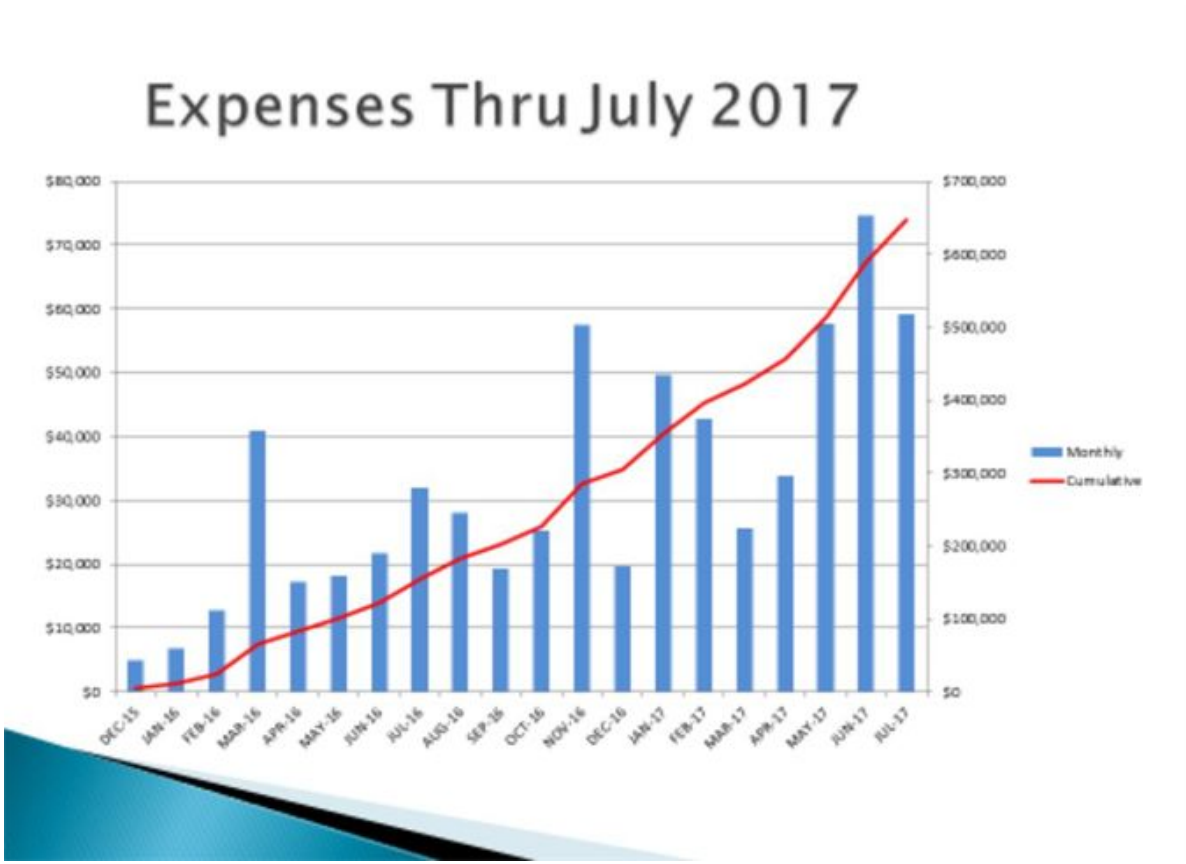




3. Renewable Energy Production Summary Thru July 2017:

Energy Production Source:	Kwh	Oil Barrels Avoided	Fuel Cost Avoided
NRG Total Production beginning Oct 2015	91,342,948	152,727	$8,399,983
Net Metering Estimated Production beginning Jan 2015	42,228,933	70,607	$3,883,412
Wind Power Production beginning Jan 2016	700,614	1,171	$64,429
Renewables Total:	**134,272,495**	**224,506**	**$12,347,825**
System Heat Rate Kwh/Gal	14.2		
System Fuel $/Bbl	$55.00		

4. DSM Program:



Demand Side Management Program Impact Thru July 2017:

Description	Count	KW Reduction
Split A/C	2,106	1,580
Central A/C	14	21
Window Units	8	2
Washer	43	11
Dryer	10	10
Totals:	2,181	1,623

New Conventional Power Plant $/KW		$1,500
Total Investment Reduction		$2,434,875
Total DSM Investment		$685,909
Investment Reduction		**$1,748,966**
Return on Investment		**3.5**

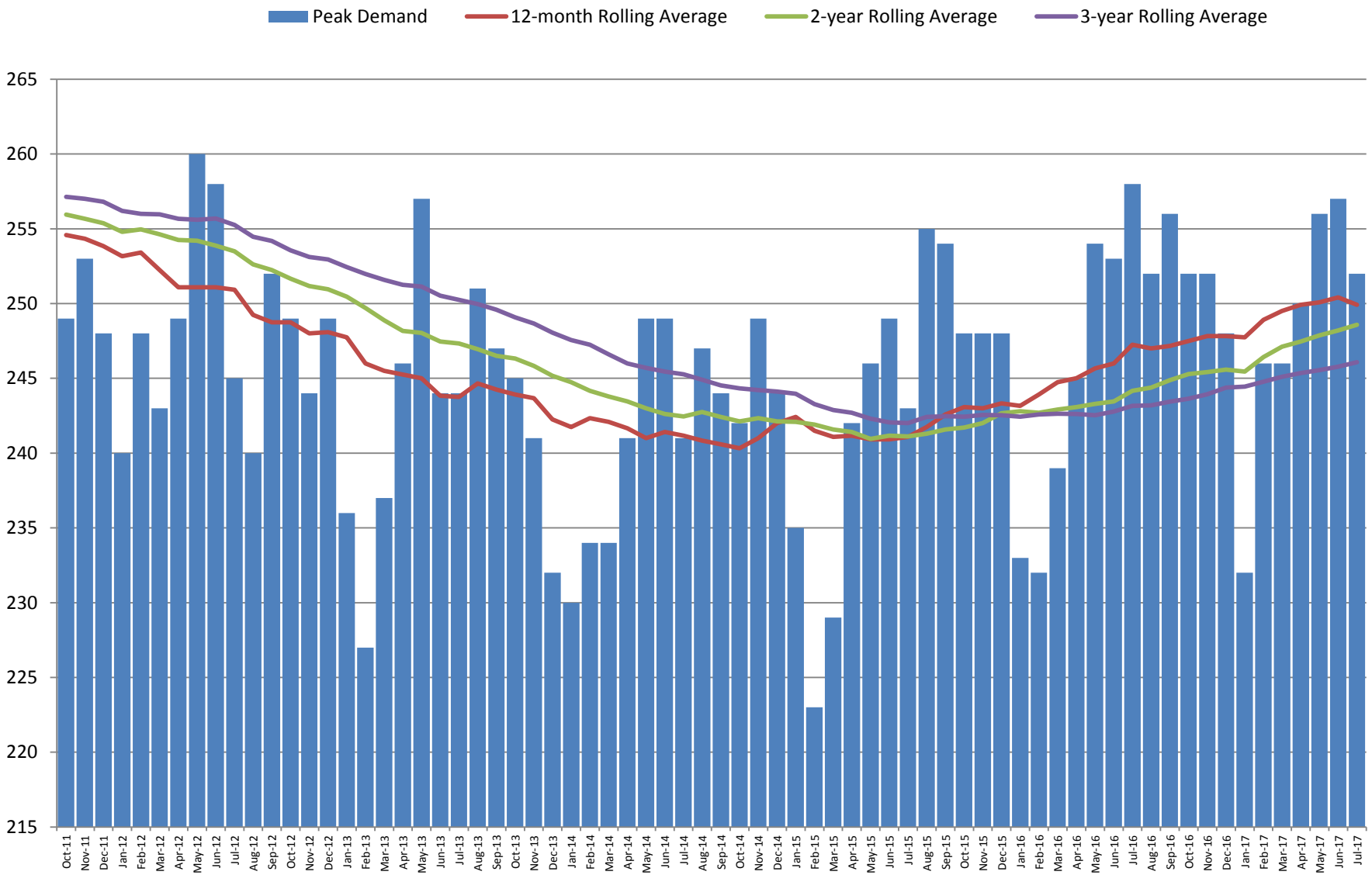
5. **New Power Plant Bid:** Work on land acquisition continues and I believe a recommendation for award could be made within the next month. A draft of the bid specifications is currently under review. Once the land location has been determined, the specifications could be ready for CCU and PUC approval within one month thereafter. It appears the date for bid invitation issuance for the new power plant would now be in the November/December timeframe.

6. **Liberation Day Parade:** GPA and GWA entered a float for the liberation day parade. We came in 2nd place in the government category. Congratulations to all employees and IPP partners on this success, but most especially for the work put in which made it a great day with lots of food and fun in celebration of our liberation.

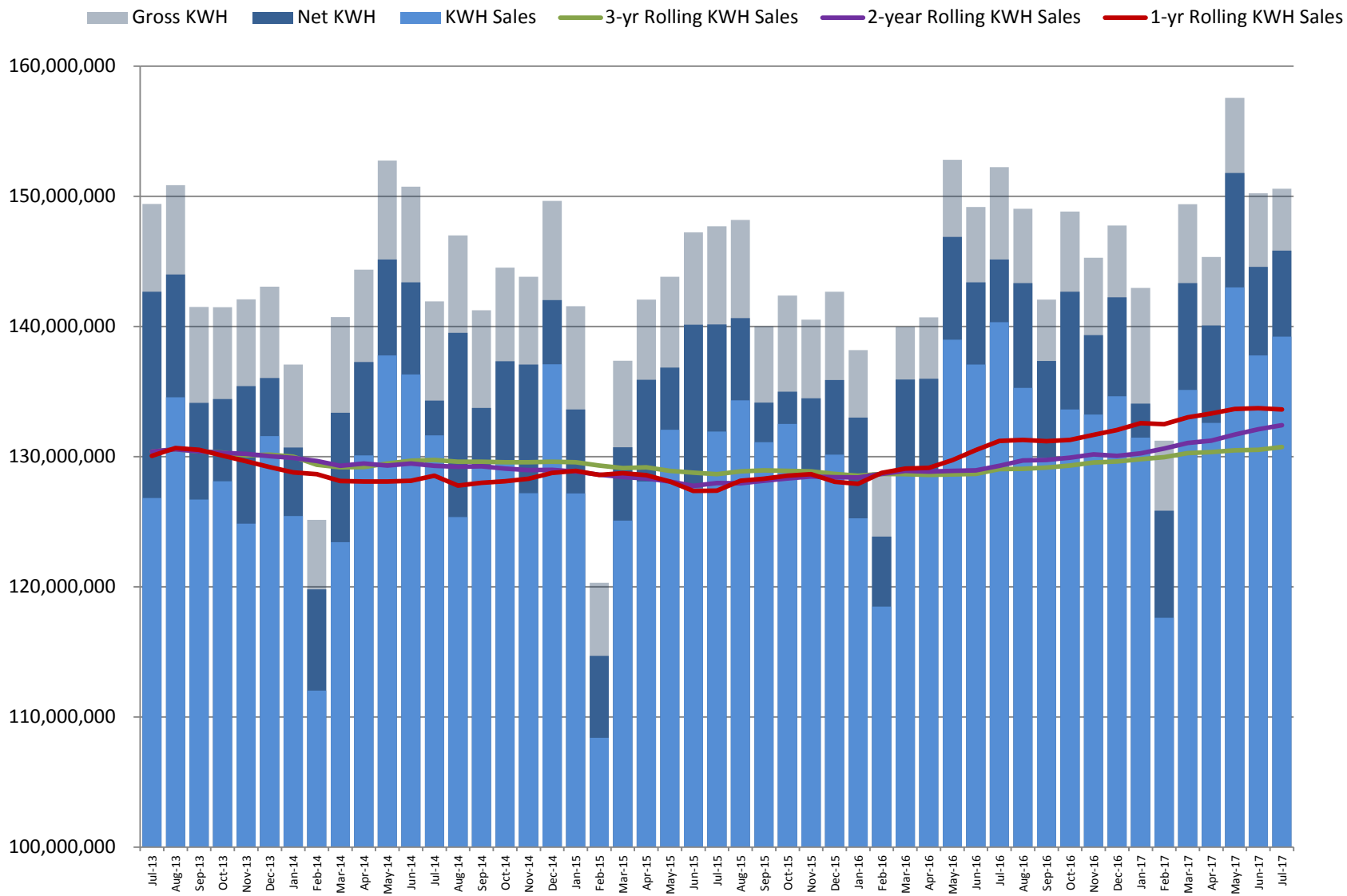
7. **Key Performance Indicators:** The following pages provide updated information thru July 2017.

John M. Benavente, P.E.

Historical Monthly Peak Demand
Oct 2011 - July 2017



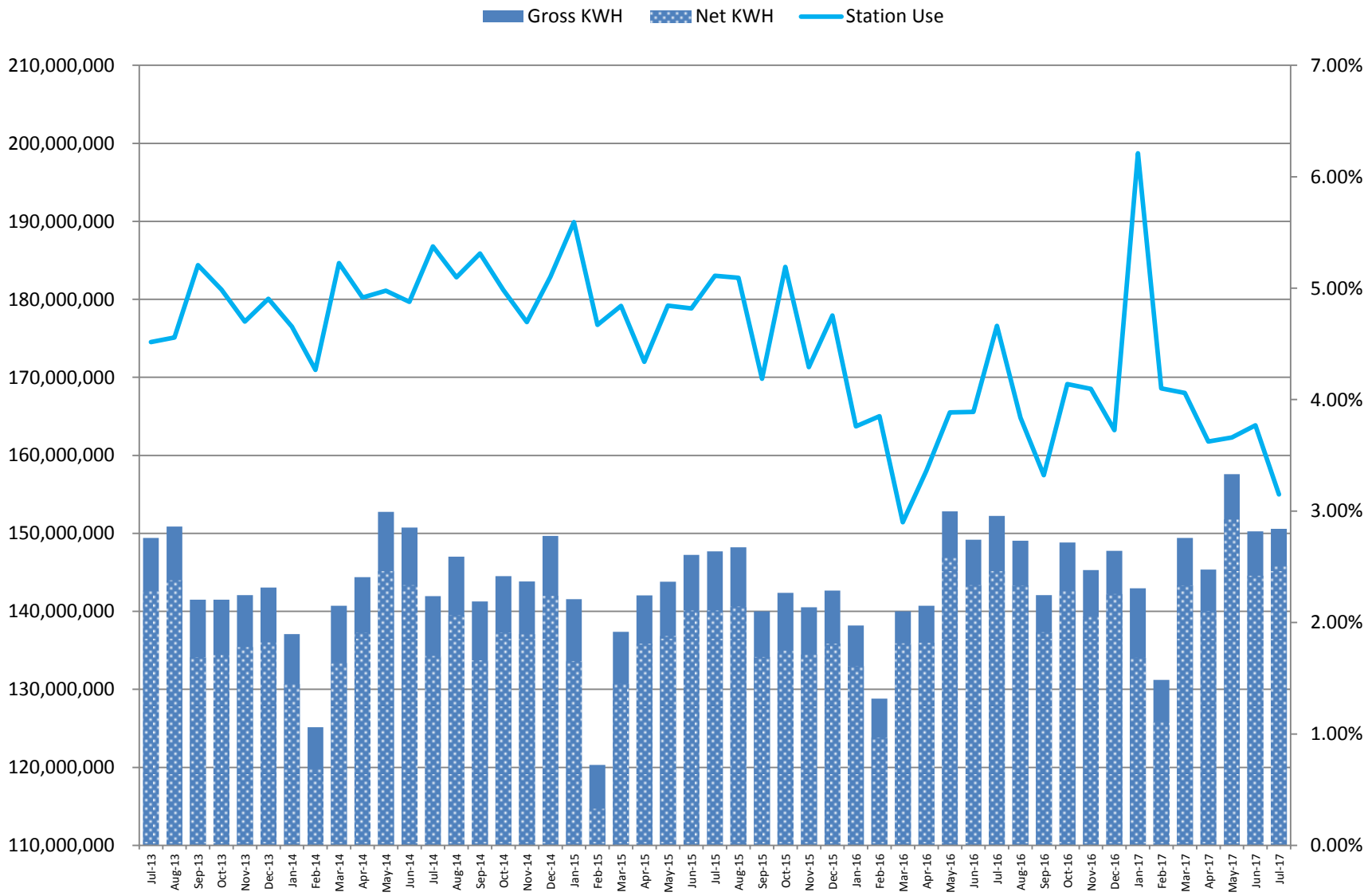
Historical KWH Sales
July 2013 - July 2017



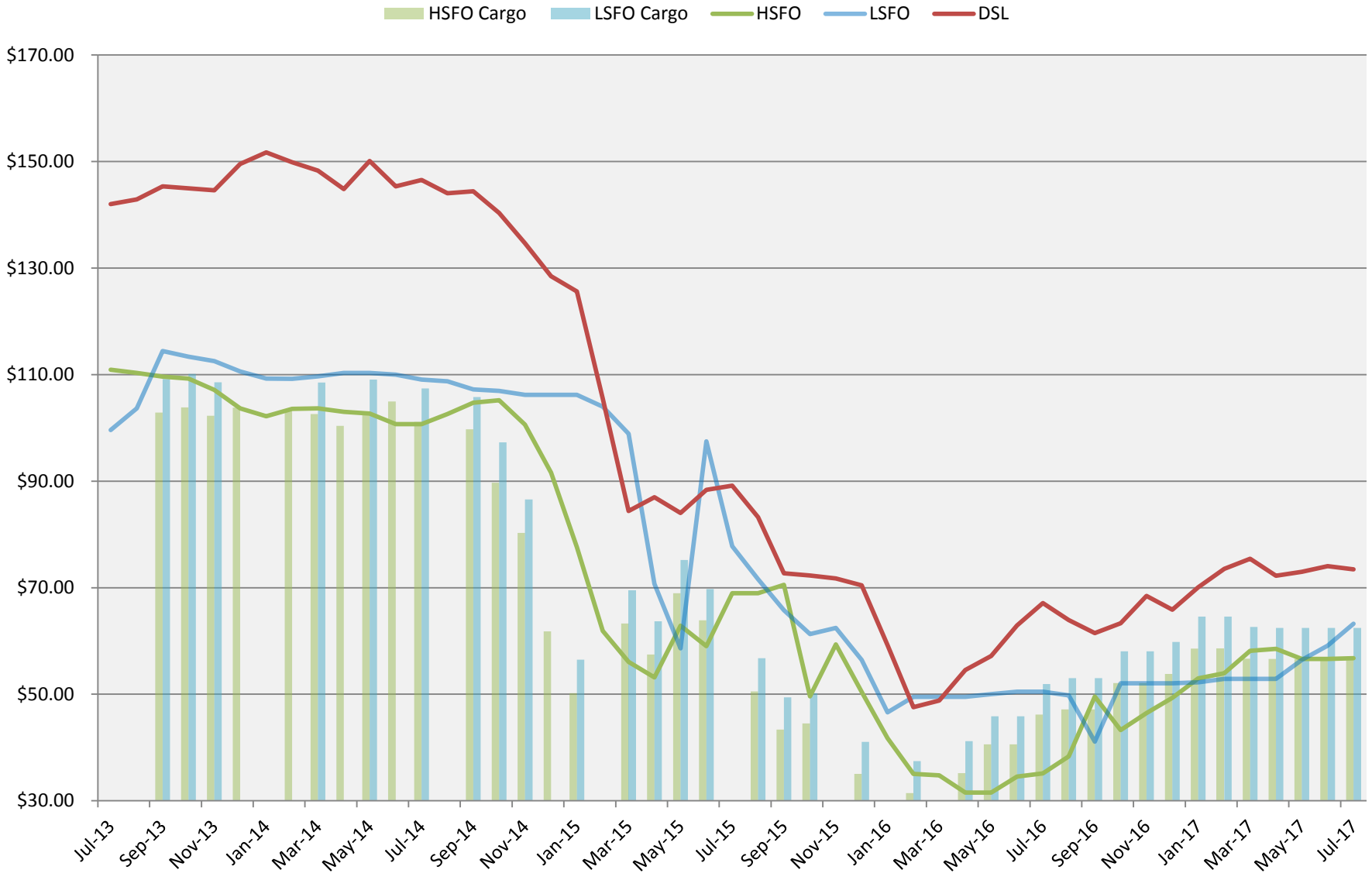
SYSTEM GROSS HEAT RATE
(KWH/Gal)
July 2013 - July 2017



Gross and Net Generation (KWH)
July 2013 - July 2017



Fuel Cargo and Fuel Consumption Costs ($/bbl)
July 2013 - July 2017



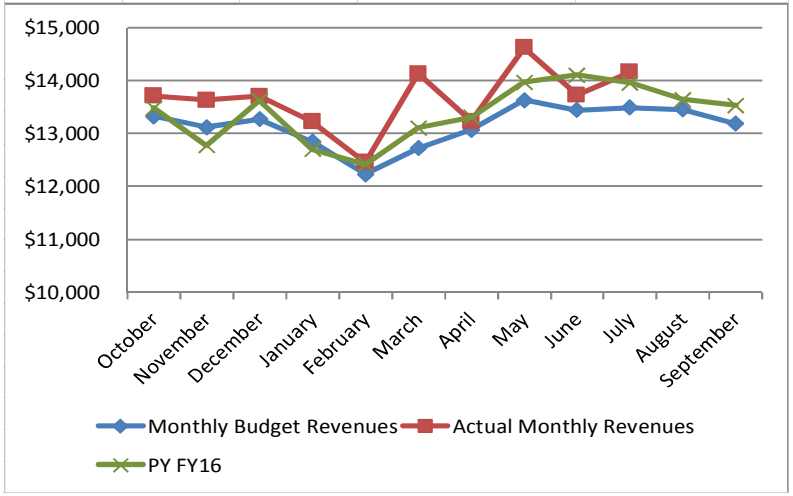
July 2017 Monthly Financial Highlight

- Base revenue sales and Mwh sales are within budget for July.

Base Revenue Through July 31, 2017

$000	Monthly Budget Revenues	Actual Monthly Revenues	Variance		PY FY16	CY vs PY Variance	
October	$ 13,320	$ 13,702	$ 383	↑	$ 13,481	$ 221	↑
November	13,114	13,622	$ 509	↑	12,769	$ 853	↑
December	13,265	13,695	$ 430	↑	13,617	$ 78	↑
January	12,838	13,220	$ 382	↑	12,694	$ 526	↑
February	12,226	12,454	$ 228	↑	12,415	$ 39	↑
March	12,720	14,123	$ 1,403	↑	13,103	$ 1,020	↑
April	13,066	13,224	$ 158	↑	13,300	$ (76)	↓
May	13,624	14,617	$ 993	↑	13,963	$ 654	↑
June	13,438	13,722	$ 283	↑	14,098	$ (377)	↓
July	13,483	14,151	$ 668	↑	13,953	$ 198	↑
August	13,447				13,639		
September	13,179				13,525		
Total	**$ 157,720**	**$ 136,531**	**$ 5,437**		**$ 160,557**	**$ 3,137**	

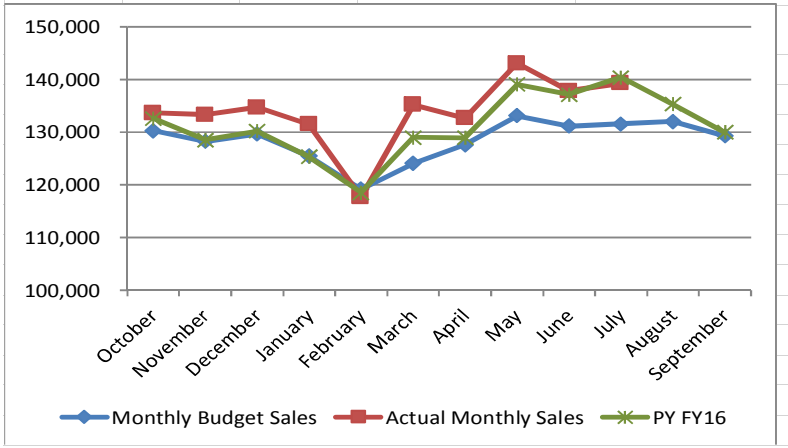
Base Rate Revenue $000



MWH Sales Through July 31, 2017

gwh	Monthly Budget Sales	Actual Monthly Sales	Variance		PY FY16	CY vs PY Variance	
October	130,212	133,620	3,408	↑	132,517	1,103	↑
November	128,213	133,235	5,022	↑	128,470	4,765	↑
December	129,585	134,634	5,048	↑	130,157	4,477	↑
January	125,428	131,461	6,032	↑	125,264	6,196	↑
February	119,112	117,617	(1,494)	↓	118,483	(865)	↓
March	123,983	135,131	11,149	↑	128,934	6,197	↑
April	127,578	132,587	5,009	↑	128,910	3,677	↑
May	133,054	143,013	9,959	↑	138,989	4,024	↑
June	131,073	137,777	6,704	↑	137,074	703	↑
July	131,526	139,227	7,700	↑	140,334	(1,107)	↓
August	131,966				135,275		
September	129,238				129,932		
Total	**1,540,970**	**1,338,303**	**58,537**		**1,574,340**	**29,170**	

MWh Sales



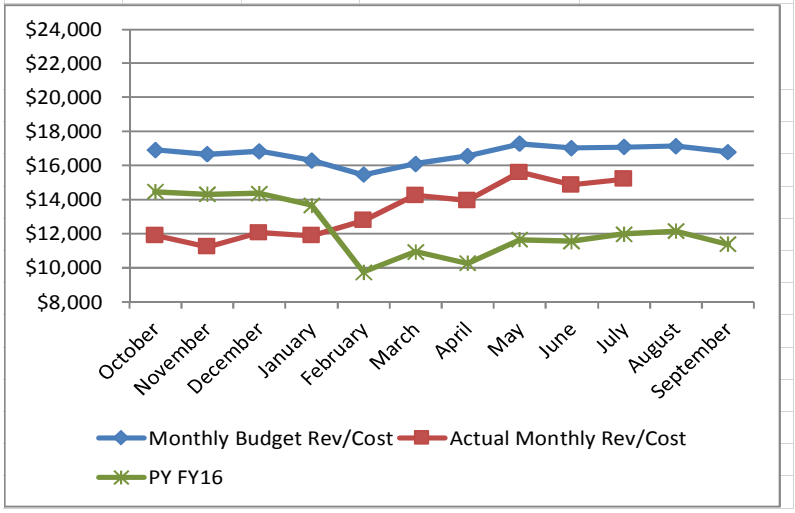
July 2017 Monthly Financial Highlight (Continued)

- Fuel revenue lower than budget

Fuel Revenue Through July 31, 2017

$000	Monthly Budget Rev/Cost	Actual Monthly Rev/Cost	Variance		PY FY16	CY vs PY Variance	
October	$ 16,901	$ 11,894	$ (5,008)	↓	$ 14,443	$ (2,549)	↓
November	16,642	11,215	$ (5,427)	↓	14,306	$ (3,091)	↓
December	16,820	12,036	$ (4,783)	↓	14,349	$ (2,313)	↓
January	16,280	11,867	$ (4,413)	↓	13,663	$ (1,796)	↓
February	15,460	12,751	(2,709)	↓	9,739	3,012	↑
March	16,093	14,248	(1,845)	↓	10,924	3,324	↑
April	16,559	13,940	(2,619)	↓	10,256	3,684	↑
May	17,270	15,596	(1,674)	↓	11,637	3,959	↑
June	17,013	14,859	(2,154)	↓	11,536	3,323	↑
July	17,072	15,175	(1,897)	↓	11,966	3,209	↑
August	17,129				12,146		
September	16,775				11,375		
Total	**$ 200,015**	**$ 133,582**	**$ (32,529)**		**$ 146,340**	**$ 10,762**	

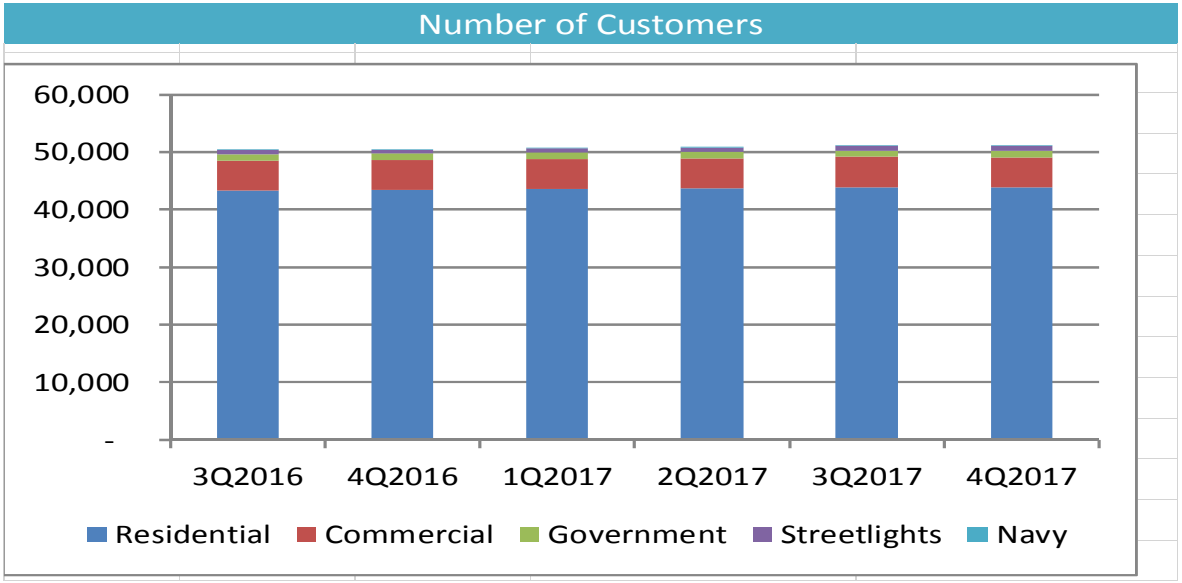
Fuel Revenue/ Cost $000



July 2017 Monthly Financial Highlight (Continued)

- Steady customer growth

Number of Customers						
	3Q2016	4Q2016	1Q2017	2Q2017	3Q2017	4Q2017
Residential	43,333	43,408	43,582	43,718	43,902	43,866
Commercial	5,195	5,198	5,235	5,236	5,252	5,234
Governmen	1,088	1,089	1,071	1,077	1,071	1,075
Streetlights	689	688	722	800	824	823
Navy	1	1	1	1	1	1
	50,306	50,384	50,611	50,832	51,050	50,999



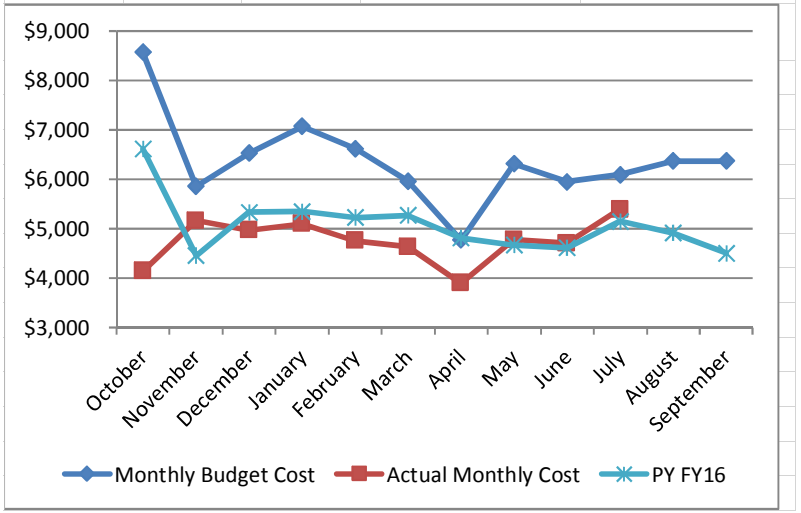
July 2017 Monthly Financial Highlight (Continued)

- Operating Expenses within budget and close to prior year.

O&M Through July 31, 2017

$000	Monthly Budget Cost	Actual Monthly Cost	Variance		PY FY16	CY vs PY Variance	
October	$ 8,564	4,135	4,429	↑	6,605	2,470	↑
November	5,846	5,158	688	↑	4,452	(707)	↓
December	6,520	4,966	1,554	↑	5,330	364	↑
January	7,063	5,092	1,971	↑	5,346	254	↑
February	6,616	4,748	1,868	↑	5,220	471	↑
March	5,958	4,629	1,328	↑	5,267	638	↑
April	4,763	3,892	872	↑	4,806	915	↑
May	6,304	4,772	1,533	↑	4,662	(109)	↓
June	5,943	4,702	1,241	↑	4,608	(94)	↓
July	6,083	5,385	699	↑	5,143	(242)	↓
August	6,366				4,906		
September	6,366				4,501		
Total	**$ 76,394**	**$ 47,480**	**$ 16,182**		**$ 60,847**	**$ 3,960**	

O&M Cost $000



- DSC greater than target of 1.75

Debt service coverage (DSC) calculation-indenture	2012	2013	2014	2015	2016	YTD July 2017
Senior lien coverage	2.13	3.36	3.16	3.62	3.35	2.96
Aggregate debt service coverage	1.35	1.88	1.98	2.62	3.35	2.96
Debt service coverage (DSC) calculation-IPP as O&M						
Senior lien coverage	1.29	2.16	2.25	2.56	2.52	2.10
Aggregate debt service coverage	0.82	1.21	1.41	1.85	2.52	2.10

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

GUAM POWER AUTHORITY
FINANCIAL STATEMENT OVERVIEW
July 2017

Attached are the financial statements and supporting schedules for the month and fiscal year ended July 31, 2017.

Summary
The increase in net assets for the month ended was $1.4 million as compared to the anticipated net increase of $0.3 million projected at the beginning of the year. The total kWh sales for the month were 5.85% more than projected and non-fuel revenues were $0.5 million more than the estimated amount. O & M expenses for the month were $5.3 million which was $0.7 million less than our projections for the month. Other expenses for the month such as interest expense, IPP costs, (net of interest income and other income) totaled to $3.9 million, which was right in line with the projected amount. There were no other significant departures from the budget during the period.

Analysis

Description	Previous Month	Current Month	Target
Quick Ratio	2.17	1.77	2
Days in Receivables	40	41	52
Days in Payables	28	45	30
LEAC (Over)/Under Recovery Balance -YTD	$11,786,411	$14,050,504	$6,767,710
T&D Losses	4.86%	4.92%	7.00%
Debt Service Coverage	2.12	2.10	1.75
Long-term equity ratio	13%	13%	30 – 40%
Days in Cash	183	200	60

The Quick Ratio has been a challenge for GPA historically. However, over the last two fiscal years, the influx of cash has continued to improve this ratio. GPA has current obligations of approximately $93 million and approximately $165 million in cash and current receivables. The increase in cash is attributable to the receipt of $34M in insurance proceeds during the fiscal year. Debt Service Coverage ratio is calculated using the methodology in use before the Fiscal Year 2002 change in accounting practice.

Financial Statement
July 2017
Significant Assumptions

The significant assumptions in the financial statements are as follows:

- Accrual cutoff procedures were performed at month end
- An inventory valuation is performed at year-end only
- Accounts Receivable includes accruals based on prior months' usage.

Prepared by:	Reviewed by:	Approved by:
Lenora M. Sanz Controller	John J.E. Kim Chief Financial Officer	John M. Benavente, P.E. General Manager

GUAM POWER AUTHORITY
(A COMPONENT UNIT OF THE GOVERNMENT OF GUAM)
Statements of Net Position
July 31, 2017 and September 30, 2016

	Unaudited July 2017	Unaudited September 2016	Change from Sept 30 2015
ASSETS AND DEFERRED OUTFLOWS OF RESOURCES			
Current assets:			
Cash and cash equivalents:			
Held by trustee for restricted purposes:			
Interest and principal funds	$ 12,771,869	$ 16,005,063	$ (3,233,194)
Bond indenture funds	61,627,094	69,821,815	(8,194,721)
Held by Guam Power Authority:			
Bond indenture funds	129,196,919	126,992,587	2,204,332
Self insurance fund-restricted	19,249,570	19,506,796	(257,226)
Energy sense fund	1,227,833	1,646,041	(418,208)
Total cash and cash equivalents	224,073,285	233,972,302	(9,899,017)
Accounts receivable, net	34,562,901	62,635,764	(28,072,863)
Total current receivables	34,562,901	62,635,764	(28,072,863)
Materials and supplies inventory	12,319,026	13,555,719	(1,236,693)
Fuel inventory	50,324,043	31,326,367	18,997,676
Prepaid expenses	2,573,252	754,024	1,819,228
Total current assets	323,852,507	342,244,176	(18,391,669)
Utility plant, at cost:			
Electric plant in service	1,020,954,119	990,594,593	30,359,526
Construction work in progress	28,108,480	17,206,429	10,902,051
Total	1,049,062,599	1,007,801,022	41,261,577
Less: Accumulated depreciation	(560,127,729)	(540,262,575)	(19,865,154)
Total utility plant	488,934,870	467,538,447	21,396,423
Other non-current assets:			
Investment - bond reserve funds held by trustee	48,565,032	48,550,887	14,145
Unamortized debt issuance costs	4,330,521	4,646,601	(316,080)
Total other non-current assets	52,895,553	53,197,488	(301,935)
Total assets	865,682,930	862,980,111	2,702,819
Deferred outflow of resources:			
Deferred fuel revenue	14,050,504	1,492,325	12,558,179
Unamortized loss on debt refunding	11,284,120	12,324,400	(1,040,280)
Pension	8,168,718	8,168,718	0
Unamortized forward delivery contract costs	663,918	796,718	(132,800)
Total deferred outflows of resources	34,167,260	22,782,161	11,385,099
	$ 899,850,190	$ 885,762,272	$ 14,087,918

GUAM POWER AUTHORITY
(A COMPONENT UNIT OF THE GOVERNMENT OF GUAM)
Statement of Net Position, Continued
July 31, 2017 and September 30, 2016

	Unaudited July 2017	Unaudited September 2016	Change from Sept 30 2015
LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION			
Current liabilities:			
Current maturities of long-term debt	$ 1,780,000	$ 115,000	$ 1,665,000
Current obligations under capital leases	16,737,242	16,737,242	0
Accounts payable			
Operations	40,394,252	24,622,615	15,771,637
Others	12,152,836	23,012,732	(10,859,896)
Accrued payroll and employees' benefits	1,013,924	1,533,906	(519,982)
Current portion of employees' annual leave	2,445,987	2,405,799	40,188
Interest payable	10,289,984	15,146,696	(4,856,712)
Customer deposits	8,267,715	8,381,571	(113,856)
Total current liabilities	93,081,940	91,955,561	1,126,379
Regulatory liabilities:			
Provision for self insurance	19,550,977	19,550,977	0
Total regulatory liabilities	19,550,977	19,550,977	0
Long term debt, net of current maturities	591,020,348	595,057,769	(4,037,421)
Obligations under capital leases, net of current portion	34,494,274	22,872,720	11,621,554
Net Pension liability	65,802,755	71,049,220	(5,246,465)
DCRS sick leave liability	3,436,738	3,436,738	0
Employees' annual leave net of current portion	806,762	806,762	0
Customer advances for construction	349,950	319,321	30,629
Total liabilities	808,543,744	805,049,068	3,494,676
Deferred inflows of resources:			
Unearned forward delivery contract revenue	2,433,407	2,920,088	(486,681)
Pension	732,788	732,788	0
Total deferred inflows of resources	3,166,195	3,652,876	(486,681)
Commitments and contigencies			
Net Position:			
Net investment in capital assets	(45,254,818)	(49,190,903)	3,936,086
Restricted	16,386,763	4,645,344	11,741,419
Unrestricted	117,008,305	121,605,887	(4,597,582)
Total net position	88,140,250	77,060,328	11,079,922
	$ 899,850,190	$ 885,762,272	$ 14,087,918

GUAM POWER AUTHORITY
(A COMPONENT UNIT OF THE GOVERNMENT OF GUAM
Statement of Revenues, Expenses and Changes in Net Assets

	July 31			Ten Months Ending July 31		
	Unaudited 2017	Unaudited 2016	% of change Inc (dec)	Unaudited 2017	Unaudited 2016	% of change Inc (dec)
Revenues						
Sales of electricity	$ 29,326,087	$ 25,919,076	13	$ 270,112,810	$ 256,212,252	5
Miscellaneous	211,937	186,830	13	1,847,933	2,019,378	(8)
Total	29,538,024	26,105,906	13	271,960,743	258,231,630	5
Bad debt expense	(103,532)	(193,735)	(47)	(893,928)	(1,120,803)	(20)
Total revenues	29,434,492	25,912,171	14	271,066,815	257,110,827	5
Operating and maintenance expenses						
Production fuel	15,175,139	11,966,397	27	133,582,176	122,819,428	9
Other production	1,539,271	2,073,287	(26)	12,487,432	13,801,660	(10)
	16,714,410	14,039,684	19	146,069,608	136,621,088	7
Depreciation	3,526,137	4,219,695	(16)	39,741,207	34,515,607	15
Energy conversion cost	1,751,588	1,201,449	46	16,375,468	13,837,907	18
Transmission & distribution	925,682	1,071,349	(14)	9,704,842	9,119,072	6
Customer accounting	459,293	351,518	31	3,409,095	4,379,188	(22)
Administrative & general	2,356,791	2,247,156	5	20,984,443	23,813,324	(12)
Total operating and maintenance expenses	25,733,901	23,130,851	11	236,284,662	222,286,186	6
Operating income	3,700,591	2,781,320	33	34,782,152	34,824,641	(0)
Other income (expenses)						
Interest income	147,271	73,112	101	1,209,044	791,910	53
Interest expense and amortization	(2,796,910)	(2,850,010)	(2)	(28,316,956)	(29,072,205)	(3)
Bond issuance costs	76,827	68,617	12	768,270	686,170	12
Allowance for funds used during construction	294,990	323,532	(9)	3,129,483	3,490,144	(10)
Other expense	(4,291)	(356,279)	(99)	(535,377)	(1,688,403)	(68)
Total other income (expenses)	(2,282,113)	(2,741,028)	(17)	(23,745,536)	(25,792,384)	(8)
Income (loss) before capital contributions	1,418,478	40,292	3,420	11,036,616	9,032,257	22
Capital contributions	4,884	300	0	43,306	1,734,815	(98)
Increase (decrease) in net assets	1,423,362	40,592	3,407	11,079,922	10,767,072	3
Total net assets at beginning of period (restated)	86,716,889	92,354,255	(6)	77,060,329	81,627,775	(6)
Total net assets at end of period	$ 88,140,251	$ 92,394,847	(5)	$ 88,140,251	$ 92,394,847	(5)

GUAM POWER AUTHORITY
(A COMPONENT UNIT OF THE GOVERNMENT OF GUAM)
Statements of Cash Flows
Period Ended July 31, 2017

	Month Ended 7/31/2017	YTD Ended 7/31/2017
Increase(decrease) in cash and cash equivalents		
Cash flows from operating activities:		
Cash received from customers	$28,712,717	$ 299,184,074
Cash payments to suppliers and employees for goods and services	7,100,878	227,970,407
Net cash provided by operating activities	$21,611,839	71,213,667
Cash flows from investing activities:		
Interest and dividends on investments and bank accounts	147,271	1,209,044
Net cash provided by investing activities	147,271	1,209,044
Cash flows from non-capital financing activities		
Interest paid on short term debt	(6,567)	(62,920)
Provision for self insurance funds	-	257,226
Net cash provided by noncapital financing activities	(6,567)	194,306
Cash flows from capital and related financing activities		
Acquisition of utility plant	(7,098,023)	(61,137,621)
Principal paid on bonds and other long-term debt	-	(115,000)
Interest paid on bonds(net of capitalized interest)	294,990	(25,624,642)
Interest paid on capital lease obligations	(400,877)	(4,356,622)
Interest & principal funds held by trustee	(2,545,015)	3,233,194
Reserve funds held by trustee	(5,723)	(14,145)
Bond funds held by trustee	2,501,129	8,194,721
Principal payment on capital lease obligations	(1,947,002)	11,621,554
Grant from DOI/FEMA	4,884	43,306
Debt issuance costs/loss on defeasance	(225,743)	(2,257,430)
Net cash provided by (used in) capital and related financing activities	(9,421,380)	(70,412,685)
Net (decrease) increase in cash and cash equivalents	12,331,163.59	2,204,332
Cash and cash equivalents, beginning	116,865,755	126,992,587
Cash and cash equivalents-Funds held by GPA, July 31, 2017	**$ 129,196,919**	**$ 129,196,919**

GUAM POWER AUTHORITY
(A COMPONENT UNIT OF THE GOVERNMENT OF GUAM)
Statements of Cash Flows, continued
Period Ended July 31, 2017

	Month Ended 7/31/2017	YTD Ended 7/31/2017
Reconciliation of operating earnings to net cash provided by operating activities:		
Operating earnings net of depreciation expense and excluding interest income	$3,700,591	$34,782,152
Adjustments to reconcile operating earnings to net cash provided by operating activities:		
Depreciation and amortization	3,526,137	39,741,207
Other expense	72,536	232,893
(Increase) decrease in assets:		
Accounts receivable	(600,477)	28,072,863
Materials and inventory	167,435	1,236,693
Fuel inventory	(4,460,709)	(18,997,676)
Prepaid expenses	954,616	(1,819,228)
Unamortized debt issuance cost	31,608	316,080
Deferred fuel revenue	(2,264,093)	(12,558,179)
Unamortized loss on debt refunding	104,028	1,040,280
Unamortized forward delivery contract costs	13,280	132,800
Increase (decrease) in liabilities:		
Accounts payable-operations	19,724,315	15,771,637
Accounts payable-others	1,069,741	(10,441,688)
Accrued payroll and employees' benefits	220,968	(519,982)
Net pension liability	(479,829)	(5,246,465)
Employees' annual leave	(72,188)	40,188
Customers deposits	(47,452)	(113,856)
Customer advances for construction	-	30,629
Unearned forward delivery contract revenue	(48,668)	(486,681)
Net cash provided by operating activities	**$21,611,839**	**$71,213,667**

Guam Power Authority
Financial Analysis
July 31, 2017

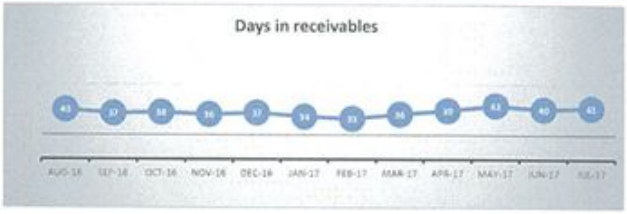
Quick Ratio

A	Reserve Funds Held by GPA	129,196,919
B	Current Accounts Receivable	35,677,158
C	Total Cash and A/R (A+B)	164,874,077
D	Total Current Liabilities	93,081,940
E	**Quick Ratio (F/G)**	**1.77**



Days in Receivables

A	FY 16 Moving 12 Mos.-Actual	317,390,300
B	No. of Days	365
C	Average Revenues per day (A/B)	869,562
D	Current Accounts Receivable	35,677,158
E	**Days in Receivables (D/C)**	**41**



Days in Payables

A	FY 16 Moving 12 Months-Actual	425,020,360
B	No. of Days	365
C	Average Payables per day (A/B)	1,164,439
D	Current Accounts Payables	52,547,087
E	**Days in Payables (D/C)**	**45**



Long term equity ratio

A	Equity	$	88,140,250.40
B	Total Long term Liability	$	592,984,947.00
C	Total Equity and liability	$	681,125,197.40
D	**Long term equity ratio (A/C)**		**13%**



Days cash on hand

A	Unresctricted cash & cash equivalents	129,197
B	No. of Days -YTD	304
C	A x B	39,275,863
D	Total Operating expenses excluding depreciation	196,543
E	**Days cash on hand**	**200**

Days' Liquidity

A	Unresctricted cash , cash equivalents & revolving Credit	164,197
B	No. of Days -YTD	304
C	A x B	49,915,863
D	Total Operating expenses excluding depreciation	196,543
E	**Days liquidity**	**254**



GPA 302
21-Aug-17

GUAM POWER AUTHORITY
ACCRUED REVENUE
JULY 2017

	FOR THE MONTH ENDED JULY		TEN MONTHS ENDED JULY	
	2017	2016	2017	2016
KWH SALES:				
Residential	45,094,364	45,406,686	420,409,867	404,099,928
Small Gen. Non Demand	7,087,373	7,304,373	69,530,168	66,567,797
Small Gen. Demand	15,839,125	17,589,484	158,053,260	159,685,015
Large General	27,119,633	26,974,574	262,103,183	256,653,010
Independent Power Producer	82,800	30,869	869,484	618,088
Private St. Lights	35,412	55,391	382,552	524,652
Sub-total	95,258,706	97,361,377	911,348,514	888,148,490
Government Service:				
Small Non Demand	1,254,979	1,218,659	11,412,653	11,091,543
Small Demand	7,962,644	8,100,561	80,646,848	77,308,453
Large	6,219,351	5,961,435	61,883,821	58,061,651
Street Lighting	638,971	932,581	7,940,474	9,446,078
Sub-total	16,075,944	16,213,237	161,883,796	155,907,724
Total	111,334,651	113,574,614	1,073,232,310	1,044,056,215
U. S. Navy	27,892,205	26,759,668	265,070,860	265,076,835
GRAND TOTAL	139,226,856	140,334,282	1,338,303,170	1,309,133,050
REVENUE:				
Residential	9,056,344	8,252,365	81,951,847	76,925,515
Small Gen. Non Demand	1,709,931	1,616,070	16,354,075	15,332,556
Small Gen. Demand	3,527,191	3,499,625	34,413,087	34,101,889
Large General	5,589,484	5,074,460	52,506,462	50,942,880
Independent Power Producer	17,270	6,353	179,151	129,341
Private St. Lights	25,099	28,750	256,503	288,823
Sub-total	19,925,320	18,477,624	185,661,124	177,721,004
Government Service:				
Small Non Demand	319,135	289,886	2,847,605	2,744,562
Small Demand	1,907,628	1,786,074	18,727,533	17,816,617
Large	1,424,292	1,247,433	13,830,841	12,897,681
Street Lighting	418,012	441,692	4,485,840	4,513,644
Sub-total	4,069,066	3,765,085	39,891,819	37,972,504
Total	23,994,386	22,242,709	225,552,943	215,693,509
U. S. Navy	5,331,702	3,676,367	44,559,869	40,518,744
GRAND TOTAL	29,326,087	25,919,076	270,112,812	256,212,253
NUMBER OF CUSTOMERS:				
Residential	43,866	43,322	43,712	43,213
Small Gen. Non Demand	4,131	4,090	4,127	4,064
Small Gen. Demand	984	988	988	1,002
Large General	116	114	116	115
Independent Power Peoducer	3	3	3	0
Private St. Lights	526	528	525	532
Sub-total	49,626	49,045	49,470	48,927
Government Service:				
Small Non Demand	678	695	682	687
Small Demand	352	346	347	339
Large	45	45	45	45
Street Lighting	297	161	245	160
Sub-total	1,372	1,247	1,319	1,232
Total	50,998	50,292	50,789	50,158
US Navy	1	1	1	1
	50,999	50,293	50,790	50,159

GPA403
21-Aug-17

GUAM POWER AUTHORITY
ACCRUED REVENUE

	TWELVE MONTHS ENDING	July 2017	June 2017	May 2017	APRIL 2017	MARCH 2017	FEBRUARY 2017	JANUARY 2017	DECEMBER 2016	NOVEMBER 2016	OCTOBER 2016	SEPTEMBER 2016	AUGUST 2016
KWH SALES:													
Residential	503,332,499	45,094,364	45,699,553	46,940,445	42,105,054	40,911,781	35,936,337	39,423,550	41,105,614	40,882,645	42,310,523	41,186,530	41,736,102
Small General Non Demand	83,246,438	7,087,373	7,546,692	7,375,238	6,926,353	6,767,505	6,497,885	6,647,367	6,987,253	6,646,441	7,048,061	6,885,525	6,830,745
Small General Demand	188,955,370	15,839,125	16,853,701	16,415,592	15,638,177	16,300,307	13,890,958	15,535,910	16,033,983	15,504,615	16,040,892	14,741,107	16,161,003
Large General	314,285,051	27,119,633	26,399,095	27,209,329	25,771,823	26,173,462	23,699,969	26,550,140	26,487,608	26,823,315	25,868,811	25,176,509	27,005,358
Private Outdoor Lighting	487,644	35,412	36,199	31,956	34,275	34,097	32,325	36,736	39,997	52,271	49,285	56,235	48,857
Independent Power Producer	1,019,276	82,800	93,447	97,039	78,158	83,841	67,797	92,493	96,065	87,525	90,319	62,052	87,741
Sub-Total	1,091,326,278	95,258,706	96,628,687	98,069,599	90,553,840	90,270,993	80,125,270	88,286,197	90,750,519	89,996,812	91,407,891	88,107,957	91,869,806
Government Service:													
Small Non Demand	13,749,374	1,254,979	1,154,625	1,242,514	1,118,738	1,123,675	986,603	1,079,470	1,121,641	1,122,985	1,197,422	1,164,666	1,172,055
Small Demand	96,641,390	7,962,644	7,847,651	8,507,100	7,890,703	8,171,598	7,382,544	7,897,069	8,060,205	8,436,888	8,450,446	7,858,530	8,136,012
Large	73,877,274	6,219,351	6,043,966	6,712,069	6,145,212	6,340,287	5,654,767	6,032,854	6,238,617	6,094,610	6,402,088	5,804,148	6,189,305
Street Lighting (Agencies)	9,839,077	638,971	843,815	771,506	720,057	829,968	707,508	539,658	994,072	997,687	897,232	995,613	902,980
Sub-Total	194,107,115	16,075,944	15,890,058	17,233,190	15,874,710	16,465,529	14,741,423	15,549,052	16,414,534	16,652,169	16,947,187	15,822,957	16,400,353
Total	1,285,433,393	111,334,651	112,518,745	115,302,789	106,428,550	106,736,522	94,866,692	103,835,249	107,165,053	106,648,982	108,395,078	103,930,914	108,270,159
U.S. Navy	318,076,797	27,892,205	25,258,344	27,710,121	26,158,807	28,394,970	22,750,741	27,625,278	27,468,943	26,586,150	25,225,302	26,000,826	27,005,111
Grand Total	1,603,510,190	139,226,856	137,777,089	143,012,910	132,587,357	135,131,492	117,617,433	131,460,526	134,633,996	133,235,131	133,620,381	129,931,741	135,275,280
REVENUE:													
Residential	97,083,692	9,056,344	9,109,920	9,464,539	8,447,732	8,255,658	7,648,484	7,213,121	7,527,553	7,455,636	7,772,860	7,492,970	7,638,875
Small General Non Demand	19,412,472	1,709,931	1,790,832	1,782,557	1,661,818	1,647,869	1,650,380	1,468,355	1,572,329	1,481,078	1,588,926	1,523,079	1,535,319
Small General Demand	40,813,155	3,527,191	3,704,661	3,828,208	3,333,389	3,674,304	3,310,305	3,200,532	3,341,792	3,195,499	3,297,206	3,075,598	3,324,470
Large General	62,350,866	5,589,484	5,443,855	5,621,797	5,382,999	5,370,285	5,066,026	4,998,015	5,049,240	5,084,685	4,900,077	4,802,289	5,042,115
Private Outdoor Lighting	312,813	25,099	25,329	24,432	25,014	25,012	24,793	25,546	25,575	27,645	28,060	28,980	27,331
Independent Power Producer	210,276	17,270	19,157	20,386	16,006	17,451	15,045	18,807	19,759	16,793	18,478	13,572	17,553
Sub-Total	220,183,275	19,925,320	20,093,753	20,741,919	18,866,957	18,990,578	17,715,032	16,924,376	17,536,247	17,261,335	17,605,607	16,936,487	17,585,664
Government Service:													
Small Non Demand	3,402,503	319,135	297,031	313,817	289,279	289,226	258,835	258,411	268,979	268,355	284,537	277,519	277,379
Small Demand	22,235,067	1,907,628	1,885,990	1,985,615	1,919,140	1,956,670	1,819,228	1,746,554	1,798,184	1,851,599	1,856,926	1,746,819	1,760,715
Large	16,386,476	1,424,292	1,393,449	1,572,201	1,374,482	1,454,690	1,331,459	1,286,951	1,334,239	1,303,344	1,355,735	1,250,824	1,304,812
Street Lighting (Agencies)	5,355,451	418,012	451,933	439,403	431,759	447,332	447,721	351,576	548,266	512,699	437,139	431,835	437,775
Sub-Total	47,379,497	4,069,066	4,028,403	4,311,036	4,014,660	4,147,918	3,857,244	3,643,492	3,949,668	3,935,996	3,934,337	3,706,997	3,780,681
Total	267,562,772	23,994,386	24,122,156	25,052,955	22,881,617	23,138,496	21,572,276	20,567,868	21,485,915	21,197,330	21,539,944	20,643,484	21,366,345
U.S. Navy	53,234,539	5,331,702	4,458,411	5,160,265	4,283,028	5,232,508	3,632,683	4,519,844	4,245,316	3,640,144	4,055,968	4,256,406	4,418,264
Grand Total	320,797,310	29,326,087	28,580,567	30,213,220	27,164,645	28,371,004	25,204,958	25,087,712	25,731,231	24,837,474	25,595,912	24,899,890	25,784,609
NUMBER OF CUSTOMERS:													
Residential	43,667	43,856	43,902	43,803	43,807	43,718	43,647	43,710	43,582	43,594	43,487	43,408	43,483
Small General Non Demand	4,123	4,131	4,145	4,130	4,137	4,128	4,119	4,127	4,125	4,110	4,114	4,092	4,121
Small General Demand	988	984	988	988	988	989	992	994	991	980	985	987	991
Large General	116	116	116	117	115	116	116	116	116	116	115	116	115
Private Outdoor Lighting	525	525	527	530	528	528	527	525	517	519	526	525	525
Independent Power Producer	4	3	3	3	3	3	3	3	3	3	3	3	3
Sub-Total	49,423	49,626	49,681	49,571	49,578	49,482	49,404	49,475	49,334	49,322	49,230	49,131	49,238
Government Service:													
Small Non Demand	684	678	677	684	684	684	682	684	680	683	684	696	693
Small Demand	347	352	349	346	347	348	347	347	346	346	345	348	347
Large	45	45	45	45	45	45	45	45	45	45	45	45	45
Street Lighting (Agencies)	231	297	297	293	290	272	271	211	205	155	155	163	162
Sub-Total	1,307	1,372	1,368	1,368	1,366	1,349	1,345	1,287	1,276	1,229	1,229	1,252	1,247
Total	50,731	50,998	51,049	50,939	50,944	50,831	50,749	50,762	50,610	50,551	50,459	50,383	50,485
U.S. Navy	1	1	1	1	1	1	1	1	1	1	1	1	1
Grand Total	50,732	50,999	51,050	50,940	50,945	50,832	50,750	50,763	50,611	50,552	50,460	50,384	50,486

Doc. No. 340-17-0937 *.

CCU Regular Meeting August 29, 2017 - NEW BUSINESS

GPA303

GUAM POWER AUTHORITY
ACCRUED REVENUE
JULY 2017

RATE	NUMBER OF CUSTOMERS	KWH SALES	TOTAL REVENUE AMOUNT	C/KWH	0.000000 FUEL INVENTORY ADJ	BASE RATE REVENUE C/KWH	BASE RATE REVENUE AMOUNT	AVERAGE PER CUSTOMER KWH	AVERAGE PER CUSTOMER REVENUE	NON-FUEL C/KWH 10.5051	NON-FUEL AMOUNT	0.105051 OIL C/KWH	OIL AMOUNT
Month													
R Residential	43,866	45,094,364	9,056,344	20.0831	0	20.0831	9,056,344	1,028	206.45	9.5780	4,319,136	10.5051	4,737,208
G Small Gen. Non Demand	4,131	7,087,373	1,709,931	24.1264	0	24.1264	1,709,931	1,716	413.93	13.6213	965,396	10.5051	744,536
J Small Gen. Demand	984	15,839,125	3,527,191	22.2689	0	22.2689	3,527,191	16,097	3,584.54	11.7671	1,863,810	10.5017	1,663,381
P Large General	116	27,119,633	5,589,484	20.6105	0	20.6105	5,589,484	233,790	48,185.21	10.1565	2,754,395	10.4540	2,835,089
I Independent Power Producer	3	82,800	17,270	20.8574	0	20.8574	17,270	27,600	5,756.60	10.6916	8,853	10.1658	8,417
H Private St. Lights	526	35,412	25,099	70.8767	0	70.8767	25,099	67	47.72	60.3716	21,379	10.5051	3,720
Sub-Total	49,626	95,258,706	19,925,320	20.9171	0	20.9171	19,925,320	1,920	401.51	10.4120	9,932,968	10.5051	9,992,351
Government Service:													
S Small Non Demand	678	1,254,979	319,135	25.4295	0	25.4295	319,135	1,851	470.70	14.9244	187,298	10.5051	131,837
K Small Demand	352	7,962,644	1,907,628	23.9572	0	23.9572	1,907,628	22,621	5,419.40	13.4521	1,071,144	10.5051	836,484
L Large	45	6,219,351	1,424,292	22.9010	0	22.9010	1,424,292	138,208	31,650.92	12.5276	779,135	10.3734	645,157
F Street Lighting (Agencies)	297	638,971	418,012	65.4195	0	65.4195	418,012	2,151	1,407.45	54.9144	350,887	10.5051	67,125
Sub-Total	1,372	16,075,944	4,069,066	25.3115	0	25.3115	4,069,066	11,717	2,965.79	14.8064	2,388,464	10.5051	1,680,602
	50,998	111,334,651	23,994,386	21.5516	0	21.5516	23,994,386	2,183	470.50	11.0465	12,321,432	10.5051	11,672,953
U.S. Navy	1	27,892,205	5,331,702	19.1154	0	19.1154	5,331,702			5.9154	1,649,939	13.2000	3,681,763
TOTAL	50,999	139,226,856	29,326,087	21.0635	0	21.0635	29,326,087	2,730	575.03	10.0350	13,971,371	11.0286	15,354,716
Ten Months Ended July 2017													
R Residential	43,712	420,409,867	81,951,847	19.4933	0	19.4933	81,951,847	9,618	1,874.83	9.6267	40,471,654	9.8666	41,480,194
G Small Gen. Non Demand	4,127	69,530,168	16,354,075	23.5208	0	23.5208	16,354,075	16,849	3,963.09	13.6583	9,496,649	9.8625	6,857,426
J Small Gen. Demand	988	158,053,260	34,413,087	21.7731	0	21.7731	34,413,087	159,989	34,834.59	11.9358	18,864,922	9.8373	15,548,165
P Large General	116	262,103,183	52,506,462	20.0327	0	20.0327	52,506,462	2,261,460	453,032.46	10.2709	26,920,413	9.7618	25,586,050
I Independent Power Producer	4	869,484	179,151	20.6043	0	20.6043	179,151	241,523	49,764.14	10.9790	95,460	9.6253	83,691
H Private St. Lights	525	382,552	256,503	67.0505	0	67.0505	256,503	728	488.30	57.4047	219,603	9.6458	36,900
Sub-Total	49,471	911,348,514	185,661,124	20.3721	0	20.3721	185,661,124	18,422	3,752.94	10.5414	96,068,700	9.8308	89,592,424
Government Service:													
S Small Non Demand	684	11,412,653	2,847,605	24.9513	0	24.9513	2,847,605	16,683	4,162.66	15.1767	1,732,062	9.7746	1,115,543
K Small Demand	347	80,646,848	18,727,533	23.2217	0	23.2217	18,727,533	232,189	53,918.04	13.4684	10,861,828	9.7533	7,865,706
L Large	45	61,883,821	13,830,841	22.3497	0	22.3497	13,830,841	1,375,196	307,352.01	12.6211	7,810,415	9.7286	6,020,425
F Street Lighting (Agencies)	231	7,940,474	4,485,840	56.4934	0	56.4934	4,485,840	34,387	19,426.23	46.7844	3,714,903	9.7090	770,937
Sub-Total	1,307	161,883,796	39,891,819	24.6423	0	24.6423	39,891,819	123,827	30,513.88	14.8991	24,119,207	9.7432	15,772,611
	50,778	1,073,232,310	225,552,943	21.0162	0	21.0162	225,552,943	21,136	4,442	11.1987	120,187,908	9.8175	105,365,035
U.S. Navy	1	265,070,860	44,559,869	16.8105	0	16.8105	44,559,869			6.1655	16,342,860	10.6451	28,217,009
					0								
TOTAL	50,779	1,338,303,170	270,112,812	20.1832	0	20.1832	270,112,812	26,355	5,319.36	10.2018	136,530,767	9.9814	133,582,045
Twelve Months Ended July 2017													
R Residential	43,667	503,332,499	97,083,692	19.2882	0	19.2882	97,083,692	11,527	2,223.26	9.6201	48,421,321	9.6680	48,662,371
G Small Gen. Non Demand	4,123	83,246,438	19,412,472	23.3193	0	23.3193	19,412,472	20,190	4,708.05	13.6547	11,367,039	9.6646	8,045,433
J Small Gen. Demand	988	188,955,370	40,813,155	21.5994	0	21.5994	40,813,155	191,234	41,305.38	11.9550	22,589,651	9.6443	18,223,504
P Large General	116	314,285,051	62,350,866	19.8390	0	19.8390	62,350,866	2,713,252	538,280.86	10.2669	32,267,202	9.5721	30,083,665
I Independent Power Producer	4	1,019,276	210,276	20.6300	0	20.6300	210,276	283,132	58,410.07	11.1900	114,057	9.4400	96,220
H Private St. Lights	525	487,644	312,813	64.1478	0	64.1478	312,813	928	595.55	54.7142	266,810	9.4336	46,003
Sub-Total	49,423	1,091,326,278	220,183,275	20.1758	0	20.1758	220,183,275	22,081	4,455.05	10.5400	115,026,080	9.6357	105,157,195
Government Service:					0								
S Small Non Demand	684	13,749,374	3,402,503	24.7466	0	24.7466	3,402,503	20,099	4,973.81	15.1612	2,084,569	9.5854	1,317,933
K Small Demand	347	96,641,390	22,235,067	23.0078	0	23.0078	22,235,067	278,238	64,016.51	13.4353	12,984,026	9.5725	9,251,041
L Large	45	73,877,274	16,386,476	22.1807	0	22.1807	16,386,476	1,641,717	364,143.92	12.6414	9,339,137	9.5393	7,047,340
F Street Lighting (Agencies)	231	9,839,077	5,355,451	54.4304	0	54.4304	5,355,451	42,609	23,192.14	44.9236	4,420,070	9.5068	935,381
Sub-Total	1,307	194,107,115	47,379,497	24.4089	0	24.4089	47,379,497	148,476	36,241.33	14.8515	28,827,802	9.5575	18,551,695
	50,731	1,285,433,393	267,562,772	20.8150	0	20.8150	267,562,772	25,338	40,696	11.1911	143,853,882	9.6239	123,708,890
U.S. Navy	1	318,076,797	53,234,539	16.7364	0	16.7364	53,234,539			6.1968	19,710,602	10.5396	33,523,936
TOTAL	50,732	1,603,510,190	320,797,310	20.0059	0	20.0059	320,797,310	31,608	6,323.42	10.2004	163,564,484	9.8055	157,232,826

Doc. No. 3408-17-0937 *.

CCU Regular Meeting August 29, 2017 - NEW BUSINESS

GPA-318

318Jun17

ENERGY ACCOUNT

FY 2017 Versus FY 2016

FOR INTERNAL USE ONLY

Gross Generation	June 2017		June 2016		Y T D 2017		Y T D 2016		MOVING TWELVE MONTHS	
Number of days in Period	30		30		273		244		365	
Peak demand	257		253		257		254		258	
Date	06/13/17		06/08/16		06/13/17		05/05/16		07/25/16	
	KWH	% change	KWH	% change	KWH	% change	KWH	% change	KWH	% change
Energy Account:										
Kilowatt hours GPA:										
Cabras 1 & 2	59,657,000		66,184,000		584,346,000		478,778,000		745,855,000	
Cabras No. 3	0		0		0		0		0	
Cabras No. 4	0		0		0		0		0	
MEC (ENRON) Piti 8 (IPP)	21,000,500		23,185,400		237,610,800		220,613,150		298,610,000	
MEC (ENRON) Piti 9 (IPP)	21,558,300		25,145,500		222,253,200		240,395,400		296,395,000	
TEMES Piti 7 (IPP)	5,457,206		1,911,114		17,102,328		65,589,196		48,995,285	
Tanguisson 2	0		0		0		0		0	
Tanguisson 1	0		0		0		0		0	
Diesels/CT's & Others:							0			
MDI 10MW	0		876,874		2,244,937		8,140,284		4,889,127	
NRG Solar Dandan	3,457,643		4,499,724		31,896,534		38,452,995		42,993,916	
Dededo CT #1	239,570		0		654,980		0		654,980	
Dededo CT #2	473,750		0		1,621,782		0		1,621,782	
Macheche CT	6,333,920		4,489,677		32,472,288		50,530,479		32,576,483	
Yigo CT (Leased)	2,502,840		0		23,743,224		31,119,513		41,029,205	
Tenjo	5,204,230		2,381,840		29,761,370		38,488,769		39,190,790	
Talofofo 10 MW	2,205,910		811,160		11,490,140		7,485,043		15,214,030	
Aggreko	22,256,618		19,819,533		121,367,155		100,921,145		188,538,191	
Wind Turbine*	11,442		32,081		345,730		307,206		419,804	
Orote	0		0		0		0		0	
Marbo	0		0		0		0		0	
	150,358,929		**149,336,901**		**1,316,910,468**		**1,280,821,180**		**1,756,983,593**	
Ratio to last year		100.68		101.41		102.82		**100.82**		**102.01**
Station use	5,589,034		5,744,584		51,681,480		49,500,193		67,133,075	
Ratio to gross generation		3.72		3.85		3.92		3.86		**3.82**
Net send out	144,769,894		143,592,317		1,265,228,988		1,231,320,986		1,689,850,518	
Ratio to last year		100.82		102.45		102.75		**101.93**		**102.28**
KWH deliveries:										
Sales to Navy (@34.5kv)	**25,258,344**		**26,525,986**		**237,178,657**		**238,317,166**		**316,944,262**	
Ratio to last year		95.22		97.12		99.52		**100.96**		**99.15**
GPA-metered	**119,511,550**		**117,066,331**		**1,028,050,331**		**993,003,820**		**1,372,906,256**	
Ratio to last year		102.09		103.74		103.53		**102.17**		**103.03**
Power factor adj.	0		0		0		0		0	
Adjusted	119,511,550		117,066,331		1,028,050,331		993,003,820		1,372,906,256	
GPA KWH Accountability:										
Sales to civilian customers-accrual basis	**112,518,745**		**110,547,650**		**961,897,660**		**930,481,599**		**1,287,673,358**	
Ratio to last year		101.78		110.21		103.38		**102.68**		**103.19**
GPA use-KWH	275,509		282,871		2,342,310		2,480,087		3,184,065	
Unaccounted For	6,717,296		6,235,810		63,810,361		60,042,134		82,048,833	
Ratio to deliveries		5.62		5.33		6.21		6.05		5.98
Ratio to Gross Generation		4.47		4.18		4.85		4.69		4.67
Ratio to Net Send Out		4.64		4.34		5.04		4.88		4.86

Doc. No. 3409-17-0937 *.

CCU Regular Meeting August 29, 2017 - NEW BUSINESS

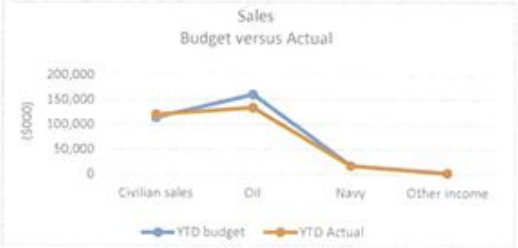
GPA-317Jul17

Guam Power Authority
Fuel Consumption
FY 2017

Description	July 2017 BARRELS	July 2017 AMOUNT	YEAR-TO-DATE BARRELS	YEAR-TO-DATE AMOUNT	MOVING 12 MONTHS BARREL S	MOVING 12 MONTHS AMOUNT
FUEL FURNISHED:						
NAVY:						
Diesel	0	0	0	0	0	0
Low Sulfur	0	0	0	0	0	0
	0	0	0	0	0	0
GPA:						
RFO	108,103	$6,136,611	1,374,212	$ 72,431,667	1,529,863	$ 78,571,674
Diesel	108,051	$7,835,510	579,506	$ 41,443,779	760,762	$ 53,041,329
Low Sulfur	33,550	$2,122,132	368,639	$ 20,538,784	507,430	$ 27,319,692
Deferred Fuel Costs	0	-$2,264,093	0	$ (12,558,179)	0	$ (15,559,561)
Fuel Adjustments	0	-$29,172		$ (64,785)	0	$ (23,873)
Fuel Handling Costs	0	$1,374,153	0	$ 11,790,913	0	$ 13,753,413
	249,705	$15,175,140	2,322,357	$ 133,582,177	2,798,054	$ 157,102,674
IWPS:						
GPA RFO	108,103	$6,136,611	1,374,212	$ 72,431,667	1,529,863	$ 78,571,674
Diesel	108,051	$7,835,510	579,506	$ 41,443,779	760,762	$ 53,041,329
Low Sulfur	33,550	$2,122,132	368,639	$ 20,538,784	507,430	$ 27,319,692
Deferred Fuel Costs	0	-$2,264,093	0	$ (12,558,179)	0	$ (15,559,561)
Fuel Variance	0	-$29,172	0	$ (64,785)		$ (23,873)
Fuel Handling Costs	0	$1,374,153	0	$ 11,790,913	0	$ 13,753,413
	249,705	$15,175,140	2,322,357	$ 133,582,177	2,798,054	$ 157,102,674
AVERAGE COST/Bbl.						
GPA RFO		$56.77		$52.71		$51.36
Diesel		$72.52		$71.52		$69.72
Low Sulfur		$63.25		$55.72		$53.84
AS BURNED						
Cabras 1 & 2						
RFO	66,095	$ 3,744,282	906,282	$ 48,144,966	995,066	$ 51,666,467
Low Sulfur	3,381	$ 202,829	143,627	$ 7,785,050	232,725	$ 12,147,394
Diesel	187	$ 14,045	1,798	$ 121,970	2,189	$ 144,864
	69,663	$ 3,961,156	1,051,707	$ 56,051,987	1,229,981	$ 63,958,725
Cabras 3 & 4						
RFO	0	$ -	0	$ -	0	$ -
Low Sulfur	0	$ -	0	$ -	0	$ -
Diesel	0	$ -	0	$ -	0	$ -
	0	$ -	0	$ -	0	$ -
MEC (Piti Units 8&9)						
RFO	42,008	$ 2,392,329	467,930	$ 24,286,700	534,797	$ 26,905,207
Low Sulfur	30,170	$ 1,919,303	225,012	$ 12,753,734	274,704	$ 15,172,298
Diesel	0	$ -	40	$ 2,194	120	$ 14,303
	72,178	$ 4,311,632	692,982	$ 37,042,629	809,621	$ 42,091,808
Diesel & CT's - GPA:						
MDI Dsl	0	$ -	3,584	$ 227,788	6,782	$ 433,614
Macheche CT	15,114	$ 1,117,646	86,123	$ 6,255,082	86,123	$ 6,255,082
Yigo CT	12,381	$ 887,062	63,149	$ 4,440,767	88,995	$ 6,062,386
Talofofo 10 MW	4,304	$ 311,102	23,101	$ 1,658,107	28,270	$ 1,985,946
Aggreko	39,939	$ 2,841,404	259,371	$ 18,283,733	343,806	$ 23,573,108
Tenjo	7,608	$ 537,879	59,532	$ 4,368,902	72,781	$ 5,244,223
TEMES (IPP)	21,395	$ 1,594,777	66,236	$ 4,851,547	112,587	$ 7,801,757
GWA Generators	8	$ 999	168	$ 19,802	2,704	$ 312,160
	107,865	$ 7,821,465	577,669	$ 41,319,614	758,452	$ 52,882,161
Deferred Fuel Costs	0	$ (2,264,093)		$ (12,558,179)		$ (15,559,561)
Adjustment		$ (29,172)		$ (64,785)		$ (23,873)
Fuel Handling Costs	0	$ 1,374,153		$ 11,790,913		$ 13,753,413
TOTAL	249,705	$ 15,175,140	2,322,357	$ 133,582,177	2,798,054	$ 157,102,674

Statement of operations
Comparison-Budget versus Actual
For the month and year to date ended July 31, 2017

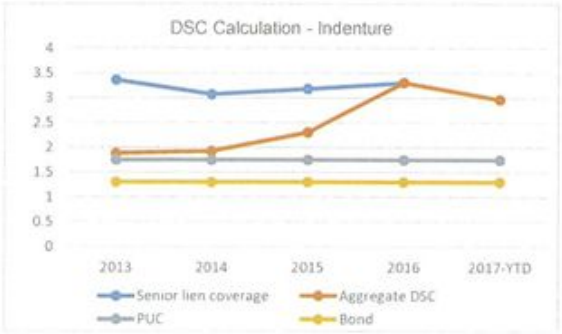
	Budget	Actual July-17	Variance	YTD Budget	YTD Actual	Variance
KwH Sales-Civilian	103,830	111,335	(7,505)	1,005,058	1,073,234	(68,176)
Non-fuel yield	$ 0.113293	$ 0.110666	$ 0.002627	$ 0.113686	$ 0.111985	$ 0.001701
KwH Sales-Navy	27,697	27,892	(195)	274,707	265,070	9,637
Non-fuel yield	$ 0.061275	$ 0.059157	$ 0.002119	$ 0.061275	$ 0.061659	$ (0.000384)
Operating revenue						
Civilian sales	$ 11,786	$ 12,321	$ (535)	$ 114,261	$ 120,186	$ (5,925)
Oil	17,072	15,355	1,717	160,928	133,581	27,347
Navy	1,697	1,650	47	16,833	16,344	489
Other income	217	212	5	2,167	1,848	319
	30,772	29,538	1,234	294,188	271,959	22,229
Bad debts expense	83	104	(20)	833	894	(61)
Total operating revenues	$ 30,688	$ 29,434	$ 1,254	$ 293,355	$ 271,065	$ 22,290
Operating expenses:						
Production fuel	$ 17,072	$ 15,175	$ 1,897	$ 160,928	$ 133,582	$ 27,346
O & M expenses:						
Other production	1,586	1,539	47	18,272	12,487	5,784
Transmission distribution	1,269	926	343	10,800	9,705	1,095
Administrative expense	2,825	2,357	468	29,934	20,984	8,950
Customer accounting	320	459	(139)	3,823	3,409	413
	6,000	5,281	719	62,828	46,586	16,243
IPP costs	1,486	1,752	(265)	14,862	16,375	(1,513)
Depreciation	3,484	3,526	(42)	34,837	39,741	(4,904)
	28,042	25,734	2,308	273,456	236,285	37,171
Operating income	2,647	3,701	(1,054)	19,899	34,780	(14,881)
Other revenue (expenses):						
Investment income	115	147	(32)	1,153	1,209	(56)
Interest expense	(2,735)	(2,797)	62	(27,350)	(28,317)	967
AFUDC	118	295	(177)	1,183	3,129	(1,946)
Bond issuance costs/Other expenses	127	73	54	1,268	233	1,036
Net income before capital contribution	272	1,418	(1,147)	(3,846)	11,035	(14,882)
Grants from the U.S. Government	-	5	(5)	-	43	(43)
Increase (decrease) in net assets	$ 272	$ 1,423	$ (1,152)	$ (3,846)	$ 11,078	$ (14,925)

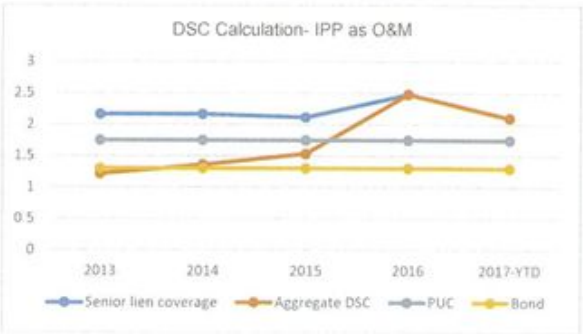




Guam Power Authority
Debt service coverage
July 31, 2017

	2013	2014	2015	2016	YTD 7/31/2017
Operating revenues					
Sales	449,029	434,462	366,185	306,896	270,111
Miscellaneous	2,927	2,156	4,775	2,294	1,848
Total revenues	451,956	436,618	370,960	309,190	271,959
Bad debts expense	1,223	178	959	990	894
Total operating revenues	450,733	436,440	370,001	308,200	271,065
Operating expenses					
Production fuel	295,473	271,175	204,136	146,340	133,582
Other production	22,009	19,305	20,079	15,835	12,487
Energy conversion costs	20,264	20,632	18,404	16,800	16,375
Transmission and distribution	13,368	12,950	11,170	10,817	9,705
Customer accounting	3,878	3,821	3,780	4,502	3,409
Admin and General	31,589	28,393	21,908	29,058	20,984
Total Expenses	386,581	356,276	279,477	223,352	196,543
Operating income	64,152	80,164	90,524	84,848	74,522
Interest/Other income (expenses)	720	157	256	57	81
Debt service and lease payments					
IPP lease payments	23,084	23,084	26,622	20,790	17,330
Capital lease payments-Aggreko	0	0	0	0	4,361
2014 bonds	0	0	0	10	4,240
2012 bonds	16,309	17,455	17,096	17,098	14,279
2010 senior bonds	2,997	7,999	7,999	7,999	6,670
2010 subordinate	15,163	15,193	9,605	0	0
Total Debt service-bonds	34,469	40,647	34,700	25,106	25,188
Total Debt service and capital lease	57,553	63,731	61,322	45,896	46,879
Debt service coverage (DSC) calculation-indenture					
Senior lien coverage	3.36	3.16	3.62	3.38	2.96
Aggregate debt service coverage	1.88	1.98	2.62	3.38	2.96
Debt service coverage (DSC) calculation-IPP as O&M					
Senior lien coverage	2.16	2.25	2.56	2.55	2.10
Aggregate debt service coverage	1.21	1.41	1.85	2.55	2.10

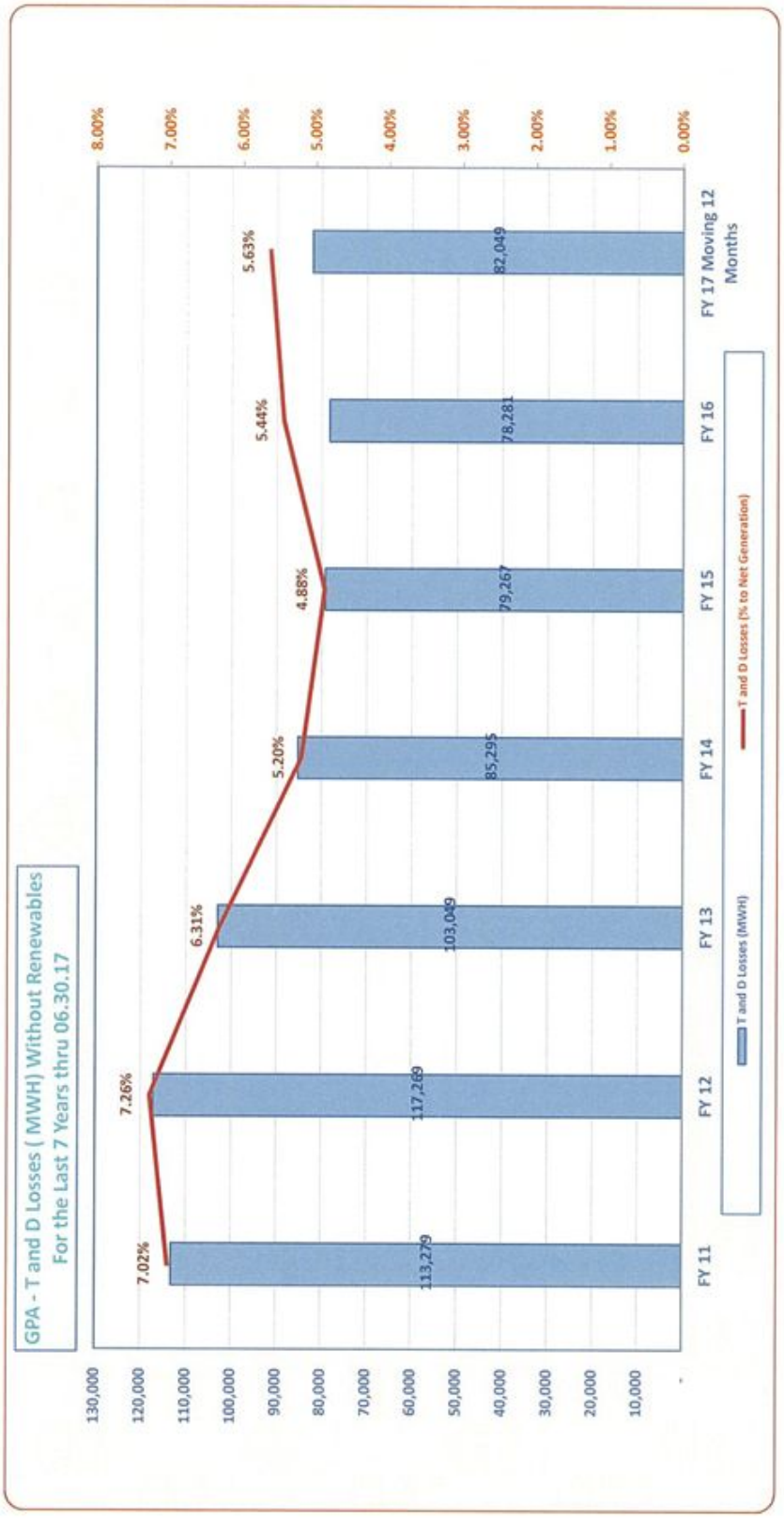


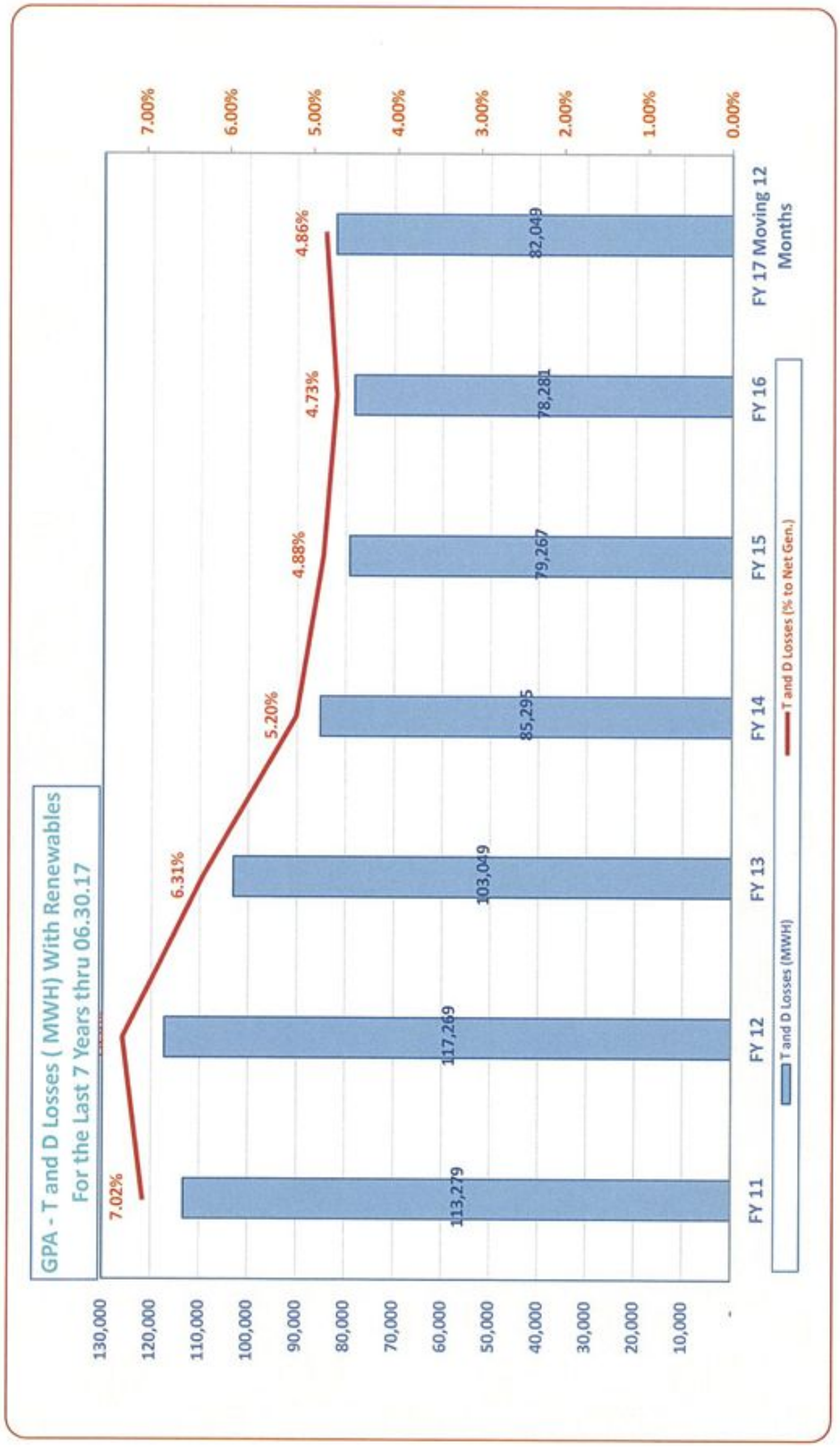


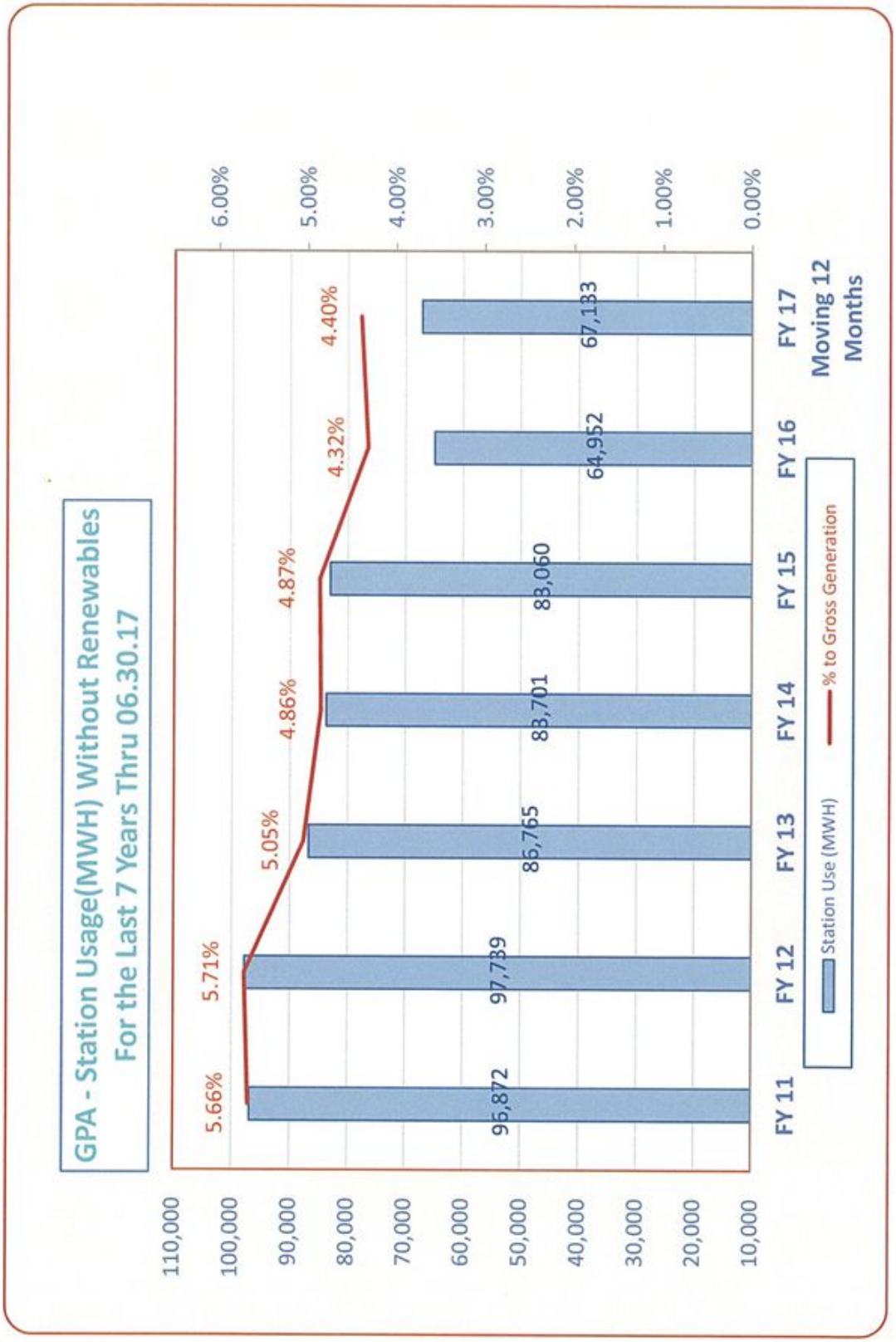
REVENUES-ACTUAL VS PROJECTIONS

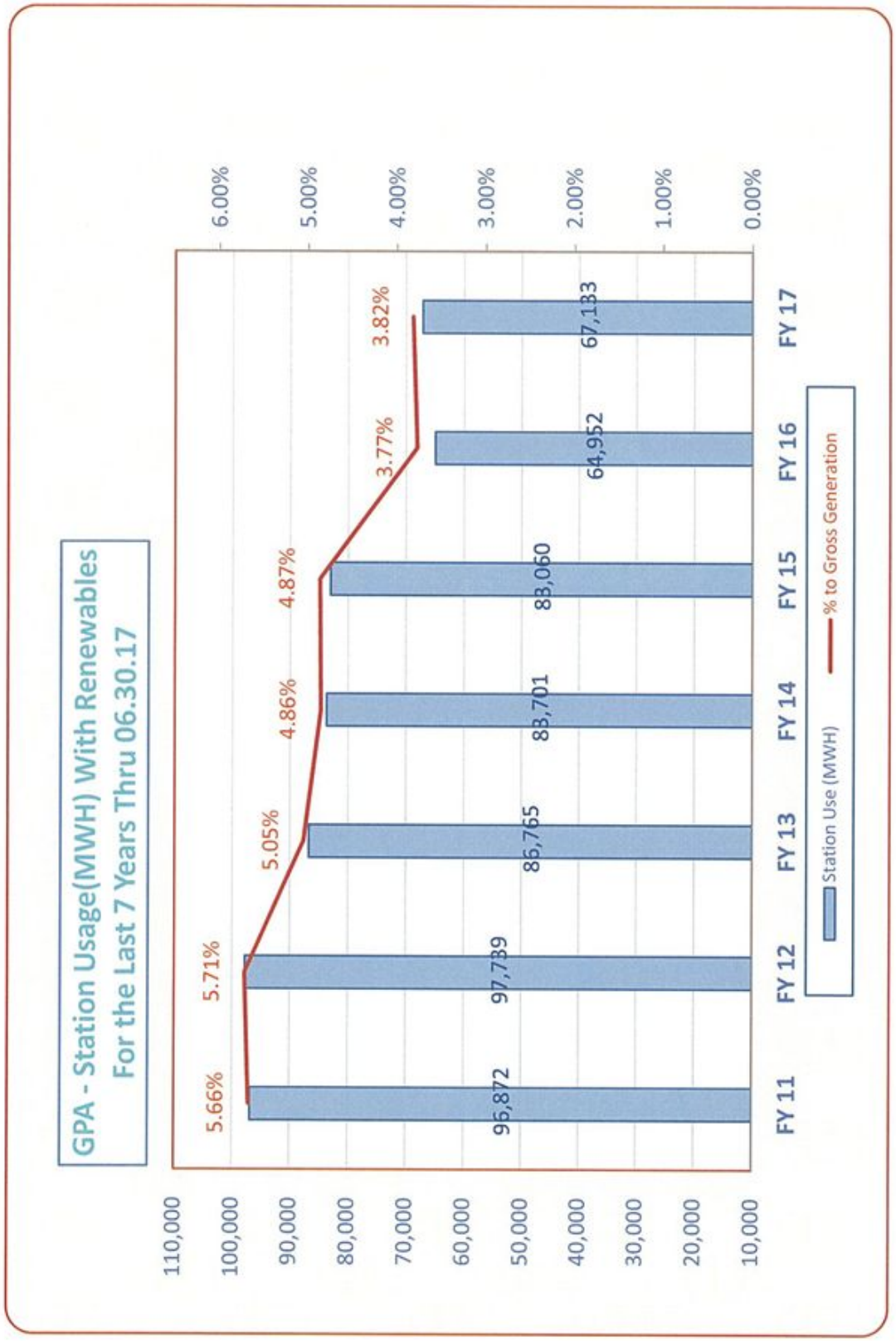
	MONTHLY - JUNE 2017				YTD THRU 06/30/2017			
	PROJECTIONS	ACTUAL	VARIANCE	% VARIANCE	PROJECTIONS	ACTUAL	VARIANCE	% VARIANCE
KWH								
Residential	38,548,582	45,094,364	6,545,782	16.98%	365,256,267	420,409,867	55,153,600	15.10%
Small General-Non-Demand	5,893,237	7,087,373	1,194,136	20.26%	56,451,437	69,530,169	13,078,732	23.17%
Small General-Demand	16,585,385	15,839,125	(746,259)	-4.50%	162,813,727	158,053,260	(4,760,467)	-2.92%
Large	26,654,363	27,119,633	465,270	1.75%	264,290,772	262,103,183	(2,187,589)	-0.83%
Independent Power Producers	80,247	82,800	2,553	3.18%	504,689	869,484	364,795	72.28%
Private St. Lites	53,691	35,412	(18,279)	-34.04%	520,180	382,552	(137,628)	-26.46%
Sub-total	**87,815,504**	**95,258,706**	**7,443,202**	**8.48%**	**849,837,073**	**911,348,514**	**61,511,442**	**7.24%**
Government								
Small_Non Demand	1,282,488	1,254,979	(27,509)	-2.15%	11,741,714	11,412,653	(329,061)	-2.80%
Small-Demand	8,318,310	7,962,644	(355,666)	-4.28%	79,957,580	80,646,847	689,268	0.86%
Large	5,472,203	6,219,351	747,147	13.65%	53,983,902	61,883,821	7,899,919	14.63%
Public St. Lites	941,250	638,971	(302,279)	-32.11%	9,538,386	7,940,474	(1,597,911)	-16.75%
Sub-total	**16,014,251**	**16,075,944**	**61,693**	**0.39%**	**155,221,581**	**161,883,796**	**6,662,215**	**4.29%**
Total-Civilian	**103,829,755**	**111,334,651**	**7,504,895**	**7.23%**	**1,005,058,654**	**1,073,232,310**	**68,173,656**	**6.78%**
USN	27,696,683	27,892,205	195,522	0.71%	274,707,494	265,070,861	(9,636,633)	-3.51%
Grand Total	**131,526,438**	**139,226,856**	**7,700,418**	**5.85%**	**1,279,766,147**	**1,338,303,170**	**58,537,023**	**4.57%**
					-	-		
Non-Oil Yield								
Residential	0.096854	0.095780	(0.001074)	-1.11%	0.096854	0.096267	(0.000587)	-0.61%
Small General-Non-Demand	0.139795	0.136213	(0.003581)	-2.56%	0.139795	0.136583	(0.003212)	-2.30%
Small General-Demand	0.119750	0.117671	(0.002079)	-1.74%	0.119750	0.119358	(0.000392)	-0.33%
Large	0.106324	0.101565	(0.004759)	-4.48%	0.106324	0.102709	(0.003614)	-3.40%
Independent Power Producers	0.124400	0.106916	(0.017485)	0.00%	0.124400	0.109790	(0.014611)	0.00%
Private St. Lites	0.461908	0.603716	0.141808	30.70%	0.461908	0.574047	0.112139	24.28%
Sub-total	**0.107183**	**0.104274**	**(0.002909)**	**-2.71%**	**0.107278**	**0.105414**	**(0.001864)**	**-1.74%**
Government					-			
Small_Non Demand	0.152742	0.149244	(0.003498)	-2.29%	0.152742	0.151767	(0.000975)	-0.64%
Small-Demand	0.133985	0.134521	0.000537	0.40%	0.133985	0.134684	0.000699	0.52%
Large	0.128378	0.125276	(0.003103)	-2.42%	0.128378	0.126211	(0.002168)	-1.69%
Public St. Lites	0.383229	0.549144	0.165915	43.29%	0.383229	0.467844	0.084615	22.08%
Sub-total	**0.148221**	**0.148574**	**0.000353**	**0.24%**	**0.148770**	**0.148991**	**0.000221**	**0.15%**
Total-Civilian	**0.113512**	**0.110670**	**(0.002842)**	**-2.50%**	**0.113686**	**0.111987**	**(0.001699)**	**-1.49%**
USN	0.061275	0.059154	(0.002121)	-3.46%	0.061275	0.061655	0.000379	0.62%
Grand Total	**0.102512**	**0.100350**	**(0.002163)**	**-2.11%**	**0.102436**	**0.102018**	**(0.000418)**	**-0.41%**
Non-Oil Revenues								
Residential	3,733,587	4,319,136	585,549	15.68%	35,376,558	40,471,654	5,095,095	14.40%
Small General-Non-Demand	823,843	965,396	141,552	17.18%	7,891,611	9,496,649	1,605,038	20.34%
Small General-Demand	1,986,097	1,863,810	(122,287)	-6.16%	19,496,920	18,864,922	(631,997)	-3.24%
Large	2,833,988	2,754,395	(79,593)	-2.81%	28,100,350	26,920,413	(1,179,937)	-4.20%
Independent Power Producers	9,983	8,853	(1,130)	-11.32%	62,783	95,460	32,677	52.05%
Private St. Lites	24,800	21,379	(3,422)	-13.80%	240,275	219,603	(20,673)	-8.60%
Sub-total	**9,412,299**	**9,932,968**	**520,669**	**5.53%**	**91,168,498**	**96,068,700**	**4,900,202**	**5.37%**
Government								
Small_Non Demand	195,890	187,298	(8,592)	-4.39%	1,793,453	1,732,062	(61,392)	-3.42%
Small-Demand	1,114,525	1,071,144	(43,381)	-3.89%	10,713,078	10,861,828	148,750	1.39%
Large	702,513	779,135	76,622	10.91%	6,930,369	7,810,415	880,046	12.70%
Public St. Lites	360,715	350,887	(9,827)	-2.72%	3,655,390	3,714,903	59,513	1.63%
Sub-total	**2,373,642**	**2,388,464**	**14,822**	**0.62%**	**23,092,291**	**24,119,207**	**1,026,917**	**4.45%**
Total-Civilian	**11,785,941**	**12,321,432**	**535,491**	**4.54%**	**114,260,789**	**120,187,908**	**5,927,119**	**5.19%**
USN	1,697,125	1,649,939	(47,186)	-2.78%	16,832,809	16,342,860	(489,949)	-2.91%
Grand Total	**13,483,066**	**13,971,371**	**488,305**	**3.62%**	**131,093,598**	**136,530,767**	**5,437,169**	**4.15%**
% of Total Revenues	44.13%	47.64%			44.11%	50.55%		
Oil Revenues								
Residential	5,003,533	4,737,208	(266,325)	-5.32%	47,409,574	41,480,194	(5,929,380)	-12.51%
Small General-Non-Demand	764,931	744,536	(20,395)	-2.67%	7,327,290	6,857,426	(469,864)	-6.41%
Small General-Demand	2,152,752	1,663,381	(489,370)	-22.73%	21,132,914	15,548,165	(5,584,750)	-26.43%
Large	3,459,686	2,835,089	(624,597)	-18.05%	34,304,443	25,586,050	(8,718,394)	-25.41%
Independent Power Producers	10,416	8,417	(1,999)	-19.19%	65,766	83,691	17,925	27.26%
Private St. Lites	6,969	3,720	(3,249)	-46.62%	67,260	36,900	(30,360)	-45.14%
Sub-total	**11,398,287**	**9,992,351**	**(1,405,935)**	**-12.33%**	**110,307,248**	**89,592,424**	**(20,714,824)**	**-18.78%**
Government								
Small_Non Demand	166,465	131,837	(34,628)	-20.80%	1,524,052	1,115,543	(408,509)	-26.80%
Small-Demand	1,079,701	836,484	(243,217)	-22.53%	10,378,343	7,865,706	(2,512,637)	-24.21%
Large	710,282	645,157	(65,125)	-9.17%	7,007,009	6,020,425	(986,583)	-14.08%
Public St. Lites	122,172	67,125	(55,048)	-45.06%	1,238,064	770,937	(467,127)	-37.73%
Sub-total	**2,078,620**	**1,680,602**	**(398,018)**	**-19.15%**	**20,147,468**	**15,772,611**	**(4,374,857)**	**-21.71%**
Total-Civilian	**13,476,906**	**11,672,953**	**(1,803,953)**	**-13.39%**	**130,454,716**	**105,365,035**	**(25,089,681)**	**-19.23%**
USN	3,594,977	3,681,763	86,786	2.41%	35,656,514	28,217,009	(7,439,505)	-20.86%
Grand Total	**17,071,883**	**15,354,716**	**(1,717,167)**	**-10.06%**	**166,111,230**	**133,582,045**	**(32,529,185)**	**-19.58%**
% of Total Revenues	55.87%	52.36%			55.89%	49.45%		
Grand Total								
Residential	8,737,120	9,056,344	319,224	3.65%	82,786,132	81,951,847	(834,285)	-1.01%
Small General-Non-Demand	1,588,774	1,709,931	121,157	7.63%	15,218,901	16,354,075	1,135,173	7.46%
Small General-Demand	4,138,849	3,527,191	(611,658)	-14.78%	40,629,834	34,413,087	(6,216,747)	-15.30%
Large	6,293,674	5,589,484	(704,190)	-11.19%	62,404,793	52,506,462	(9,898,331)	-15.86%
Independent Power Producers	20,399	17,270	(3,129)	-15.34%	128,549	179,151	50,602	39.36%
Private St. Lites	31,769	25,099	(6,670)	-21.00%	307,535	256,503	(51,033)	-16.59%
Sub-total	**20,810,586**	**19,925,320**	**(885,266)**	**-4.25%**	**201,475,746**	**185,661,124**	**(15,814,622)**	**-7.85%**
Government					-			
Small_Non Demand	362,354	319,135	(43,220)	-11.93%	3,317,506	2,847,605	(469,901)	-14.16%
Small-Demand	2,194,226	1,907,628	(286,598)	-13.06%	21,091,421	18,727,533	(2,363,888)	-11.21%
Large	1,412,795	1,424,292	11,497	0.81%	13,937,378	13,830,841	(106,537)	-0.76%
Public St. Lites	482,887	418,012	(64,875)	-13.43%	4,893,454	4,485,840	(407,614)	-8.33%
Sub-total	**4,452,262**	**4,069,066**	**(383,196)**	**-8.61%**	**43,239,759**	**39,891,819**	**(3,347,940)**	**-7.74%**
Total-Civilian	**25,262,847**	**23,994,386**	**(1,268,462)**	**-5.02%**	**244,715,505**	**225,552,943**	**(19,162,562)**	**-7.83%**
USN	5,292,102	5,331,702	39,600	0.75%	52,489,323	44,559,869	(7,929,454)	-15.11%
Grand Total	**30,554,950**	**29,326,087**	**(1,228,862)**	**-4.02%**	**297,204,828**	**270,112,812**	**(27,092,016)**	**-9.12%**
	-	-	-					

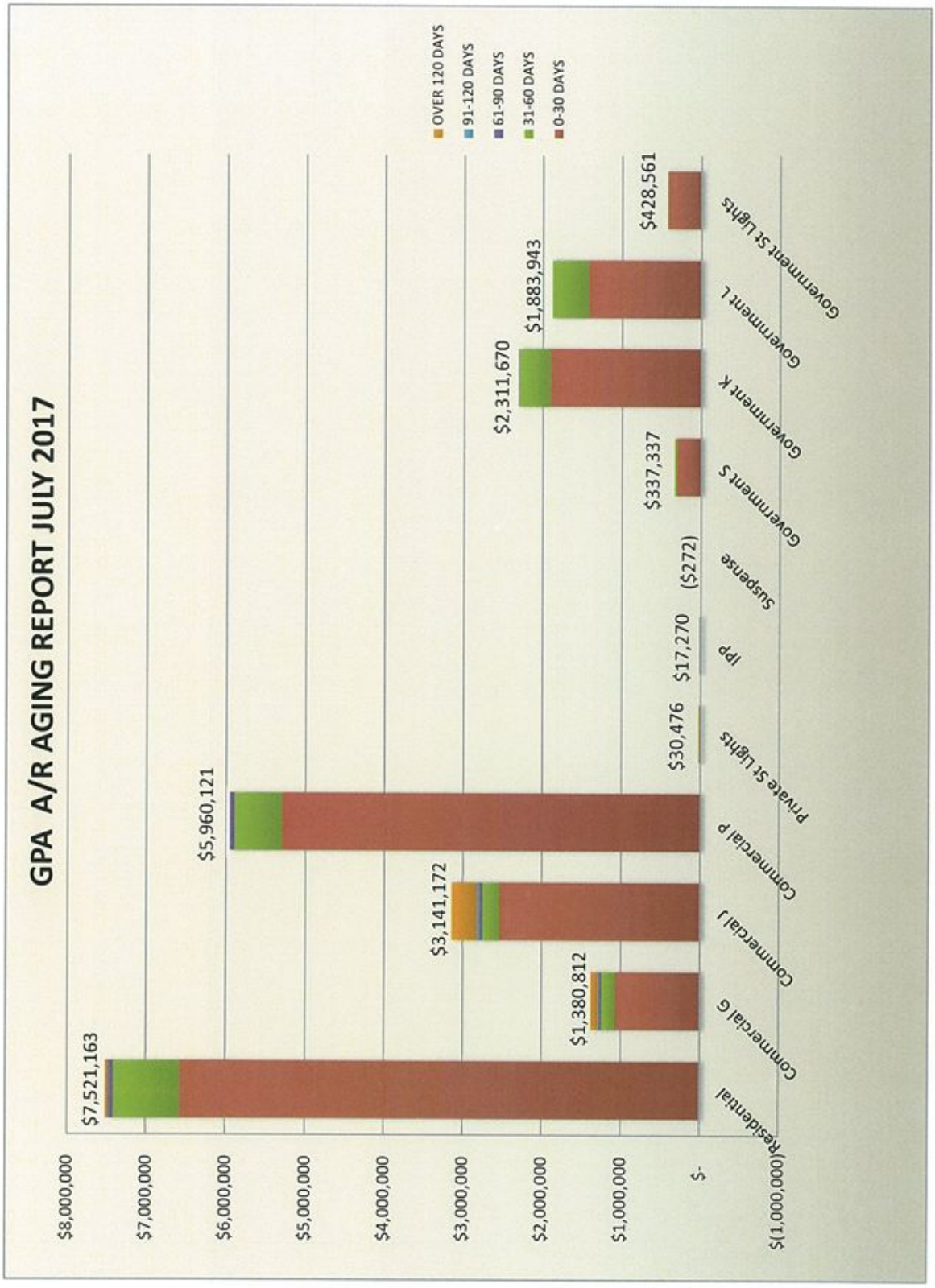
	YTD REVENUES - CURRENT YEAR VS PRIOR YEAR				MTD REVENUES - CURRENT YEAR VS PRIOR YEAR			
	ACTUALS - 9 MONTHS ENDED JUNE 30				ACTUALS - MONTH ENDED JUNE 30			
	2017	2016	VARIANCE	% VARIANCE	2017	2016	VARIANCE	% VARIANCE
KWH								
Residential	420,409,867	358,693,242	61,716,624	17.21%	45,094,364	44,922,307	172,056	0.38%
Small General-Non-Demand	69,530,169	59,263,425	10,266,744	17.32%	7,087,373	7,402,321	(314,948)	-4.25%
Small General-Demand	158,053,260	142,095,531	15,957,729	11.23%	15,839,125	16,214,181	(375,056)	-2.31%
Large	262,103,183	229,678,436	32,424,748	14.12%	27,119,633	26,144,475	975,159	3.73%
Independent Power Producers	869,484	587,219	282,265	48.07%	82,800	58,806	23,993	40.80%
Private St. Lites	382,552	469,261	(86,709)	-18.48%	35,412	52,548	(17,137)	-32.61%
Sub-total	**911,348,514**	**790,787,113**	**120,561,401**	**15.25%**	**95,258,706**	**94,794,639**	**464,068**	**0.49%**
Government								
Small_Non Demand	11,412,653	9,872,883	1,539,770	15.60%	1,254,979	1,204,202	50,777	4.22%
Small-Demand	80,646,847	69,207,892	11,438,956	16.53%	7,962,644	7,757,551	205,092	2.64%
Large	61,883,821	52,100,216	9,783,605	18.78%	6,219,351	5,890,099	329,252	5.59%
Public St. Lites	7,940,474	8,513,497	(573,022)	-6.73%	638,971	901,159	(262,188)	-29.09%
Sub-total	**161,883,796**	**139,694,487**	**22,189,308**	**15.88%**	**16,075,944**	**15,753,012**	**322,933**	**2.05%**
Total-Civilian	**1,073,232,310**	**930,481,600**	**142,750,710**	**15.34%**	**111,334,651**	**110,547,650**	**787,000**	**0.71%**
USN	265,070,861	238,317,167	26,753,693	11.23%	27,892,205	26,525,986	1,366,219	5.15%
Grand Total	**1,338,303,170**	**1,168,798,768**	**169,504,403**	**14.50%**	**139,226,856**	**137,073,637**	**2,153,219**	**1.57%**
Non-Oil Yield								
Residential	0.096267	0.096417	-0.000150	-0.16%	0.095780	0.095306	0.000474	0.50%
Small General-Non-Demand	0.136583	0.136578	0.000005	0.00%	0.136213	0.132805	0.003409	2.57%
Small General-Demand	0.119358	0.120053	-0.000695	-0.58%	0.117671	0.117400	0.000271	0.23%
Large	0.102709	0.104196	-0.001487	-1.43%	0.101565	0.104291	-0.002726	-2.61%
Independent Power Producers	0.000000	0.116195	-0.116195	-100.00%	0.106916	0.135864	-0.028949	-21.31%
Private St. Lites	0.574047	0.457993	0.116054	25.34%	0.603716	0.456245	0.147471	32.32%
Sub-total	**0.105414**	**0.106162**	**-0.000749**	**-0.71%**	**0.104274**	**0.104717**	**-0.000443**	**-0.42%**
Government								
Small_Non Demand	0.151767	0.152708	-0.000942	-0.62%	0.149244	0.151802	-0.002558	-1.69%
Small-Demand	0.134684	0.135778	-0.001094	-0.81%	0.134521	0.136850	-0.002329	-1.70%
Large	0.126211	0.128748	-0.002537	-1.97%	0.125276	0.126955	-0.001679	-1.32%
Public St. Lites	0.467844	0.382141	0.085703	22.43%	0.549144	0.397657	0.151487	38.09%
Sub-total	**0.148991**	**0.149367**	**-0.000376**	**-0.25%**	**0.148574**	**0.149213**	**-0.000639**	**-0.43%**
Total-Civilian	**0.111987**	**0.112649**	**-0.000662**	**-0.59%**	**0.110670**	**0.111057**	**-0.000387**	**-0.35%**
USN	0.061655	0.061904	-0.000250	-0.40%	0.059154	0.068661	-0.009506	-13.85%
Grand Total	**0.102018**	**0.102302**	**-0.000284**	**-0.28%**	**0.100350**	**0.102853**	**-0.002503**	**-2.43%**
Non-Oil Revenues								
Residential	40,471,654	34,583,998	5,887,656	17.02%	4,319,136	4,281,382	37,755	0.88%
Small General-Non-Demand	9,496,649	8,094,069	1,402,580	17.33%	965,396	983,063	(17,667)	-1.80%
Small General-Demand	18,864,922	17,059,044	1,805,878	10.59%	1,863,810	1,903,544	(39,734)	-2.09%
Large	26,920,413	23,931,604	2,988,809	12.49%	2,754,395	2,726,629	27,766	1.02%
Independent Power Producers	95,460	68,232	27,228	39.91%	8,853	7,990	863	10.80%
Private St. Lites	219,603	214,918	4,684	2.18%	21,379	23,975	(2,596)	-10.83%
Sub-total	**96,068,700**	**83,951,865**	**12,116,835**	**14.43%**	**9,932,968**	**9,926,582**	**6,386**	**0.06%**
Government								
Small_Non Demand	1,732,062	1,507,673	224,389	14.88%	187,298	182,800	4,498	2.46%
Small-Demand	10,861,828	9,396,877	1,464,951	15.59%	1,071,144	1,061,622	9,522	0.90%
Large	7,810,415	6,707,804	1,102,611	16.44%	779,135	747,775	31,360	4.19%
Public St. Lites	3,714,903	3,253,359	461,543	14.19%	350,887	358,352	(7,465)	-2.08%
Sub-total	**24,119,207**	**20,865,713**	**3,253,495**	**15.59%**	**2,388,464**	**2,350,549**	**37,915**	**1.61%**
Total-Civilian	**120,187,908**	**104,817,578**	**15,370,330**	**14.66%**	**12,321,432**	**12,277,132**	**44,301**	**0.36%**
USN	16,342,860	14,752,849	1,590,011	10.78%	1,649,939	1,821,290	(171,351)	-9.41%
Grand Total	**136,530,767**	**119,570,427**	**16,960,340**	**14.18%**	**13,971,371**	**14,098,422**	**(127,051)**	**-0.90%**
% of Total Revenues								
Oil Revenues								
Residential	41,480,194	34,089,152	7,391,042	21.68%	4,737,208	3,890,856	846,352	21.75%
Small General-Non-Demand	6,857,426	5,622,417	1,235,009	21.97%	744,536	641,137	103,398	16.13%
Small General-Demand	15,548,165	13,543,221	2,004,944	14.80%	1,663,381	1,403,775	259,607	18.49%
Large	25,586,050	21,936,816	3,649,233	16.64%	2,835,089	2,253,728	581,361	25.80%
Independent Power Producers	83,691	54,756	28,935	52.84%	8,417	4,918	3,500	71.17%
Private St. Lites	36,900	45,155	(8,255)	-18.28%	3,720	4,551	(831)	-18.27%
Sub-total	**89,592,424**	**75,291,516**	**14,300,908**	**18.99%**	**9,992,351**	**8,198,965**	**1,793,387**	**21.87%**
Government								
Small_Non Demand	1,115,543	947,003	168,539	17.80%	131,837	104,300	27,537	26.40%
Small-Demand	7,865,706	6,633,666	1,232,040	18.57%	836,484	671,905	164,579	24.49%
Large	6,020,425	4,942,444	1,077,981	21.81%	645,157	504,145	141,012	27.97%
Public St. Lites	770,937	818,593	(47,655)	-5.82%	67,125	78,052	(10,928)	-14.00%
Sub-total	**15,772,611**	**13,341,706**	**2,430,905**	**18.22%**	**1,680,602**	**1,358,402**	**322,200**	**23.72%**
Total-Civilian	**105,365,035**	**88,633,222**	**16,731,814**	**18.88%**	**11,672,953**	**9,557,366**	**2,115,587**	**22.14%**
USN	28,217,009	22,089,529	6,127,481	27.74%	3,681,763	1,978,896	1,702,868	86.05%
Grand Total	**133,582,045**	**110,722,750**	**22,859,294**	**20.65%**	**15,354,716**	**11,536,262**	**3,818,455**	**33.10%**
% of Total Revenues								
Grand Total								
Residential	81,951,847	68,673,149	13,278,698	19.34%	9,056,344	8,172,237	884,107	10.82%
Small General-Non-Demand	16,354,075	13,716,486	2,637,589	19.23%	1,709,931	1,624,200	85,731	5.28%
Small General-Demand	34,413,087	30,602,265	3,810,822	12.45%	3,527,191	3,307,319	219,872	6.65%
Large	52,506,462	45,868,420	6,638,042	14.47%	5,589,484	4,980,357	609,127	12.23%
Independent Power Producers	179,151	122,988	56,163	45.67%	17,270	12,907	4,363	33.80%
Private St. Lites	256,503	260,073	(3,570)	-1.37%	25,099	28,526	(3,428)	-12.02%
Sub-total	**185,661,124**	**159,243,381**	**26,417,744**	**16.59%**	**19,925,320**	**18,125,547**	**1,799,773**	**9.93%**
Government								
Small_Non Demand	2,847,605	2,454,676	392,929	16.01%	319,135	287,100	32,035	11.16%
Small-Demand	18,727,533	16,030,543	2,696,990	16.82%	1,907,628	1,733,527	174,101	10.04%
Large	13,830,841	11,650,248	2,180,593	18.72%	1,424,292	1,251,920	172,372	13.77%
Public St. Lites	4,485,840	4,071,952	413,888	10.16%	418,012	436,404	(18,392)	-4.21%
Sub-total	**39,891,819**	**34,207,419**	**5,684,400**	**16.62%**	**4,069,066**	**3,708,951**	**360,115**	**9.71%**
Total-Civilian	**225,552,943**	**193,450,800**	**32,102,143**	**16.59%**	**23,994,386**	**21,834,498**	**2,159,888**	**9.89%**
USN	44,559,869	36,842,377	7,717,491	20.95%	5,331,702	3,800,186	1,531,516	40.30%
Grand Total	**270,112,812**	**230,293,177**	**39,819,635**	**17.29%**	**29,326,087**	**25,634,683**	**3,691,404**	**14.40%**


GPA - T and D Losses (MWH) Without Renewables
For the Last 7 Years thru 06.30.17
T and D Losses (MWH)
T and D Losses (% to Net Generation)
FY 11
FY 12
FY 13
FY 14
FY 15
FY 16
FY 17 Moving 12 Months
113,279
117,269
103,049
85,295
79,267
78,281
82,049
7.02%
7.26%
6.31%
5.20%
4.88%
5.44%
5.63%
130,000
120,000
110,000
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
-
8.00%
7.00%
6.00%
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%


GPA - T and D Losses (MWH) With Renewables
For the Last 7 Years thru 06.30.17
7.00%
6.00%
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
130,000
120,000
110,000
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
-
7.02%
6.31%
5.20%
4.88%
4.73%
4.86%
113,279
117,269
103,049
85,295
79,267
78,281
82,049
FY 11
FY 12
FY 13
FY 14
FY 15
FY 16
FY 17 Moving 12 Months
T and D Losses (MWH)
T and D Losses (% to Net Gen.)


GPA - Station Usage(MWH) Without Renewables
For the Last 7 Years Thru 06.30.17
6.00%
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
110,000
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
5.66%
5.71%
5.05%
4.86%
4.87%
4.32%
4.40%
96,872
97,739
86,765
83,701
83,060
64,952
67,133
FY 11
FY 12
FY 13
FY 14
FY 15
FY 16
FY 17
Moving 12 Months
Station Use (MWH)
% to Gross Generation


GPA - Station Usage(MWH) With Renewables
For the Last 7 Years Thru 06.30.17
110,000
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
6.00%
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
96,872
97,739
86,765
83,701
83,060
64,952
67,133
5.66%
5.71%
5.05%
4.86%
4.87%
3.77%
3.82%
FY 11
FY 12
FY 13
FY 14
FY 15
FY 16
FY 17
Station Use (MWH)
% to Gross Generation


GPA A/R AGING REPORT JULY 2017
OVER 120 DAYS
91-120 DAYS
61-90 DAYS
31-60 DAYS
0-30 DAYS
$8,000,000
$7,000,000
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$-
$(1,000,000)
$7,521,163
$5,960,121
$3,141,172
$1,380,812
$30,476
$17,270
($272)
$337,337
$2,311,670
$1,883,943
$428,561
Residential
Commercial G
Commercial J
Commercial P
Private St Lights
IPP
Suspense
Government S
Government K
Government L
Government St Lights

GUAM POWER AUTHORITY
GOVERNMENT ACCOUNTS RECEIVABLE
BILLING UP TO 07/31/2017 and Payment Applied as of 08/07/2017

Current (07/17 Billing due 08/31/17)
30 days Arrears (06/17 due 07/15/17)
60 days and over Arrears (05/17 billing due 06/15/17)

NEW ACCT NUMBER		DEPARTMENT	ARREARS BALANCE 30-Jun-17	CURRENT BILL FOR 07/31/2017 BILL DATE 08/07/2017	BILLING ADJUSTMENT 8/7/2017	PAYMENTS AS OF 8/7/2017	BILLING BALANCE 8/7/2017	
		Line Agencies						
124378	0237100000	Dept. of Corrections	68,905.61	-	71,003.49	(68,905.61)	71,003.49	
124401	0437100000	Dept. of Parks & Rec.	25,295.57	-	19,043.24	-	44,338.81	2
124415	0537100000	Guam Fire Department	18,112.44	-	18,328.91	(18,112.44)	18,328.91	
108818	6995000000	DOA-Supply Management	1,392.16	-	1,270.95	(1,392.16)	1,270.95	
108799	7895000000	Dept. of Administration	3,617.69	-	3,687.33	(3,617.69)	3,687.33	
124392	1337100000	Nieves Flores Library	9,506.92	-	9,748.79	(9,506.92)	9,748.79	
140297	2206200000	General Services Agency	251.97	-	234.50	(251.97)	234.50	
124380	2237100000	DOA-Data Processing	6,754.88	-	6,941.61	(6,754.88)	6,941.61	
124393	2337100000	Dept. of PH&SS	56,768.27	25.00	58,270.74	(56,768.27)	58,295.74	
124381	3237100000	Dept. of Education	868,218.35	-	873,135.89	(868,218.35)	873,135.89	
124394	3337100000	Guam Police Department	34,918.17	-	34,512.14	(34,918.17)	34,512.14	
128478	3569100000	Dept of Youth Affairs (Federal)	1,167.84	-	1,457.85	(1,167.84)	1,457.85	
124407	4437100000	Dept. of Youth Affair* (Local)	14,002.14	-	13,448.92	(14,002.14)	13,448.92	
124445	4737100000	Guam Environmental Protect	6,068.37	-	5,790.74	(6,068.37)	5,790.74	
124408	5437100000	Mental Health/Subst.	38,858.26	(911.27)	41,047.31	(38,858.26)	40,136.04	
148823	7200300000	Veteran Affairs	997.27	-	998.81	(997.27)	998.81	
124412	7437100000	Civil Defense (Military Affairs)	10,396.04	-	10,669.44	(10,396.04)	10,669.44	
158935	7463300000	Pacific Energy Resource Center	615.78	-	519.76	(615.78)	519.76	
124374	8137100000	Dept. of Agriculture	11,837.19	-	8,951.49	(11,837.19)	8,951.49	
124399	8337100000	DPW-FAC Adm Account	25,886.26	-	25,567.72	(25,886.26)	25,567.72	
	8437100000	Guam Visitors Bureau	4,223.76	-	4,073.86	(4,223.76)	4,073.86	
166560	8446300000	Yona Senior Citizen Center	749.72	-	669.05	(749.72)	669.05	
124414	9437100000	Chamorro Village	3,840.70	-	4,691.70	(3,840.70)	4,691.70	
292266	5247210000	Mayors Council	17,390.99	50.00	3,671.23	(17,390.99)	3,721.23	
309494	6293410000	Office of the Governor	21,515.67	-	21,889.21	(21,515.67)	21,889.21	
	8555858369	Dept of Chamorro Affairs (Guam Museum)	17,198.06	-	17,395.50	(17,198.06)	17,395.50	
		Sub Total	**1,268,490.08**	**(836.27)**	**1,257,020.18**	**(1,243,194.51)**	**1,281,479.48**	
		MAYORS						
124427	0637100000	Santa Rita Mayor	3,478.43	-	3,494.62	(3,478.43)	3,494.62	
124437	0737100000	Ordot/Chalan Pago Mayor	1,361.40	(854.51)	1,693.08	(1,361.40)	838.57	
124417	1537100000	Agana Mun Planning Council	1,006.56	-	1,229.26	(1,006.56)	1,229.26	
124428	1637100000	Piti Mayor	1,300.22	-	1,398.61	(1,300.22)	1,398.61	
124438	1737100000	Mongmong/Toto/Maite Mayor	890.33	-	879.66	(890.33)	879.66	
124429	2637100000	Asan/Maina/Adelup Mayor	784.85	-	968.07	(784.85)	968.07	
124439	2737100000	Sinajana Mayor	4,985.41	-	4,810.84	(4,985.41)	4,810.84	
124430	3637100000	Dededo Mayor	5,264.43	25.00	5,452.73	(5,264.43)	5,477.73	
124431	4637100000	Yigo Mayor	4,167.31	10.00	3,117.16	(4,167.31)	3,127.16	
124432	5637100000	Umatac Mayor	1,279.30	-	1,315.54	(1,279.30)	1,315.54	
124423	6537100000	Agana Hts. Mayor	5,353.88	-	4,817.47	(5,353.88)	4,817.47	
124433	6637100000	Merizo Mayor	1,589.00	-	1,487.74	(1,589.00)	1,487.74	
124453	6737100000	Barrigada Mayors Office	2,388.17		1,855.26	(2,388.17)	1,855.26	
124424	7537100000	Agat Mayor	3,074.55	(42.48)	3,174.77	(3,074.55)	3,132.29	
124434	7637100000	Inarajan Mayor	1,671.07	-	1,483.94	(1,671.07)	1,483.94	
124425	8537100000	Tamuning Mayor	5,666.26	-	5,950.49	(5,666.26)	5,950.49	
124435	8637100000	Talofofo Mayor	2,694.27	-	2,253.63	(2,694.27)	2,253.63	
124426	9537100000	Mangilao Mayor	4,436.92	-	4,520.57	(4,436.92)	4,520.57	
124436	9637100000	Yona Mayor	976.57	-	1,027.62	(976.57)	1,027.62	
		Sub Total	**52,368.93**	**(861.99)**	**50,931.06**	**(52,368.93)**	**50,069.07**	
		DPW ACCOUNTS						
124395	4337100000	DPW-Village St. Lights	336,580.99	550.00	313,395.93	(336,580.99)	313,945.93	
124396	5337100000	DPW- Primary St. Lights	79,440.98	-	76,053.33	(79,440.98)	76,053.33	
124397	6337100000	DPW-Sec/Coll St. Lights	24,742.17	-	23,486.61	(24,742.17)	23,486.61	
124398	7337100000	DPW-Signal Lights	9,071.30	(107.44)	9,890.15	(9,071.30)	9,782.71	
		Sub Total	**449,835.44**	**442.56**	**422,826.02**	**(449,835.44)**	**423,268.58**	
		(B) AUTONOMOUS/PUBLIC CORP						
124402	1437100000	Retirement Fund	5,433.77	-	5,282.80	(5,433.77)	5,282.80	
208988	1915500000	Guam Housing Corp Rental Division	1,609.74	3.96	1,293.43	(1,082.70)	1,824.43	1
124403	2437100000	University of Guam	155,056.85	(253.90)	155,799.20	(155,056.85)	155,545.30	
124383	4237100000	Guam Airport Authority	458,685.58	-	467,145.20	(458,685.58)	467,145.20	
	5357510000	University of Guam (NET METERED)	72,635.98	-	71,420.96	(72,635.98)	71,420.96	
124387	6237100000	G H U R A	21,629.19	(449.52)	22,942.50	(33,538.73)	10,583.44	
124409	6437100000	Guam Community College	44,232.89	-	44,282.43	(44,232.89)	44,282.43	
124388	7237100000	Guam Memorial Hospital	155,991.03	-	158,338.19	(155,991.03)	158,338.19	
124377	9137100000	Port Authority of Guam	86,224.27	-	89,239.99	(86,224.27)	89,239.99	
	9157510000	Guam Community College (NET METERED)	32,758.06	-	32,074.53	(32,758.06)	32,074.53	
288441	9173210000	Guam Solid Waste Authority	5,124.62	-	5,325.52	(5,124.62)	5,325.52	
124400	9337100000	Guam Waterworks Authority	1,021,481.01	(12,141.06)	1,097,160.55	(1,021,481.01)	1,085,019.49	
		Sub Total	**2,060,862.99**	**(12,840.52)**	**2,150,305.30**	**(2,072,245.49)**	**2,126,082.28**	
		(C) OTHERS						
124391	0337100000	Guam Legislature	300.86		256.49	(300.86)	256.49	
	9503154359	Guam Legislature (NET METER)	5,589.35		5,606.19	(5,589.35)	5,606.19	
124379	1237100000	Superior Court of Guam	64,201.93		64,813.90	(64,201.93)	64,813.90	
124418	2537100000	Agana Post Office	4,921.53		4,747.61	(4,921.53)	4,747.61	
130431	2570200000	Customs & Quarantine Agency	884.27		861.92	(884.27)	861.92	
124419	3537100000	U.S. Post Office	36,647.56		37,023.73	(36,647.56)	37,023.73	
124422	5537100000	Dept. of Military Affairs	85,004.10		76,354.48	(85,004.10)	76,354.48	
	3209463043	Dept. of Military Affairs (NET METERED)	3,534.32		2,566.62	(3,534.32)	2,566.62	
124446	5737100000	KGTF	9,756.79		6,280.58	-	16,037.37	2
102783	7281000000	Tamuning Post Office	5,129.44		5,291.04	(5,129.44)	5,291.04	
		Sub Total	**215,970.15**	**0.00**	**203,802.56**	**(206,213.36)**	**213,559.35**	
		Sub Total (w/out Promissory Note)	**4,047,527.59**	**(14,096.22)**	**4,084,885.12**	**(4,023,857.73)**	**4,094,458.76**	

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Issues for Decision

Resolution No. 2017-33:

Relative to: Authorizing the Management of Guam Power Authority to Revise the Scope of Work and Contract Structure for the Multi-Step bid for the Supply of Diesel Fuel Oil No. 2 for the Baseload Plants and Peaking Units.

What is the project's objective? Is it necessary and urgent?
The Guam Power Authority's current contract for Supply of Diesel Fuel Oil No. 2 for the Baseload Plants and Peaking Units is expiring in December 2017. Through CCU Resolution 2015-05, Multi-Step Bid GPA-057-17 was issued with the intent to award before December 2017. However, based on the changing operation requirements, anticipated dispatching for the next 3-5 years, as well as inquiries raised by prospective bidders, major changes in the current structure of the bid needs to be changed. The Authority is requesting authorization to change the bid and re-solicit with revised structure and requirements.

Where is the location?
Diesel Fuel Oil No.2 will be stored at GPA-leased tanks in the Tristar Facility. From the tank, it will be supplied via tanker truck and pipeline (if the option is available) to the following plant locations:

1. Baseloads (Cabras 1&2 and MEC 8&9)
2. Tenjo Vista
3. Fast Tracks (Manenggon and Talofofo)
4. TEMES CT
5. Northern Plants (Dededo CT, Macheche CT and Yigo CT, Aggreko)

How much will it cost?
At an estimated 1,000,000 barrels of ULSD annually and an estimated ULSD cost of $80/bbl, the contract is expected to cost $80,000,000 annually.

When will it be completed?
The contract is planned for an initial period of four years to commence on or about March 01, 2018 and to expire on February 29, 2022, with the option to extend for one (1) additional one-year terms.

What is its funding source?
Fuel revenue funds.

The RFP/BID responses:
The IFB solicitation will commence after CCU & PUC approval.

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 2017-33

AUTHORIZING MANAGEMENT TO CHANGE BID AND RE-SOLICIT FOR THE SUPPLY AND DELIVERY OF DIESEL FUEL OIL NO.2 FOR THE BASELOADS AND PEAKING UNITS

WHEREAS, the three (3) year base period for the current contract (GPA-029-14) for the Supply of Diesel Fuel Oil No.2 for the **Baseloads** (Cabras 1&2 and MEC 8&9), and the **Peaking Units** (Tenjo Vista, Fast Tracks: Manenggon and Talofofo, TEMES CT and the Northern Diesel Plants: Dededo CT, Macheche CT, and Yigo CT) will expire on December 31, 2017; and

WHEREAS, the aftermath of the Cabras 3&4 incident in August 2015 drastically increased GPA's diesel consumption, overly exceeding the estimated quantities provided in Schedule B of the current contract (Exhibit A); and

WHEREAS, through Resolution 2017-05 and PUC Docket 17-18 GPA (Exhibit B) issued an Invitation For Bid for the procurement of diesel fuel oil for the Baseload and Peaking Units for a base period of two (2) years, to commence on January 01, 2018 through December 31, 2019, with three (3) additional one-year extension options; and

WHEREAS, changing operational requirements and dispatching for the next 3-5 years, as well as inquiries raised by prospective bidders has necessitated major changes in the structure of the current bid; and

WHEREAS, GPA is requesting authorization to change bid and re-solicit with revised structure and requirements; and

WHEREAS, the draft bid solicitation documents for the procurement of a new diesel fuel oil supply contract is hereby attached as (Exhibit C); and

WHEREAS, the total cost for the new contract is anticipated to exceed $1.5M requiring GPA to seek authorization for this procurement from the PUC; and

WHEREAS, GPA is requesting the approval of the CCU to petition the PUC to change and re-issue an Invitation for Bid for a new diesel fuel oil supply contract; and

WHEREAS, GPA's re-issued bid will separate Diesel Fuel Supply and Diesel Fuel Delivery, as this structure would be in the best interests of the Authority.

NOW THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities, subject to the review and approval of the Public Utilities Commission, as follows:

1. The General Manager is authorized to change bid requirements and re-issue an Invitation for Bid for a new Diesel fuel supply contract through a Multi-Step Bid process that is reasonable, prudent and necessary for GPA.
2. GPA is authorized to petition the Public Utilities Commission for approval to re-issue an Invitation for Bid to procure a Contractor for the supply of Diesel Fuel Oil No.2 for the Baseloads and Peaking Units.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

DULY and REGULARLY ADOPTED AND APPROVED THIS 29th day of AUGUST, 2017.

Certified By:	**Attested By:**
_____	_____
JOSEPH T. DUENAS	**J. GEORGE BAMBA**
Chairperson	Secretary

I, J. George Bamba, Board Secretary of the Consolidated Commission on Utilities (CCU), as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the members of Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were present voted as follows:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

EXHIBIT A:
DIESEL CONSUMPTION (Gallons & Barrels)

GPA-029-14	CURRENT CONTRACT		
	1st Year	**2nd Year**	**3rd Year**
	1/1/15 to 12/31/15	**1/1/16 to 12/31/16**	**1/1/17 to 12/31/17**
TOTAL ANNUAL CONSUMPTION (Gallons)	17,589,390	33,661,194	31,952,004
CONTRACT ESTIMATE (Gallons)	4,800,000	4,800,000	4,800,000
TOTAL ANNUAL CONSUMPTION (Barrels)	418,795	801,457	760,762
CONTRACT ESTIMATE (Barrels)	114,286	114,286	114,286
% INCREASE FROM CONTRACT ESTIMATE	266%	601%	566%

*3rd year are based on 12-month totals ending July 2017

NEW BID	NEW BID	
	5-year Contract	
	MIN	**MAX**
CONTRACT ANNUAL ESTIMATE (Gallons)	21,000,000	42,000,000
CONTRACT ESTIMATE (Barrels)	500,000	1,000,000
% INCREASE FROM GPA-029-14 ESTIMATE	337%	775%

CONSOLIDATED
COMMISSION ON UTILITIES
Guam Power Authority • Guam Waterworks Authority
P.O.BOX 2977 • Agana,Guam 96932

RESOLUTION NO. 2017–05

AUTHORIZING THE MANAGEMENT OF THE GUAM POWER AUTHORITY TO PROCEED WITH THE SOLICITATION TO PROCURE A CONTRACTOR FOR THE SUPPLY OF DIESEL FUEL OIL NO.2 FOR THE BASELOADS AND PEAKING UNITS

WHEREAS, the three (3) year base period for the current contract (GPA-029-14) for the Supply of Diesel Fuel Oil No.2 for the **Baseloads** (Cabras 1&2 and MEC 8&9), and the **Peaking Units** (Tenjo Vista, Fast Tracks: Manenggon and Talofofo, TEMES CT and the Northern Diesel Plants: Dededo CT, Macheche CT, and Yigo CT) will expire on December 31, 2017; and

WHEREAS, the aftermath of the Cabras 3&4 incident in August 2015 drastically increased GPA's diesel consumption, overly exceeding the estimated quantities provided in Schedule B of the current contract (Exhibit A); and

WHEREAS, GPA has determined that a new solicitation is needed to reflect the necessary changes and update GPA's supply requirement (Exhibit B); and

WHEREAS, GPA intends to issue a new Invitation For Bid for the procurement of diesel fuel oil for the Baseload and Peaking Units for a base period of two (2) years, to commence on January 01, 2018 through December 31, 2019, with three (3) additional one-year extension options; and

WHEREAS, the draft bid solicitation documents for the procurement of a new diesel fuel oil supply contract is hereby attached as Exhibit C; and

WHEREAS, the total cost for the new contract is anticipated to exceed $1.5M requiring GPA to seek authorization for this procurement from the PUC; and

WHEREAS, GPA is requesting the approval of the CCU to petition the PUC for the issuance of an Invitation for Bid for a new diesel fuel oil supply contract.

NOW THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities, subject to the review and approval of the Public Utilities Commission, as follows:

1. GPA's request to solicit competitive bids for a new Diesel fuel supply contract through a Multi-Step Bid process is reasonable, prudent and beneficial to its customers.

2. GPA is authorized to petition the Public Utilities Commission for approval to issue bids to procure a Contractor for the supply of Diesel Fuel Oil No.2 for the Baseloads and Peaking Units.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

DULY and REGULARLY ADOPTED this 24th day of January 2017.

Certified by:

JOSEPH T. DUENAS
CHAIRMAN

Attested by:

J. GEORGE BAMBA
~~**SECRETARY**~~
Francis E. Santos
Vice-Chairman

SECRETARY'S CERTIFICATE

I, J. GEORGE BAMBA, Secretary for the Consolidated Commission on Utilities do hereby certify that the foregoing is a full, true, and correct copy of the resolution duly adopted at a regular meeting of the members of Guam's Consolidated Commission on Utilities, duly and legally held at the meeting place thereof on January 24, 2017, at which meeting of all said members had due notice and at which at least s majority thereof were present, and

At said meeting said resolution was adopted by the following vote:

Ayes: 4

Nays: 0

Absent: 0

Abstain: 1

As of the date of this certification, said original resolution has not been amended, modified, or rescinded since the date of its adoption, and the same is now in full force and effect.

SO CERTIFIED this 24th day of December, 2017.

J. GEORGE BAMBA
~~Secretary~~ FRANCIS H. SAN NICOLAS, VICE-CHAIR
Consolidated Commission on Utilities

Exhibit A:

Diesel Expenses for Current Contract

GPA-029-14 EXPENDITURES	1st year (01/01/15 to 12/31/15)	2nd Year (01/01/16 to 12/31/16)	3rd year (01/01/17 to 12/31/17)	3-Year Contract Period (01/01/15 to 12/31/17)
Jan-Sep (Gallons)	6,253,698	28,041,799	15,376,040	
Oct-Dec (Gallons)	9,133,263	5,125,347	5,125,347	
Total Qty (Gallons)	15,386,962	33,167,145	20,501,386	**69,055,494**
Contract Estimate (Gallons)	4,800,000	4,800,000	4,800,000	**14,400,000**
Variance	10,586,962	28,367,145	15,701,386	**54,655,494**
Remarks	221% increase	591% Increase	327% Increase	**380% Increase**
REMARKS	**Actual** (Cabras 3&4 Explosion on 08/31/15)	**Actual** (Cabras 3&4 Offline & forced outages in remaining plants)	**Estimated** (Cabras 3&4 Offline & anticipated overhauls/outages in remaining plants)	Estimated Diesel Expenses

EXHIBIT B: CHANGES TO THE CONTRACT REQUIREMENTS

SCHEDULE B: ESTIMATED ANNUAL FUEL OIL REQUIREMENTS (Gallons/yr)

Plant Location	Name of Plant	Existing Contract (GPA-029-14)	New Contract
1. Baseloads	Cabras 1&2, MEC 8&9	200,000	100,000 – 200,000
2. Tenjo Vista	Tenjo Vista	1,500,000	5,000,000 - 7,000,000
3. Fast Tracks	Talofofo	1,000,000	3,000,000 - 4,000,000
	Manengon		
4. TEMES CT	TEMES CT	600,000	3,000,000 - 5,000,000
5. Northern Plants	Dededo CT	1,500,000	9,000,000 - 12,000,000
	Macheche CT		
	Yigo CT		
	Aggreko		
TOTAL		4,800,000	20,060,000 - 28,100,000

SCHEDULE C: 30-DAYS MINIMUM INVENTORY REQUIREMENTS (Gallons)

Plant Location	Name of Plant	Existing Contract (GPA-029-14)	New Contract
1. Baseloads	Cabras 1&2, MEC 8&9	20,000	20,000
2. Tenjo Vista	Tenjo Vista	125,000	500,000
3. Fast Tracks	Talofofo	80,000	250,000
	Manengon		
4. TEMES CT	TEMES CT	50,000	250,000
5. Northern Plants	Dededo CT	125,000	750,000
	Macheche CT		
	Yigo CT		
	Aggreko		
TOTAL		400,000	1,770,000

Invitation For Multi-Step Bid

No. GPA- -17

SUPPLY OF DIESEL FUEL OIL NO.2

1. **BASELOAD Plants (Cabras 1&2 and MEC 8&9)**
2. **TENJO VISTA**
3. **FAST TRACK Plants (Manenggon and Talofofo)**
4. **TEMES CT Plant**
5. **NORTHERN Plants (Dededo CT, Macheche CT, Yigo CT and Aggreko)**

Volume II

CONTRACT (DRAFT)

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CONTRACT

_____

(CONTRACTOR)

GUAM POWER AUTHORITY

2017

IFB No. GPA- -17

SUPPLY OF DIESEL FUEL OIL NO.2

FORMAL CONTRACT

This Agreement and Formal Contract ("Contract"), is made and entered into on the _____ day of _____, 2017 by and between:

_____, hereinafter referred to as **"CONTRACTOR"**, with its principal address at _____;

- and –

GUAM POWER AUTHORITY, hereinafter referred to as the **"Authority"** or **"GPA"**, a Public Corporation with its office located at the Gloria Nelson Public Service Complex, Fadian Mangilao Guam;

RECITALS

WHEREAS, the current contract for the supply of Fuel Oil will expire on December 31, 2017; and

WHEREAS, GPA sought to procure a new **CONTRACTOR** for the supply of Fuel Oil to the following plants locations: **Baseloads** (Cabras 1&2 and MEC 8&9), **Tenjo Vista, Fast Tracks** (Manenggon & Talofofo), **TEMES CT**, and **Northern Plants** (Dededo CT, Macheche CT, Yigo CT, and Aggreko); and

WHEREAS, GPA issued an Invitation For a Multi-Step Bid for the Supply of Diesel Fuel Oil No.2 under IFB GPA- -17; and

WHEREAS, **CONTRACTOR** submitted a bid in response to the Invitation for Bid for the Supply of Diesel Fuel Oil No.2; and

WHEREAS, **GPA**, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR**. is the lowest responsive and responsible bidder for the following GPA plant locations: _____; and

WHEREAS, the Guam Consolidated Commission on Utilities (CCU) and the Guam Public Utilities Commission (PUC) has determined that the **CONTRACTOR** is the preferred option for **GPA** to supply the Fuel oil requirements for the Authority for those plant locations.

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledge; **CONTRACTOR** and **GPA** hereby agree as follows:

SECTION 1. DEFINITIONS

"$" refers to currency in U.S. dollars.

"ASTM" means the American Society for Testing and Materials, a recognized organization providing globally- accepted standard testing and evaluation methods for petroleum.

"API" means the American Petroleum Institute, a recognized, organization providing globally accepted petroleum procedures.

"Barrel" means a volume equivalent to 42 U.S. Gallons.

"Contract" means this written agreement between **GPA** and **CONTRACTOR** covering the Supply of Fuel oil and any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

"Contract Documents" means the Contract, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract, together with all Modifications issued after execution of the Contract.

"Contracting Officer" means the General Manager of the **GPA** and shall include his authorized representatives.

"CONTRACTOR" means the party which has duly entered into this Contract with **GPA** to perform the work herein contemplated or his or their authorized assignee.

"Day" means a calendar day of twenty-four (24) hours measured from midnight to the next midnight.

"Month" means a calendar month.

"Year" means a calendar year.

"Delivery Time" means the total number of hours or days or the dates stated in this Agreement for furnishing the Fuel Oil.

"General Manager" means the Chief Executive Officer of **GPA**. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of **GPA**.

"Notice" means and includes all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with Contract requirements. Any written notice by either party to the Contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his,

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their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box and file the same with the Contracting Officer.

"Procurement Officer" means the General Manager or the General Manager's designee.

"PURCHASER" means **GPA**.

"Seller" means the **CONTRACTOR**.

"Territory" means the Territory of Guam.

"OPA'90" means the Oil Pollution Act of 1990 enacted by the U.S. Congress.

"Platt's Asia-Pacific/ Arab Gulf Marketscan" refers to the source document for the 'Fuel Oil Contract pricing.

"Metric Ton" means unit of mass equal to 1,000 kilograms (2,205 pounds)

"Fuel Oil" means a liquid hydrocarbon product satisfying the specifications in Section 8 and Schedule A.

"Gallon" means a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

"Receiving facility" means the **GPA** Fuel Oil receiving facility at each plant location identified in Schedule B.

"CCU" means the Guam Consolidated Commission on Utilities.

"PUC" means the Guam Public Utilities Commission.

"COQ" means Certificate of Quality or Quality Certificate, a formal document recording the CONTRACTOR's laboratory determination of quality of a particular sample which represents a specific delivery, said laboratory determinations having been performed in accordance with the test methods specified in Schedule A.

-**"Independent Inspector"** means a qualified third-party petroleum inspection contractor acceptable to both parties providing petroleum sampling, measurement and other services before, during and after a delivery.

"Receiving Facility" means any of GPA's generating facilities, storage facilities and/or other facilities used to receive, transport, store, or otherwise handle the Diesel, and/or ULSD located on the island of Guam as designated by GPA.

"ULSD" means Ultra-Low Sulfur Diesel produced in conformity with the provisions of the quality in the Specification which are set forth in Schedule A.

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SECTION 2. FUEL OIL TO BE SUPPLIED

CONTRACTOR agrees to furnish and **GPA** agrees to accept and pay for all of **GPA**'s Fuel Oil requirements for power generating plants in Guam identified in Schedule B for the term of the Contract. The **estimated** total Fuel Oil requirement is listed in Schedule B. This information is provided as reference material only. Although every attempt has been made to ensure its accuracy, GPA makes no guarantees that these quantities will be achieved but they may be exceeded. GPA expressly disclaims any liability whatsoever arising from reliance or non-reliance of the data provided.

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Actual quantities may vary depending on the dispatching of the plants. The estimated Fuel Oil requirement provided herein are only approximate values and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the estimated fuel oil requirements.

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The first delivery of Fuel Oil pursuant to the Contract is anticipated to be on or about **January 01, 2018**.

SECTION 3. CONTRACT TERM

The Contract term shall be for two (2) years to commence on January 01, 2018 and shall continue until midnight of December 31, 2019 and with **GPA's** option to extend the contract for three (3) additional one (1) year terms, renewable annually, with mutual agreement of both parties.

SECTION 4. CONTRACT PRICE

The **CONTRACT PRICE** in U.S. dollars per Gallon ($/gal) for all Fuel Oil delivered to **GPA** shall be inclusive of all costs and liabilities required to fulfill the contract. The **CONTRACT PRICE** is the sum of the **FIXED SERVICE FEE** plus the **REFERENCE PRICE.**

The **CONTRACT PRICE** shall increase or decrease on a cent-for-cent basis with the **REFERENCE PRICE.**

The **REFERENCE PRICE** for the Fuel Oil delivered in any month shall be the mean average of the previous month's daily Mid-of-Platts (MOPS) price postings. MOPS is the average of high and low price assessments reported in the Platt's Asia-Pacific/Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm.

The **FIXED SERVICE FEE** for all Fuel Oil delivered to certain GPA Plants identified on Schedule B hereto shall be as follows:

FIXED SERVICE FEE	2-year Base Period		3-Year Extension Options		
	1st year $/gallon (in 3 decimals)	2nd year $/gallon (in 3 decimals)	1st yr Extn $/gallon (in 3 decimals)	1st yr Extn $/gallon (in 3 decimals)	3rd yr Extn $/gallon (in 3 decimals)
1. Baseload Plants					
2. Tenjo Vista					
3. Fast Track Plants (Manenggon & Talofofo)					
4. TEMES CT					

5. Northern Plants (Dededo CT, Macheche CT, Yigo CT & Aggreko)					

Sample calculation of **CONTRACT PRICE:**

Delivery Month: November 2016

(1) Sample Calculation of **REFERENCE PRICE:**

REFERENCE PRICE= Average of Previous Month's Daily MOPS

Previous Month: October 2016

Average of the Daily MOPS for October 2016: $61.660 per Barrel

Average Price: $1.468 per Gallon (rounded to three decimal places)

REFERENCE PRICE for November 2016: $1.468 per Gallon

(2) Sample **FIXED SERVICE FEE:**

FIXED SERVICE FEE= $0.192 per Gallon (sample price)

(3) **CONTRACT PRICE**

CONTRACT PRICE = Reference Price + Fixed Service Fee

CONTRACT PRICE = ($1.468 + $0.192) per gallon

CONTRACT PRICE = $1.660 per gallon

This is the **CONTRACT PRICE** for fuel delivered to GPA for the sample month.

SECTION 5. FUEL OIL DELIVERY

All Fuel Oil must be delivered to the plant sites covered in this Contract. Title to the Fuel Oil shall pass from the **CONTRACTOR** to **GPA** when the Fuel Oil has passed the **GPA** pipeline flange connecting the tanker truck delivery hose and the **GPA** storage tanks. The **CONTRACTOR** shall be

available to deliver the Fuel Oil to the point of delivery as designated by **GPA** within twenty-four (24) hours notice or less of receiving a request. **CONTRACTOR** must be available to receive and accept delivery requests daily, including weekends and holidays. The **CONTRACTOR** shall provide transfer pumps at its delivery trucks and/or whatever else may be necessary to deliver Fuel Oil to **GPA** storage tanks to the height of 45 feet. Fuel Oil deliveries shall be on an "on call" basis. **CONTRACTOR** must closely coordinate with the plants and shall exercise its best efforts to deliver Fuel Oil to **GPA** to meet operational requirements regardless of the estimates provided by **GPA.**

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All risk of loss, cost and liabilities prior to the time of passage of title of the Fuel Oil shall be on the **CONTRACTOR**.

SECTION 6. TERMS OF PAYMENT

Invoices for Fuel Oil delivered pursuant to quantity (Fuel Oil receipts) and quality prescribed under the terms of this contract shall be submitted no more frequently than weekly, based on the number of Gallons of Fuel Oil delivered to **GPA** during the preceding period. The invoices must be supported by Fuel Oil receipts or receiving tickets including a receipt acknowledgement from a **GPA** representative. The payment terms are 30 days (net) beginning on the date the invoice is received by the **GPA** accounts payable section. All payments shall be based on the delivered quantity, corrected to volume (net) at 60 °F.

SECTION 7. WARRANTY AND CLAIMS

CONTRACTOR shall represent and warrant as follows:

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a. **Ability to Supply.**

CONTRACTOR shall commit to supply Product that ~~warrants that the Fuel Oil shall~~ meet the specification prescribed under Section 8 and Schedule A herein and other pertinent sections. If the Fuel Oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom.

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b. **Ability to Deliver.**

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CONTRACTOR shall own, lease or have the right to use tanker trucks, storage tanks, and other facilities sufficient to meet **CONTRACTOR**'s obligations under this Contract.

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CONTRACTOR shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of Fuel Oil supply and delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of its negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of Fuel Oil as specified in Section 4.

SECTION 8. PRODUCT AND QUALITY

Test Methods shall be in conformance with the prescribed procedures set forth by the American Society for Testing and Materials (ASTM) Standards for Petroleum Products, Lubricants, and Fossil Fuels, or alternative tests acceptable and subject to prior authorization by **GPA**.

The Fuel Oil delivered to **GPA** shall have the physical and chemical characteristics as described in Schedule A.

Quality determination shall be performed and certified by an independent third party laboratory facility acceptable to **GPA**. Certificate of Quality (COQ) shall be representative of the product in the **CONTRACTOR'S** storage facility in Guam.

SECTION 9. QUANTITY AND QUALITY ASSURANCE

CONTRACTOR'S 'Terminal Loading Rack' meters shall be utilized to determine the quantity of Fuel Oil delivered by tanker truck to **GPA** and shall be the basis for the Bill of Lading (BOL). **CONTRACTOR** shall have such meters calibrated no less than annually and shall furnish **GPA** a copy of the certificate of newly calibrated meter(s) within 10 days after the calibration date.
In the event of a dispute over the accuracy of the **CONTRACTOR's** meters, an independent third party mutually agreeable to both parties will be brought in to perform a recalibration. In the event of a miscalibration, the costs shall be borne by the **CONTRACTOR**. Any loss incurred by **GPA** as a result of miscalibration of meters shall be negotiated and returned to **GPA**.

Quantity shall be corrected to the volume at sixty degrees Fahrenheit. Conversion shall be made in accordance with the ASTM-IP Petroleum Measurement Tables (IP-200), Table 6B (latest edition).

Appropriate Certificate of Quality (COQ) reports shall also accompany each delivery and must be presented to the **GPA** receiving facility. Quality must conform with the requirements specified under Section 9 and Schedule A as a condition for acceptance of delivery.

In the event of a dispute over the quality of Fuel Oil received by **GPA**, an inspection of Fuel Oil will be conducted by an appointed third party inspector mutually acceptable to **GPA** and the **CONTRACTOR**.

CONTRACTOR is required to install security seals on valves and compartments of the delivery tanker trucks after Fuel Oil loading is completed. Seals shall remain intact upon inspection by the **GPA** receiving facility. Seal numbers shall be recorded in the delivery receipt and initialed by an authorized terminal representative. **GPA** reserves the right to reject deliveries with tampered or missing seals.

CONTRACTOR shall provide a comprehensive summary of the Fuel Oil delivery reports. **CONTRACTOR** shall tailor its reports to **GPA's** needs. **CONTRACTOR** shall submit copy(ies) of all Certificates of Quality (COQ) for the delivery month. Reports shall be submitted to the GPA within five (5) working days after each report month. **CONTRACTOR** shall also submit other reports and/or documentations that is relevant to the contract as may be required by the Authority.

SECTION 10. QUANTITY DETERMINATION

In the event of the variances between the BOL quantity and the GPA receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE-FOURTH (0.25 %) of the gallons established quantity; shortages beyond the 0.25% tolerance shall be covered by the **CONTRACTOR**.

GPA reserves the right to require the intervention of a third party independent inspector for quantity determination. Such inspector shall be mutually acceptable to **GPA** and the **CONTRACTOR.** All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 °F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

SECTION 11. SECURITY OF SUPPLY

CONTRACTOR is required to maintain a minimum of thirty (30) days inventory at the

CONTRACTOR'S ~~own~~ Guam storage facility. A list of the plant requirements is listed in Schedule C.

For security of supply in the event of unexpected, unplanned or forced baseload outages, severe typhoon or other calamities, **CONTRACTOR** shall prioritize delivery to **GPA** and guarantee uninterrupted supply of Fuel Oil up to the maximum daily consumption for each plant location as listed in Schedule D, during the recovery period.

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CONTRACTOR reserves the right to supply Fuel Oil meeting **GPA** quality specifications from any source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in Section 4 above.

CONTRACTOR must submit a month-end Fuel Oil inventory report to **GPA**.

GPA reserves the right to audit the **CONTRACTOR** for safety fuel inventory stock compliance. Such audit shall be in accordance with generally accepted accounting practices.

SECTION 12. GOVERNMENT LAWS AND REGULATIONS

(a) If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent **GPA** from burning the type of Fuel Oil to be supplied hereunder, **GPA** shall use its best efforts to obtain an exemption. In the event **GPA** cannot obtain an exemption from such laws and regulations, **CONTRACTOR** shall use its best efforts to furnish **GPA** substitute Fuel Oil which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute Fuel Oil causes an increase or decrease in **CONTRACTOR** 's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by **CONTRACTOR** of the notification of substitute Fuel Oil in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Governing Law and Disputes"(Section 20). However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract Fuel Oil specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the

parties cannot mutually agree upon the price at which **CONTRACTOR** is to furnish such substitute Fuel Oil, and **CONTRACTOR** refuses to provide such substitute Fuel Oil at the Contract price set out herein shall **GPA** then have the option of purchasing from other sources Fuel Oil at a lower price than that offered by **CONTRACTOR** in such negotiations which complies with such laws and regulations, but in any event, the **CONTRACTOR** shall have no recourse, other than those specified herein.

(b) **CONTRACTOR** shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 13. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 14. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

(a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;

(b) Restraints. Arrest or restraint of princes, rulers or peoples;

(c) Confiscation. Expropriation, requisition, confiscation or nationalization;

(d) Rationing. Embargoes, export or import restrictions or rationing or allocation, whether imposed by law, decree or regulation or by voluntary cooperation of industry at the insistence or request of any governmental authority or person purporting to act therefor;

(e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;

(f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;

(g) Loss of Tankers. Loss of tanker tonnage due to sinking by belligerents or to governmental taking whether or not by formal requisition;

(h) Accidents. Accidents to or adjuncts of shipping navigation;

(i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;

(j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;

(k) Taking by Government. Unavailability of Fuel Oil because of the election of the government of the country of its origin to take royalty product in kind;

(l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 15. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 14, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 16. PAYMENT REQUIRED

Notwithstanding the provisions of Section 14, supra, **GPA** shall not be relieved of any obligation to make payments for any Fuel Oil delivered to Guam dock/**GPA** tanks hereunder; however, during the force majeure condition the obligation shall be suspended, except for Fuel Oil deliveries made prior to the force majeure condition.

SECTION 17. PRORATION OR EQUITABLE ALLOCATION

If any of the events enumerated in Section 14, supra, have occurred, **CONTRACTOR** shall prorate or otherwise allocate in a fair and equitable manner among its customers, including **GPA**, the supplies of Fuel Oil **CONTRACTOR** have available for delivery at the time of the occurrence or for the duration of such event taking into account **GPA**'s unique situation as Guam's total dependence on Fuel Oil. **CONTRACTOR** shall also seek an alternative source of Fuel Oil to fulfill its contractual obligations.

SECTION 18. ALTERNATE SUPPLY

CONTRACTOR reserves the right to supply Fuel Oil meeting **GPA** specifications from any alternate source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in Section 4 above.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 14, supra, or if there is a sudden, unexpected increase in fuel demand that CONTRACTOR will be unable to supply at the time needed, **CONTRACTOR** shall seek an alternative source of Fuel Oil so long as such condition shall exist.

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In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the **CONTRACTOR**, **CONTRACTOR** shall seek an alternative source of Fuel Oil so long as such condition shall exist, without additional cost to **GPA**.

GPA may at its sole discretion seek an alternative source of Fuel Oil so long as such condition of negligence shall exist. If the cost of Fuel Oil during such period of negligence shall exceed the

Comment [ANF1]: 1.Contractor becomes negligent if they do not comply with last sentence of the 2nd paragraph.
2.Additional verbiage may be needed to be able to implement this clause without violating the Contract or any Procurement Law.

Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

Comment [ANF2]: Do we need to include any damages?

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SECTION 19. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any Fuel Oil to be sold under the Contract for the reasons which fall within the provisions of Section 14, supra, then the party so prevented shall, as to the remainder of the Fuel Oil not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 14, supra, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 20. GOVERNING LAW AND DISPUTES

(a) All controversies between **GPA** and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by **GPA** pursuant to Guam Procurement laws and regulations.

(b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.

(c) The **CONTRACTOR** shall comply with any decision of **GPA** and proceed diligently with performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of **GPA** has made a written determination that continuation of work under the Contract is essential to the welfare of the Territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.
The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the

resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 21. CONTRACTOR'S INSURANCE

CONTRACTOR shall not commence work under this Contract until he has obtained all insurance required under this section and such insurance has been approved by **GPA**, nor shall the **CONTRACTOR** allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to GPA within the period prescribed by **GPA**. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

Failure on the part of the **CONTRACTOR** to provide the required documents and/or to enter into a contract with **GPA** shall be sufficient grounds for the annulment of the award. **GPA** may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

A. **WORKMEN'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE:** The **CONTRACTOR** shall take out and maintain during the life of this Contract the applicable statutory Workmen's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable State or Territory covering all his employees, and in the case of any work sublet, the **CONTRACTOR** shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees. The **CONTRACTOR** shall secure and maintain, during the life of this Contract, Employer's Liability Insurance with a limit of $500,000 with an insurance company authorized to write such insurance in all states or territories where the Contractor will have employees located in the performance of this Contract. **CONTRACTOR** shall

provide a Waiver of Subrogation in favor of **GPA** via endorsement to the Workers Compensation policy.

B. COMMERCIAL GENERAL LIABILTY:

1. The **CONTRACTOR** shall maintain, during the life of this Contract, such Commercial General Liability as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from operations under this Contract whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided Liability Insurance shall be as follows:

Bodily Injury Limits:	$ 1,000,000 Each Person
Property Damage Limits:	$ 1,000,000 Each Occurrence
	$ 2,000,000 Aggregate

2. The Commercial General Liability required by the preceding Subparagraph 1 shall include the following extensions of coverage:

(a) The property damage coverage shall include a Broad Form Property Damage Endorsement.

(b) Contractual Liability coverage shall be included.

(c) Protective Liability coverage shall be included to protect the **CONTRACTOR** against claims arising out of operations performed by his Subcontractors.

(d) Products Liability and/or Completed Operations coverage shall be included.

(e) **GPA** shall be an additional insured on Commercial General Liability policy.

(f) **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA.**

C. AUTOMOBILE LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, such Automobile Liability insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for him in any

capacity in connection with the carrying out of this Contract. **GPA** shall be an additional insured on Auto Liability policy. **CONTRACTOR** will grant Waiver of Subrogation in favor of **GPA**. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits:	$ 1,000,000 Each Person
	$ 1,000,000 Each Occurrence
Property Damage Limits:	$ 1,000,000 Each occurrence

D. POLLUTION LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, Pollution Liability Insurance with minimum limits of $5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of **GPA**. **GPA** is to be an additional insured.

E. EXCESS LIABILITY

Excess Liability with limits of $5,000,000. **GPA** shall be an additional insured. **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**.

F. CERTIFICATE OF INSURANCE:

The **CONTRACTOR** shall furnish **GPA** with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give **GPA** at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the **CONTRACTOR** shall furnish a Certificates of Insurance evidencing renewal of such coverage to **GPA**. The Certificates of Insurance shall clearly show this Contract number.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to **GPA** as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

G. SUBCONTRACTOR'S INSURANCE:

The **CONTRACTOR** shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the **CONTRACTOR** under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the **CONTRACTOR** two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph C. above. The **CONTRACTOR** shall furnish one (1) copy of the certificate to **GPA**.

H. INSURANCE COMPANY AND AGENT:

All insurance policies herein required of the **CONTRACTOR** shall be written by a company duly authorized to do business in the Territory where supply under this Contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

SECTION 22. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any Fuel Oil spillage caused by it or its agent or **CONTRACTOR**s during the process of Fuel Oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any transportation owned or leased by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90).

SECTION 23. TRANSPORTATION

CONTRACTOR shall arrange for the transportation of the Fuel Oil to **GPA**.

All risk of loss, cost and liabilities prior to the time of passage of title of the Fuel Oil to shall be on the **CONTRACTOR.**

CONTRACTOR 's and **GPA**'s rights and duties under Section 22 and Section 23 do not supersede or control the provisions of Section 14 Force Majeure.

SECTION 24. FAILURE TO SUPPLY

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of Fuel Oil supply or commits any other substantial breach of this Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure Fuel Oil supply from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 25. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

(a) Terminate the Contract forthwith or forthwith suspend delivery under the Contract until further notice, on notifying **GPA** orally or by notice in writing; or

(b) Continue to supply Fuel Oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 26. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR** 's performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an

act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon THRITY (30) days written notice.

SECTION 27. DEFAULT

If a PARTY refuses or fails to perform any of its obligations under this Contract, the non-breaching PARTY shall notify the PARTY either by e-mail or in writing within thirty (30) days of the breach. If the PARTY does not remedy the breach within thirty (30) days after the date of notification, non-breaching PARTY may by giving notice to the other PARTY terminate the Contract in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, **GPA** reserves the right to procure Fuel Oil supply from another source upon notification to **CONTRACTOR** either by e-mail or in writing. Fuel Oil to be procured shall be at the prevailing market price at the time of partial termination or suspension.

In the event of termination because of **GPA's** default, the **CONTRACTOR** shall not be liable for the difference between the Contract price and the prevailing market price at the time of termination.

SECTION 28. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 29. TERMINATION FOR CONVENIENCE

(a) **Termination**.

The delivery of Fuel Oil supply under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which supply of Fuel Oil under the Contract is terminated, and the Contract shall be terminated effective ~~THREE HUNDRED SIXTY FIVE (365)~~ NINETY (90) days after receipt of notice by **CONTRACTOR**.

Comment [ANF3]: 365 days may be too restrictive for GPA.

In the case of termination of this Contract, **GPA** shall reimburse the **CONTRACTOR** of all the expenses related to the period of the Performance Bond that were not used.

(b) **CONTRACTOR's OBLIGATIONS.**

The **CONTRACTOR** shall incur no further obligations in connection with the terminated Fuel Oil supply and delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of Fuel Oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for Fuel Oil supply. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and Contracts, if any, connected with the terminated Fuel Oil supply. **GPA** may direct the **CONTRACTOR** to assign the **CONTRACTOR'S** right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver Fuel Oil where supply is not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) **Compensation.**

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within ONE (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** 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 by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code of Guam, and the Contract price of the Fuel Oil supply not terminated.

(3) Absent complete agreement under subparagraph (2) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

(i) Fuel Oil Contract prices for supplies or services accepted under the Contract by **GPA**;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of Fuel Oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted Fuel Oil supplies or services; provided, however, that if it appears that the **CONTRACTOR** would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of Contracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;

(iv) 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 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 this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code.

SECTION 30. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 31. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 32. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving fifteen (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____
_____
_____
_____
_____
_____

SECTION 33. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 34. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter **CONTRACTOR**'s obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the Contract without **GPA**'s consent which may be given or refused at **GPA**'s absolute discretion.

CONTRACTOR and **GPA** shall not transfer or assign its rights and obligations under this contract, in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, the **CONTRACTOR** may transfer or assign its rights and obligations under this contract, in whole or in part, to a US based affiliate (as defined hereinafter), with ninety (90) days prior notice to and at the consent of **GPA**. For the purpose of this contract, "US based affiliate" means any company or legal entity based in the United States of America which (a) controls either directly or indirectly a party hereto, or (b) is controlled directly or indirectly by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such party. "Control" for purposes of the previous sentence means the ability to direct the management and policies of a company or legal entity, whether through ownership of securities, by contract or otherwise.

SECTION 35. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 36. SPECIFICATIONS

Should **GPA** wish to alter any of the specifications set out in Section 8 and Schedule A, method and terms of delivery, for good cause, it shall give written notice to **CONTRACTOR** within thirty (30) days. If such changes cause an increase or decrease in **CONTRACTOR**'s cost of performance of Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim by **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from the date of receipt by **CONTRACTOR** of the notification of changed specifications. **CONTRACTOR** and **GPA** shall, in good faith, negotiate an equitable adjustment pursuant to the change in specifications. If **CONTRACTOR** and **GPA** fail to agree on the adjustment to be made within thirty (30) days after **CONTRACTOR** receives notice of altered specifications, or if **CONTRACTOR** is unwilling to meet the altered specifications, the parties shall be subject to the provisions under Section 20 (Governing Law and Disputes) clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract Fuel Oil specifications as changed.

SECTION 37. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind **GPA**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 38. DESCRIPTIVE HEADINGS

The descriptive headings of the several sections and subsections in this Contract are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 39. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 40. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 41. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 42. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 43. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 44. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRIRORY.

5 GCA §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION 45. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

5 GCA §5253(b) restricts the **CONTRACTOR** against employing convicted sex offenders from working at Government of Guam venues. It states:(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the **CONTRACTOR** has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the

CONTRACTOR is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

SECTION 46. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the **IFB-GPA- -17**. This Contract is subject to the approval of **GPA** and the Public Utilities Commission and it shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority (GPA):**

_____ _____
John M. Benavente, P.E. **DATE**
General Manager

For **(CONTRACTOR):** _____.

(Company Seal)

_____ _____
CONTRACTOR, Duly Authorized **DATE**
REPRESENTATIVE OF COMPANY

APPROVED AS TO FORM:

Graham Botha, Legal Counsel
GUAM POWER AUTHORITY

DATE

SCHEDULE A: PRODUCT QUALITY SPECIFICATION

DIESEL FUEL Oil No. 2 [A]

Property	ASTM Test Method [B]	Alternate Method ASTM	Unit of Measure	Limits	
Flash Point	D93		°C	55	Min
Water & Sediment	D2709		% vol	0.05	Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 360	Min Max
Kinematic Viscosity	D-445		mm^2 at 40°C	1.9 4.1	Min Max
Ash	D482		% mass	0.01	Max
Sulfur	D5453	D-7039	ppm (µg/g)	12	Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1	Max
Cetane Index	D 613	D976-80 D 4737		46	Min
Aromaticity	D1319		% vol	15 35	Min Max
Micro Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20	Max
Lubricity, HFRR @ 60°C	D6079		Micron	400	Max
Conductivity	D2624	D4308	pS/m	50	Min
Density @ 15°C	D1298	D4052	Kg/m^3	820 850	Min Max
Gravity, API @ 60°F	D1295	D4052		35 41	Min Max
Color	D1500		ASTM	2.0	Max
Strong Acid No.	D974		mg KOH/g	NIL	
Total Acid No.	D974		mg KOH/g	0.4	Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25	Max
Appearance @ ambient temp	Visual			Report	
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70	Min

[A] Follows the minimum requirements for **Ultra-Low Diesel Fuel Oils (ULSD)** listed under ASTM 975-10.

[B] These test methods are specified in 40CFR Part 80. Test methods must follow the latest version.

[C] Appearance must be clear at ambient temperature and free from undissolved water and sediment.

The Authority may require the supplier to conduct additional test as may be required for plant's performance/efficiency evaluation.

Comment [ANF4]: Limits for adjusted providing allowance to critical parameters to ensure results wil still meet ASTM requirements in the event of discrepancies of test results between loadport & discharge port.

Comment [ANF5]: Increased from 52

Comment [ANF6]: Reduced from 15

Comment [ANF7]: Reduced from 460

Comment [ANF8]: Increased from 25

Comment [ANF9]: Reduced from 0.5

SCHEDULE B: ESTIMATED ANNUAL FUEL OIL REQUIREMENTS

This information is provided as reference material only. Although every attempt has been made to ensure it accuracy, GPA makes no guarantees that these quantities will be achieved but they may be exceeded. GPA expressly disclaims any liability whatsoever arising from reliance or non-reliance of the data provided.

Plant Location	Name of Plant	Estimated Annual Requirement (Gallons per Year)
1. Baseloads	Cabras 1&2, MEC 8&9	**100,000 – 200,000**
2. Tenjo Vista	Tenjo Vista	**5,000,000 - 7,000,000**
3. Fast Tracks	Talofofo	**3,000,000 - 4,000,000**
	Manengon	
4. TEMES CT	TEMES CT	**3,000,000 - 5,000,000**
5. Northern Plants	Dededo CT	**9,000,000 - 12,000,000**
	Macheche CT	
	Yigo CT	
	Aggreko	
TOTAL		**20,060,000 - 28,100,000**

Actual quantities may vary depending on the dispatching of the plants. The estimated Fuel Oil requirement provided herein are only approximate values and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the estimated fuel oil requirements.

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SCHEDULE C: 30-DAYS MINIMUM INVENTORY REQUIREMENTS

Plant Location	Name of Plant	30-days Minimum Inventory Requirements (Gallons)
1. Baseloads	Cabras 1&2, MEC 8&9	**20,000**
2. Tenjo Vista	Tenjo Vista	**500,000**
3. Fast Tracks	Talofofo	**250,000**
	Manengon	
4. TEMES CT	TEMES CT	**250,000**
5. Northern Plants	Dededo CT	**750,000**
	Macheche CT	
	Yigo CT	
	Aggreko	
TOTAL		**1,770,000**

The estimated Fuel Oil requirement provided herein is subject to change. **GPA** shall reasonably notify the **CONTRACTOR** for any changes in the Fuel Oil requirements.

SCHEDULE D: PLANT CONSUMPTION AT MAXIMUM CAPACITIES

Plant Location	Name of Plant	Max. Load per Plant (MW)	Plant Efficiency (kwh/gal)	Fuel Consumption per unit (gals/hr)	(gals/day)	No. of Units	Total Fuel Consumption at Maximum Capacity (gals/day)	
Tenjo Vista	Tenjo Vista	4.4	13.60	324	7,765	4	**31,059**	**31,059**
Fast Tracks	Talofofo	4.4	14.34	307	7,364	2	**14,728**	**31,999**
	Manengon	5.3	14.73	360	8,635	2	**17,271**	
TEMES CT	TEMES CT	40.0	9.16	4,367	104,803	1	**104,803**	**104,803**
Northern CTs	Dededo CT	22.0	9.56	2,301	55,230	2	**110,460**	**277,203**
	Macheche CT	22.0	10.45	2,105	50,526	1	**50,526**	
	Yigo CT	22.0	11.64	1,890	45,361	1	**45,361**	
	Aggreko	1.0	13.21	76	1,817	39	**70,855**	
TOTAL								**445,064**

RECEIVED
FEB 23 2017
Public Utilities Commission
GUAM

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:	)	GPA Docket 17-18
	)	
THE APPLICATION OF THE GUAM	)	
POWER AUTHORITY FOR APPROVING	)	**ORDER**
THE PROCUREMENT FOR SUPPLY OF	)	
DIESEL FUEL OIL TO GPA	)	
	)	

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Guam Power Authority's ["GPA"] Petition for PUC review and approval of GPA's Procurement for Supply of Diesel Fuel Oil.[1]

BACKGROUND

2. GPA's present contracts with IP&E Guam and Mobil Oil Guam to supply diesel fuel oil No. 2 for its base load and peaking units were originally approved by the PUC in GPA Docket 14-05 on December 1, 2014.[2]

3. The present contracts, for a three year base period, expire on December 31, 2017.[3] Although the contracts would allow GPA to extend for two additional one-year terms, GPA has determined that a new solicitation is needed to reflect necessary changes and to update GPA's supply requirement.[4]

4. The Guam Consolidated Commission on Utilities ["CCU"] authorized GPA to petition PUC for approval to issue bids to procure a contractor for the supply of Diesel Fuel Oil No. 2 for the Baseload Plants, Fast Track Diesel Plants, and Combustion Turbine Plants.[5] PUC approval is required as the total cost for the new contract will exceed $1.5M under the Contract Review Protocol.[6]

5. GPA proposes that the solicitation of competitive bids for a new diesel fuel supply contract be through a Multi-Step Bid Process.[7] GPA submits that diesel fuel oil is

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[1] GPA Petition for Contract Review, GPA Docket 17-18, filed February 9, 2017.
[2] PUC Order, GPA Docket 14-05, dated December 1, 2014.
[3] Guam Consolidated Commission on Utilities Resolution No. 2017-05, adopted January 24, 2017, p. 1.
[4] Id.
[5] Id. at p. 2.
[6] Id. at p. 1.
[7] Id.

essential to the operation of the diesel power plants, and that a contract for such supply is reasonable, prudent, and necessary.[8]

DETERMINATIONS

6. Diesel fuel oil No.2 is utilized at various GPA Baseload, Diesel Fast Track and Combustion Turbine Plants. These include Baseloads (Cabras 1&2 and MEC 8&9), the Peaking Units (Tenjo Vista, Fast Tracks: Manenggon and Talofofo), and Combustion Turbines (TEMES Ct and the Northern Diesel Plants: Dededo Ct, Macheche CT, and Yigo CT).[9]

7. Diesel fuel assists GPA in providing a stable and uninterrupted supply of electricity to meet the island wide utility power demand.[10]

8. GPA needs to issue an IFB for diesel fuel so that it can secure a new contract which will provide GPA with a continuous supply of diesel fuel necessary to maintain the Authority's electric power generation capacity.

9. As a result of the Cabras 3&4 explosion in August 2015, GPA's consumption of diesel fuel has greatly exceeded (by 380%) the amounts that were anticipated under the existing contract. The estimated annual fuel oil requirements under the new contract which GPA seeks to procure will be substantially higher. See Exhibits A and B to CCU Resolution No. 2017-05, true and correct copies of which are attached to the PUC Counsel Report herein dated February 13, 2017.[11]

10. GPA's Petition includes a Draft Bid Package for the Multi-Step Bid for the supply of Diesel Fuel Oil No. 2.[12] In accordance with the draft bid, GPA will seek to procure between 20,060,000 and 28,100,000 gallons of diesel fuel oil per year.[13] GPA will first determine which bidders are qualified under the technical bid, and then will select

[8] GPA Petition for Contract Review, GPA Docket 17-18, filed February 9, 2017, at p. 2.
[9] Guam Consolidated Commission on Utilities Resolution No. 2017-05, adopted January 24, 2017, at p. 1.
[10] Guam Consolidated Commission on Utilities Resolution No. 2012-10, Schedule 1, at p. 4 of 8.
[11] Guam Consolidated Commission on Utilities Resolution No. 2017-05, adopted January 24, 2017, Exhibit A and Exhibit B (copies of which are attached to the PUC Counsel Report dated February 13, 2017).
[12] GPA submitted a Compact Disc, with the Draft Bid Package, to the Office of PUC Counsel on February 14, 2017.
[13] Guam Consolidated Commission on Utilities Resolution No. 2017-05, adopted January 24, 2017, Exhibit B.

the bidder whose proposal yields the lowest overall Contract Price for the contract base year period.[14]

11. GPA has also proposed a draft contract for the selected bidder.[15] The contract term will be for a term of two years, to commence on January 1, 2018, and continue until midnight of December 31, 2019. GPA will have an option to extend the contract for three (3) additional one (1) year terms, renewable annually, with the mutual agreement of both parties.[16]

12. The Contract has various provisions designed to protect GPA and its ratepayers, including warranty and quality assurance provisions, indemnity and insurance requirements, provisions for termination for the convenience of GPA, etc.[17]

13. The Contract also has provisions indicating that GPA's estimates for volume of diesel fuel to be utilized are estimates only, and shall in no manner work to the detriment of GPA.

14. The proposed Contract appears to adequately protect the interests of GPA and its ratepayers.

ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of GPA, the PUC Counsel Report, and for good cause shown, on motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GPA's request to proceed with the procurement for supply of Diesel Fuel to GPA for the Baseload plants, Fast-Track Diesel Plants, and Combustion Turbine Plants is hereby approved.

2. GPA has demonstrated a clear need for Diesel Fuel Oil No. 2 for its plants, and such fuel is essential to the operation of the plants. It is reasonable, prudent, and necessary for GPA to proceed with procurement for the supply of diesel fuel oil.

[14] Draft IFB Bid Package, Vol. 1 Commercial Terms and Conditions, §§4.2 and 4.3, pgs. 23-25.
[15] GPA Petition for Contract Review, GPA Docket 17-18, filed February 9, 2017, IFB, Volume II CONTRACT.
[16] Id., Volume II CONTRACT, Section 3, at p. 9 of 38.
[17] Id., CONTRACT, at pgs.12 of 38 through 23 of 38.

3. Once a final contract for supply of diesel fuel oil has been negotiated, GPA should submit such contract to the PUC for final review and approval.

4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducing the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

PUC Order
Approval of GPA Procurement
for Supply of Diesel Fuel Oil
GPA Docket 17-18
February 23, 2017

Dated this 23rd day of February, 2017.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Peter Montinola
Commissioner

Michael A. Pangelinan
Commissioner

Andrew L. Niven
Commissioner

Filomena M. Cantoria
Commissioner

Invitation For Multi-Step Re-Bid

GPA-057-17

Diesel Fuel Oil No.2

A. Supply to GPA Bulk Storage

B. Delivery to GPA Plants

Volume I

Commercial Terms and Conditions

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Volume I: Commercial Terms and Conditions

1. INTRODUCTION

The Guam Power Authority (GPA), hereinafter referred to as GPA, is a public utility corporation that provides electric power service throughout the entire island of Guam. GPA, in conjunction with Private Partners, operates and maintains power plants, with a total rated capacity of about 435 MW. The diesel-fueled power plants total capacity is about 215 MW.

GPA is inviting interested Firms to participate in a Multi-Step Bid for Diesel Fuel Oil No.2 as follows:

A. Supply to the GPA Bulk Storage
B. Delivery to the GPA Power Plants

The Supply Contract shall be for TWO (2) years to commence on or about **July 01, 2018** with THREE (3) year extension options, renewable annually upon mutual agreement of both parties.
The Delivery Contract shall be for FIVE (5) years to commence on or about **July 01, 2018 .**

All interested parties are hereby on notice that minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color and national origin in consideration for an award. The right is reserved to reject any or all bids and to waive any imperfection in the bids in the interest of the Guam Power Authority.

Table 1: Bid Milestones indicate the projected start and end dates for the milestones in the Bid Process. **GPA reserves the right to change the Bid Milestones at its sole discretion.** Bidders are encouraged to confirm with GPA any of the scheduled milestones via an official letter to GPA.

Table 1: Bid Milestones

Bid Process Milestones		From	To
Bid Announcement		10/23/2017	11/30/2017
Pre-Bid Conference (Non-mandatory)		11/08/2017	(10:00 am)
Site Visit (Non-mandatory)		11/08/2017	(1:30 pm)
Submit Questions		10/24/2017	11/24/2017
Cut Off Date for Receipt of Questions		11/24/2017	
GPA Review and Answer Questions		10/24/2017	11/30/2017
Vendor Prepare Bids		10/24/2017	12/15/2017
Cut Off Date for Receipt of Proposals (Technical and Price Proposals)		12/15/2017 2:00 PM Guam Time	
EVALUATION Step One:	Technical Proposal (Bid) Evaluation	12/27/2017	01/05/2018
	GM review and approval	01/08/2018	01/12/2018
	Notify Qualified Bidders	01/15/2018	01/29/2018
Price Proposal Opening		01/31/2018 2:00 PM Guam Time	
EVALUATION Step Two:	Price Proposal Evaluation	02/05/2018	02/09/2018
GM Approval		02/12/2018	02/16/2018
Notice of Intent To Award		02/19/2018	03/04/2018
CCU Approval		03/15/2018	03/22/2018
PUC Approval		03/29/2018	
Contract Signing		04/02/2018	
Contract Mobilization		04/02/2018	06/30/2018
Contract Commencement		07/01/18	

1.1. Invitation for Bid (IFB) Document Organization

Invitation for Bid (IFB) documents are organized into three separate volumes, as follows:

Volume I — Commercial Terms and Conditions

Volume II — Contract

Volume III — Appendices

In addition, the IFB documents include two (2) sets of electronic spreadsheets (MS Excel Workbooks):

- Qualitative Proposal Scoring.xls

- Price Proposal Evaluation.xls.

1.2. Overview and Scope

The CONTRACTOR shall provide GPA with Diesel Fuel Oil No.2 Supply and/or Delivery Services in compliance with the requirements specified in Volume II (CONTRACT) of this bid. The CONTRACTOR shall also provide qualified and trained personnel to safely, efficiently and legally supply and/or deliver the services required by the Authority under this IFB.

The **estimated** total diesel fuel oil requirement is provided in of Volume II (CONTRACT)- Section 2 and Schedule B of the solicitation package.

Product quality specification is prescribed in Volume II (Contract) - Section 9 and Schedule A of the solicitation package.

1.2.1. CONTRACT TERM

A. Supply to GPA Bulk Storage

The Contract Term for the base period shall be for TWO (2) years and shall commence on or about after 0:00 hour on July 01, 2018, and shall continue until midnight of June 30, 2020 with options to extend for THREE (3) additional One (1) year term, upon mutual agreement of both parties.

B. Delivery to GPA Plants

The Contract Term shall be for FIVE (5) years and shall commence on or about after 0:00 hour on July 01, 2018, and shall continue until midnight of June 30, 2023.

The first supply and/or delivery of fuel oil pursuant to the Contract is anticipated to be on or about July01, 2018.

1.2.2. CONTRACT PRICE

The total contract price in U.S. Dollars per U.S Gallon for all diesel fuel oil delivered to GPA shall be inclusive of all costs and liabilities incurred prior to supply and/or delivery. The contract price structure is described in detail in Volume II (Contract) – Section 4 of the solicitation package.

2. INSTRUCTIONS TO BIDDERS

2.1. Introduction

This is a Multi-step Bid Procurement. The **Technical and Price Proposals should both be submitted on or before the Cut-off Date of Receipt of Proposals**.

In Step One, only the submitted Technical Proposals will be evaluated and determined whether Acceptable or Unacceptable. BIDDERs whose Technical Proposals are determined to be Acceptable shall qualify for Step Two. BIDDERs whose Technical Proposals are Unacceptable shall be notified, and the unopened Price Proposal packages shall be returned.

In Step Two, the Price Proposals of the Bidders whose Technical Proposals that are determined to be Acceptable, either initially or as a result of discussions, will be considered for award.

2.2. Language and Correspondence

The official language of Guam is English. The bid and all accompanying documents shall be in English. Any prospective BIDDER desiring an explanation or interpretation of the solicitation, commercial terms, Technical Specification, etc., must make a request in writing to GPA at the address listed below, referencing the Invitation for Bid No.

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

FAX: 1 (671) 646-3054 / 55
Attention: Supply Management Administrator

The written request may also be sent via-email by sending an electronic copy of the written request to the Procurement Officer handling the IFB.

Any information given to a prospective BIDDER concerning a solicitation will be furnished promptly to all parties recorded by Procurement as having received the Invitation for Bid as an amendment to the solicitation if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective BIDDERs. Oral explanations or instructions given will not be binding.

2.3. Technical and Functional Requirements Examination

BIDDERs are required to carefully examine all tender documents inclusive of all technical and functional requirements and to inform themselves of all conditions and requirements of the solicitation in accordance with the laws and regulations of the Territory of Guam. Ignorance on the part of BIDDERs of any part of the tender documents and Technical and Functional Requirements will in no way relieve them of the obligations and responsibilities assumed under the contract.

2.4. Facility Tours

All prospective BIDDERs shall, at their own expense, visit Guam and GPA's Fuel Receiving Facilities to study local conditions, facilities available, craft wages, roads, communications, and transport facilities available. BIDDERs should also acquaint themselves with the relevant laws, rules, and regulations of Guam.

For the purpose of familiarizing BIDDERs with the fuel receiving facilities, BIDDERs may request GPA for a scheduled Facility Tour. All requests must be submitted as specified in Section 2.2. Upon approval and subject to the availability of the facility, GPA shall coordinate with the BIDDER regarding the tour details.

2.5. Solicitation Amendment

Any amendment, modification or addendum issued by the Guam Power Authority, prior to the opening of the proposals, for the purpose of changing the intent of the Technical and Functional Requirements, clarifying the meaning or changing any of the provisions of this Invitation for Bid, shall be binding to the same extent as if written in the tender documents. Any addendum issued will be made available to all BIDDERs via mail, fax, e-mail or posting to the ftp site.

Announcements regarding any Amendment shall also be posted at the GPA Website at **http://www.guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php**. BIDDERs

shall acknowledge receipt of the amendment by a signature on one copy, which is to be returned to the GPA Supply Management Administrator. Acknowledgement may also be made by fax or e-mail.

2.6. Familiarity With Laws

The BIDDER shall be familiar with all Federal (U.S.) and local laws, ordinances, rules and regulations of Guam that in any manner affect the work. Ignorance of law on the part of the BIDDER will not relieve the BIDDER from responsibility.

2.7. Cost of Bidding

BIDDERs shall bear all costs associated with the preparation and submission of its proposal. GPA will not be responsible or liable for those costs, regardless of the outcome of the IFB process.

2.8. Price/Cost Data

BIDDERs shall provide prices/costs in U.S. Dollars. BIDDERs are required to furnish **a bid price for each year of the contract specified in the price proposal form of the IFB documents.**

Technical and Price Proposals shall be submitted on or before the Cut-off Date for Receipt of Proposals, with the Price Proposal on a separate sealed envelope marked "PRICE PROPOSAL" and indicating the date and time of bid package remittance.

2.9. Documents Executed Outside of Guam

The Power of Attorney, performance bond guarantee, and documents defining the constitution of the joint venture, consortium, company or firm, if executed outside Guam, whether required to be submitted with the proposals or after the award of the contract, must be authenticated by a Notary Public or other official authorized to witness sworn statements.

2.10. Proposal Submittal

This section outlines the requirements for proposal submittals, including the proposal package format and content required by GPA. The BIDDERs are advised to keep a copy of all documents submitted, including the Workbooks, and test electronic copies on disk prior to submission to GPA.

2.10.1. Technical Proposal Requirements

Each BIDDER's Technical Proposal Package shall include, but is not limited to, the following:

- Complete printed copies of the Technical Proposal;
- Complete printed responses and supporting information to the questions raised in the Qualitative Proposal Scoring Workbook;
- Complete printed and electronic copies of the Qualitative Proposal Scoring Workbook in a separate sealed envelope marked "TECHNICAL (UNPRICED) PROPOSAL";
- Checklist forms defined in Volume III- Appendix A;
- All other required forms defined in Volume III Appendices; and
- Supplementary information as described below.

The Technical Proposal Package shall be submitted in the format and quantities described below.

2.10.1.1 Technical Proposal

Each BIDDER's Technical Proposal shall include the following:

a. Business Structure and Business Approach

The CONTRACTOR shall provide company information such as name, local address, corporate headquarters (if any) and affiliate company in support for the performance of its contractual obligations. The business structure and nature of services provided shall be provided together with the company information. A copy of the Articles of Incorporation and By-Laws or other applicable forms concerning the business organization is also requested. The CONTRACTOR shall outline business concepts to be used in order to perform, meet, and achieve the objectives of this solicitation.

b. Experience and Qualification

The contractor shall provide supporting information showing extensive and reliable experience in the supply or distribution of diesel fuel oil. The CONTRACTOR shall demonstrate its experience and expertise in the supply of Diesel Fuel Oil No.2 by providing the following:

- Supporting information outlining and/or illustrating past and current successful experience in the supply of Diesel Fuel Oil No.2. Include list of clients for the last five (5) years.
- Experience with Fuel Handling.

Contractor shall also provide documentary evidence of conformity with the Product Quality Specifications set in Volume II Section 9 and Schedule A for the types of fuel to be supplied.

c. Statement of Qualification/ Organizational Structure

The CONTRACTOR shall illustrate its approach in supplying Diesel Fuel Oil No.2 to GPA. The CONTRACTOR shall provide an organizational structure including the names and designations of personnel to be assigned in this contract, including a brief description of the qualifications and responsibilities of each personnel.

The contractor shall also provide its qualifications, and its affiliates' qualifications in the performance of the requirements of this contract.

d. Financial Information

The CONTRACTOR shall provide documentation to illustrate its financial position and capability.

e. Federal and Regulatory Compliance

The CONTRACTOR shall provide supporting documents showing knowledge and experience in complying with federal regulations and other applicable laws on Guam, such as OPA 90 and others, including documents showing compliance with all federal regulations and applicable laws.

f. Client references

At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERs (include the Client Name, Position, Company and copies of contracts with the BIDDERs or AFFILIATES). At least three (3) client reference letters shall be provided, along with a letter describing the relationship with the BIDDER, and the BIDDER's contract performance.

g. Mobilization Capability

The BIDDER shall provide proof of capability to mobilize full support services no later than 30 days after contract signing.

2.10.1.2. Qualitative Proposal Scoring Workbook

The bidder shall submit copies of the Qualitative Proposal Scoring Workbook, prepared as instructed in the **Proposal Instructions** tab. Quantities shall follow the requirements specified in Section 2.10.1.5 of this Volume. For each checklist item, the bidder shall provide references on the responses and supporting documents.

2.10.1.3. Required Forms

Submittal of required forms as specified in Section 3 of this volume, as well as in Volume III Appendices, is mandatory. GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms listed below:

1. A copy of the BIDDER's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;
2. Certificate of Good Standing to conduct business in jurisdiction of residence;
3. Information regarding outstanding claims against the BIDDER;
4. Affidavit of Disclosure of Major Shareholder (Appendix D);
5. Non-collusion Affidavit (Appendix E);
6. No Gratuities or Kickbacks Affidavit (Appendix F);
7. Ethical Standards Affidavit (Appendix G);
8. Declaration of Compliance with US DOL's Wage Determination (Appendix H);
9. Restriction Against Sex Offenders (Appendix I);
10. Bid Bond Form (Appendix J);
11. Local Procurement Preference Application (Appendix K); and,
12. A valid business license.

2.10.1.4. Marking and Packaging of Technical Proposal

The TECHNICAL PROPOSAL shall be submitted in a separate sealed package with the following information clearly marked on the outside of each side:

1) "TECHNICAL PROPOSAL";
2) "DIESEL FUEL OIL NO.2"
   A. SUPPLY TO GPA BULK STORAGE
   B. DELIVERY TO GPA PLANTS;
3) The BIDDER's Name;
4) Invitation for Bid Number;
5) Closing Date and Time (Guam Standard Time);
6) Addressed to, as follows:

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

If the BIDDER's proposal cannot fit within one box or chooses to submit more than one box, each box must be labeled with the following:

1) Box number within the Set of Submitted Boxes
2) The Total Number of Boxes Submitted

2.10.1.5. Technical Proposal Submittal Quantity

BIDDERs are required to submit one (1) original and six (6) bound copies of their technical proposal including one (1) original and six (6) printed copies of the Qualitative Scoring Workbook. One (1) electronic copy of the Qualitative Scoring Workbook should also be submitted.

2.10.2. Price Proposal Requirements

The PRICE PROPOSAL shall be submitted in a separate sealed package with the following information clearly marked on the outside of each side:

(1) "PRICE PROPOSAL";
(2) "DIESEL FUEL OIL NO.2"
    A. SUPPLY TO GPA BULK STORAGE
    B. DELIVERY TO GPA PLANTS;
(3) The BIDDER's Name;
(4) Invitation for Bid Number;
(5) Closing Date and Time (Guam Standard Time);
(6) Addressed to, as follows:

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

If the BIDDER's proposal cannot fit within one box or chooses to submit more than one box, each box must be labeled with the following:

1) Box number within the Set of Submitted Boxes
2) The Total Number of Boxes Submitted

2.10.3. Non-Repudiation Issues

GPA has structured both its Manual and Electronic IFB submittal procedures to ensure non-repudiation of the submitted proposals. In this IFB, non-repudiation is strong and substantial evidence of the identity of the sender and owner of the proposal and of proposal's integrity in so far as it being unaltered from its original sent state, sufficient to prevent a party from successfully denying the origin, submission or delivery of the proposal and the integrity of its contents. Non-repudiation applies to both parties to this IFB transaction. It binds the sender as well as precludes the recipient from denying the exchange of information and material upon the receipt of secure acknowledgement from the recipient.

GPA and the BIDDER shall manage the Manual IFB Submittal Process to address non-repudiation, security and confidentiality inclusive but not limited to the following:

- Manually executed signatures and printed media documents;
- Chain of custody receipts;
- Manual time-stamps for receipt of IFB materials;
- Machine generated Fax confirmation reports;
- Secure notification e-mail;
- Physical delivery of printed material proposals;
- Physically secured area storage of IFB materials.

2.10.4. Signature of Bidder

A duly authorized person must sign the BIDDER's proposals. All names shall be typed or printed below the signature. A proposal submitted by a corporation must bear the seal of the corporation, be attested to by its Secretary, and be accompanied by necessary Power-of-Attorney documentation.

Associated companies or joint ventures shall jointly designate one Power-of-Attorney person authorized to obligate all the companies of the association or joint venture. A proposal submitted by a joint venture must be accompanied by the document of formation of the joint venture, duly registered and authenticated by a Notary Public, in which is defined precisely the conditions under which it will function,

its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, the principal member of the joint venture, and address for correspondence for the joint venture. BIDDERs are advised that the joint venture agreement must include a clause stating that the members of the joint venture are severally and jointly bound.

Wherever a legal signature is required, receipt of an electronic signature will suffice to meet the submittal deadline for those electing to use the Electronic Proposal Submittal process. The original signed documents must be reproduced electronically and be placed in the submitted compressed archive file. However, the original documents must be sent to GPA via post or courier and post-marked no later than the bid-opening date. In addition, GPA will accept an electronic scanned copy of Notarized documents with the compressed archive submitted will suffice to meet the proposal deadline. However, the original documents must be sent to GPA via post or courier and post-marked no later than the bid-opening date.

2.10.5. Cut-Off Date for Receipt of Proposals

The Technical and Price Proposals have to be submitted on or before the GPA Cut-off Date for Receipt of Proposals specified in Table 1 (Bid Milestones).

Price Proposals shall be returned, unopened, to the BIDDERs whose Technical Proposals are deemed Not Acceptable.

2.10.6. Receipt and Handling of Proposals

Upon receipt, each Proposal submittal package will be time-stamped. The only acceptable evidence to establish the time of receipt at the GPA is the date/time stamp of the Guam Power Authority's procurement office on the wrapper or other documentary evidence of receipt maintained by GPA. Proposals will be stored in a secure place until the date and time set for proposal opening.

GPA procurement personnel and the BIDDERs must ensure that the outside of the sealed package is stamped received using the GPA Procurement Stamp. In addition, GPA procurement personnel must officially log the time and date that the BIDDER's sealed proposal package has been received. GPA makes no warranties on these submittal processes, manual or electronic.

2.10.7. Proposal Changes During Bid Process

Changes may be made by the BIDDERs to the Technical Proposal and Price Proposal prior to the Cut-off Date, and the proposals including corrections or changes made must be re-submitted on or before the Cut-off Date.

2.11. STEP ONE PROCEDURES

2.11.1. Evaluation of Technical Proposals

After the Close of the Proposal submission date, the GPA Evaluation Committee shall evaluate the Technical Proposals. Each of the responses and supporting information shall be evaluated and scored, in accordance with the scoring methodology described in the Qualitative Proposal Scoring Worksheet.

2.11.2 Scoring of Technical Proposals

GPA will use the score from the Qualitative Scoring Workbook to evaluate the contents of Proposals and categorize the Proposals as:

a. **Acceptable**;
b. **Potentially Acceptable**, that is reasonable susceptible of being made acceptable; or
c. **Unacceptable or Not Acceptable**. GPA shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

GPA shall evaluate and score each BIDDER using the methodology as described in Section 4 of this volume. At the conclusion of the evaluation, GPA shall establish a Qualified Bidders List (QBL), and the Procurement Officer or his designee may initiate Step Two if there are sufficient acceptable Technical (Unpriced) Proposals to assure effective price competition in the second phase without technical discussions. If the Procurement Officer or his designee finds that such is not the case, the Procurement Officer shall issue an amendment to this Invitation for Bid or engage in technical discussions with BIDDERs as set forth below.

2.11.3. Discussions of Proposals

The Procurement Officer or his designee may conduct discussions with any bidder who submits acceptable or potentially acceptable Technical Offer. During the course of such discussions, the Procurement Officer or his designee shall not disclose any information derived from one Unpriced Technical Proposal to any other BIDDER.

GPA may conduct discussions or request for additional information or documentation with any BIDDER to determine such BIDDER's qualifications for further consideration and explore with the BIDDER the scope and nature of the required services, method of performance and the relative utility of alternative methods of approach. BIDDERs are required to provide the responses within the time period specified at that time by GPA. **If GPA does not receive any response by the deadline specified, GPA shall consider the lack of a response as the BIDDER's response.** During the course of such discussions, the Procurement Officer shall not disclose any information derived from a technical offer to any other BIDDER.

Each BIDDER is requested not to contact GPA on any matter relating to its proposal, from the time of submission of the Proposals to the time the contract is awarded, except to respond to inquiries by GPA.

2.11.4. Notice of Unacceptable Proposal

A notice of unacceptability will be forwarded to the BIDDER upon completion of the Technical Proposal evaluation and final determination of unacceptability. When the Procurement Officer or his designee determines a BIDDER's Technical Proposal to be unacceptable, such BIDDER shall not be afforded an additional opportunity to supplement its technical offer.

2.12. STEP TWO PROCEDURES

Upon completion of evaluation of Technical Proposals, qualified bidders will be notified and GPA will proceed with Step Two of the multi-step bid. GPA shall return the Price Proposal Packages submitted by BIDDERs whose Technical Proposals did not qualify for Step Two.

2.12.1. Opening of Price Proposals

Each selected BIDDER from the Qualified Bidders list will be notified of the Price Proposal Opening date. BIDDERs may be present during the Bid Opening.

2.12.2. Proposal Changes During Bid Process

No changes may be made between Notification of Acceptable Proposal and Price Proposal Opening date.

2.12.3. Proposal Validity

All price/cost data submitted with the BIDDERs' proposals shall remain firm and open for acceptance for a period of not less than six (6) months after the Price Proposal Opening Date and thereafter shall be subject

to renewal by mutual agreement between the BIDDER and GPA. BIDDER shall state the actual date of expiration in their proposal.

2.12.4. Preliminary Examination of Price Proposal

GPA will examine the Price Proposal on the opening date to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Priced Offers are generally in order.

Arithmetical errors will be rectified on the following basis:

- If there is discrepancy between the unit price and the total price, including any discounts, that is obtained by multiplying the unit priced and quantity, the unit price shall prevail and the total price shall be corrected.
- If the Bidder does not accept the correction of the error, its bid will be rejected. If there is a discrepancy between words and figures, the amount in words will prevail.

2.12.5. Evaluation Criteria and Comparison of Priced Offers

GPA will evaluate and compare the Priced Offers for Bidder's Technical Proposals that were determined during Step One to be responsive to the tender document requirements. The Scoring Mechanism is further explained in Section 4.

2.13. Award of Contract

A. Supply to the GPA Bulk Storage

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal for the TWO (2) year contract base period.

B. Delivery to the GPA Plants

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal for the FIVE (5) year contract period. GPA reserves the right to make multiple awards, partial awards, award by site location, or award in whole, whichever may be most advantageous to the Authority.

The successful BIDDER will be notified by GPA through official written correspondence of the intent to award the contract (Notice of Intent to Award). The written correspondence may be sent by GPA via official letter, e-mail and fax.

The BIDDER will be required to send to Guam, within fourteen (14) days of the date of receipt of such notice, a representative or representatives with proper Power-of-Attorney for the purpose of executing a contract with such alterations or additions thereto as may be required to adopt such contract to the circumstances of the proposal. The successful BIDDER shall provide the required Performance Bond within fourteen (14) working days of receipt of the GPA Notice of Intent to Award.

Failure on the part of the successful BIDDER to provide a Performance Bond and/or to enter into a contract with GPA shall be sufficient grounds for the annulment of the award. GPA may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

2.14. Bid Bond and Performance Bond Requirements

2.14.1. Performance Bond Form, Amount and Duration

The required performance bond shall be in the form as prescribed in Volume III- Appendix B. At the beginning of the CONTRACT and at the beginning of each GPA Fiscal Year during which the CONTRACT is in effect, the CONTRACTOR shall provide and maintain a performance bond in the amount **equivalent to fifteen percent (15%) of the annual contract cost** for that full or partial fiscal year within the term of the contract. If the CONTRACTOR is declared by GPA to be in default under the CONTRACT, GPA may exercise any or all rights and remedies it possesses under the provisions of the performance bond. The GPA Fiscal Year begins on October 1 and ends on September 30 of the following calendar year.

2.14.2. Performance Bond Execution by a Guam Licensed Surety Company

The CONTRACTOR shall provide a Performance Bond executed by a surety company licensed to do business on Guam. A list of surety companies licensed to do business on Guam is provided in Volume III-Appendix C.

2.14.3. Bid Bond Form and Amount

A bid bond for an amount of **no less than Five Hundred Thousand Dollars (US$500,000.00)** is required and may be in the following form:

a. Cash, Bank Draft or Certified Check made payable to the Guam Power Authority;

b. By wire transfer to Guam Power Authority. Account information shall be sent to the bidders upon request.

c. Letter of Credit;

d. Surety Bond – valid if accompanied by:

(1) Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation;

(2) Power of Attorney issued by the Surety to the Resident General Agent

(3) Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bonds submitted as Bid Guarantee without signatures and supporting documents are invalid and bids will be rejected. If a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Volume III- Appendix J.

2.15. General Proposal Guidelines and Requirements

2.15.1. Amendments to the Bid Documents

GPA may elect to change the IFB documents in whole or part. GPA shall send all Amendments to the IFB documents via fax and/or e-mail. In addition, GPA will make all Amendments available on the Internet at: *http://www.guampowerauthority.com/procurement/index.html* .

2.15.2. Proprietary Data

For the purposes of this solicitation and submitted proposals, the laws, rules and regulations of Territory of Guam governing confidentiality shall govern. BIDDERs may designate those portions of the Proposal that contain trade secrets or other proprietary data that are to remain confidential.

The Procurement Officer or his designee shall examine the proposals to determine the validity of any request for nondisclosure of trade secrets and other proprietary data identified in writing. If the BIDDER and GPA do not agree as to the disclosure of data, the Procurement Officer or his designee shall inform the BIDDER in writing and in e-mail within five working days of the closing date for Proposal submittal what

portions of the Proposal will be disclosed and that, unless the BIDDER protests under the Conditions of Contract Disputes clause the information will be so disclosed.

The proposal shall be opened to public inspection subject to any continuing prohibition of the disclosure of confidential data.

2.15.3. Acceptance of Proposals

GPA reserves the right to reject any or all proposals and to waive minor informalities if it appears in GPA's best interest to do so. Any effort by a BIDDER to influence GPA in the proposal evaluation, proposal comparison or contract award decisions may result in the rejection of the proposal. Once GPA has arrived at a decision regarding the award of the contract, it will notify promptly the successful BIDDER through official written correspondence, and shall include information advising the proponents of the timing of the bid milestones such as Contract Finalization, Awarding and Mobilization. Potential Bid Awardees shall await this notification from GPA prior to commencement of any Contract Terms Finalization.

2.15.4. Solicitation Cancellation or Delay

The Guam Power Authority reserves the right to delay award or to cancel the Invitation for Bid, or to reject all proposals or any individual proposal in whole or in part, at any time prior to the final award. When a bid is canceled or rejected prior to final award, notice of cancellation or rejection shall be sent to all BIDDERs and all proposal materials will be promptly returned. The reasons for cancellation or rejection shall be made a part of the procurement file that is available for public inspection.

After opening, but prior to award, all proposals may be rejected in whole or in part when the Procurement Officer or his designee determines that such action is in the Territory's best interest for reasons including but not limited to:

a) The supplies and services being provided are no longer required;
b) The solicitation did not provide consideration of other factors of significance to the Territory;
c) All otherwise acceptable proposals received have clearly unreasonable price/cost data;
d) There is reason to believe that the proposals may not have been independently arrived at in open competition, may have been collusive and may have been submitted in bad faith;

Any individual proposal may be rejected in whole or in part when in the best interest of the Territory.

2.15.5. Disqualification of BIDDER

When, for any reason, collusion or other anticompetitive practices are suspected among BIDDERs, a notice of the relevant facts shall be transmitted to the Guam Attorney General. BIDDERs suspected of collusion or other anticompetitive practices may be suspended or debarred from participating in future procurement opportunities for a specified period.

2.15.6. False Statements In Proposal

BIDDERs must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in any proposal or bid is prescribed in 18 U.S.C. 1001 and Title 9, Guam Code Annotated. Note, by use of a digital signature to sign the proposal, the BIDDER agrees that this act legally binds the BIDDER to his proposal.

2.15.7. Prohibition Against Gratuities, Kickbacks, and Favors to the Territory

Pursuant to GCA 5 Section 5630 (c), this clause is conspicuously set forth to alert all parties in this procurement that *Guam Public Law Title 5 § 5630. Gratuities and Kickbacks* prohibits against gratuities, kickbacks and favors to the Territory.

2.15.8. Restriction against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues

GCA 5 §5253(b) restricts the PROPONENT against employing convicted sex offenders from working at Government of Guam venues. It states:

> All contracts for services to agencies listed herein shall include the following provisions:
> (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and
> (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

3. REQUIRED FORMS AND SUPPLEMENTAL INFORMATION

GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms listed below:

- A copy of the BIDDER's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;
- Audited financial information on BIDDER's firm for the last 3 years.
- Certificate of Good Standing to conduct business in jurisdiction of residence;
- Information regarding outstanding claims against the BIDDER;
- Required affidavits (Major Shareholders Disclosure; Non-Collusion; No Gratuities or Kickbacks; Ethical Standards Affidavit)
- Proposal Checklist
- Bid Bond
- A current Business License. Although it is not required in order to provide a Bid for this engagement, obtaining a Business License is a pre-condition for entering into a contract with the Authority.

The following forms and workbooks will be available on the GPA Website's Procurement Page, in *Volume III Appendices*. Appendices A, D, E, F, G, H, I, J, and K and the MS EXCEL Workbooks Qualitative Proposal Worksheet.xls and Price Proposal must be completed:

- Appendix A: Proposal Checklists
- Appendix B: Performance Bond
- Appendix C: List of Surety Companies Licensed To Do Business In Guam
- Appendix D: Major Shareholders Disclosure Affidavit
- Appendix E: Non-collusion Affidavit
- Appendix F: No Gratuities or Kickbacks Affidavit
- Appendix G: Ethical Standards Affidavit
- Appendix H: Declaration of Compliance with U.S. DOL's Wage Determination
- Appendix I: Restriction Against Sex Offenders
- Appendix J: Bid Bond Form and Instructions
- Appendix K: Local Procurement Preference Application
- Qualitative Proposal Worksheet.xls
- Price Proposal

3.1. Technical Proposal Forms

The following referenced forms shall be completed and submitted with the Proposal.

3.1.1. Proposal Checklists

The BIDDER shall complete Form A-1 by acknowledging the receipt of the Invitation For Bid Documents received from Guam Power Authority, including the latest IFB Amendments received. Acknowledgement of receipt shall be given by signing or putting an initial beside each line item received. This Form is an acknowledgement of receipt, review and understanding of the IFB documents.

During the submission of the Proposals, the BIDDER shall complete Form A-2. This Form provides an inventory of documents submitted by the BIDDER in response to the Proposal requirements.

3.1.2. Major Shareholders Disclosure Affidavit

The BIDDER shall fill out the Major Shareholders Disclosure Affidavit form in Appendix D and submit it with its Proposal.

3.1.3. Non-collusion Affidavit

The BIDDER shall fill out the Non-collusion Affidavit form in Appendix E and submit it with its Proposal.

3.1.4. No Gratuities or Kickbacks Affidavit

The BIDDER shall fill out the No Gratuities or Kickbacks Affidavit Form in Appendix F and submit it with its Proposal.

3.1.5. Ethical Standards Affidavit

The BIDDER shall fill out the Ethical Standards Affidavit Form in Appendix G and submit it with its Proposal.

3.1.6. Declaration of Compliance with U.S. DOL's Wage Determination

The BIDDER shall fill out the Declaration of Compliance with U.S. DOL's Wage Determination Affidavit Form in Appendix H and submit it with its Proposal.

3.1.7. Restriction Against Sex Offenders

The BIDDER shall complete the form, ***Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property*** (Appendix I) and submit it as part of the Technical Proposal.

3.1.8. Bid Bond Form

As stated in Section 2.14.3, if a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Volume III- Appendix J.

3.1.9. Local Procurement Preference Application

The BIDDER shall fill out and sign the Local Procurement Preference Application in Appendix K and submit it with the Technical Proposal.

3.2. Qualitative Proposal Workbook

The BIDDER shall complete the Qualitative Proposal Workbook in accordance with the instructions given in the workbook's Instructions tab. The workbook shall be submitted as part of the Technical Proposal.

3.3. Price Proposal Form

The qualified BIDDERs shall provide prices/costs in U.S. Dollars. BIDDERs are required to furnish a BID PRICE OFFER as specified in the PRICE PROPOSAL FORM. BID PRICE OFFER for optional contract years may also be provided; doing so allows GPA to calculate the cost of the contract should it be extended.

4. PROPOSAL SCORING MECHANISM

4.1. Overview

GPA will use the Proposal Scoring Mechanism described in this Section of the Invitation for Bid (IFB) to qualify BIDDERs for the participation in the final bid stage. The Proposal Scoring Mechanism provides the BIDDERs the opportunity to highlight their qualifications to bid in terms of their resources, skills, operating philosophy and commitments to perform specific tasks and originality. The IFB proposal evaluation shall be based on such specifications and based on the relative ranking of each BIDDER's qualifications.

4.2. Qualitative Proposal Evaluation

The qualitative proposal scoring is designed to assess the quality of the BIDDER's resources, skills, comprehensiveness and responses to specific questions or requirements. GPA may elect to have up to five (5) evaluators for this IFB. Each evaluator shall assess and review the Bidder's Technical Proposal documents. Each GPA evaluator shall score each BIDDER separately under a point system to determine the acceptability of each Proposal. The majority of the determinations of GPA evaluators shall prevail in the decision to Qualify or not Qualify a BIDDER for Step 2 — Price Proposal.

The instructions for filling out the Qualitative Proposal Scoring Workbook are listed in the **Proposal Instructions** tab in the Workbook. The BIDDER must complete all entries in the **Part 1- Qual Support References** tab of the Workbook. The tab, **CONTRACTOR Qualifications Checklist** is automatically populated once BIDDER completes all entries in **Part 1- Qual Support References**. Each GPA evaluator will be provided a copy of Part 1 – Qual Support References as well as the BIDDER's technical proposal materials. Evaluators shall review and evaluate BIDDER responses in **Part 1- Qual Support References** worksheet tab, and fill out the **Part 2 – Qual Eval Scoresheet** tab using the following steps:

1) Each evaluator shall review BIDDER's response to each question on the CONTRACTOR Checklist Items. The Evaluator shall be guided by information provided by the bidder regarding location of responses to each question in Part 1 – Qual Support References tab.
2) In **Part 2 – Qual Eval Scoresheet tab**, Evaluator shall assign a Raw Rating Score for each BIDDER's response to each question. The Evaluator shall be guided by the Checklist Weight and Proposal Scoring Information provided in the **Proposal Scoring Information** tab.
3) Each evaluator shall determine BIDDER's weighted average raw score using pre-specified weights for each question. Part 2 – Qual Eval Scoresheet tab has been formatted to automatically populate the Evaluated CONTRACTOR Qualifications Score.

The evaluators will use the supporting information on Price Proposal Worksheet. The Total Qualitative Points for a 100% Score is specified in the **Proposal Scoring Information** tab and **CONTRACTOR Qualifications Checklist** tab. Each GPA evaluator will analyze the contents of the Proposals and categorize the Proposals as:

- Acceptable: Score ≥ 80%
- Potentially Acceptable, that is reasonably susceptible of being made Acceptable: 80%> Score ≥75%
- Unacceptable: Score < 75%.

A percent score of less than 75% indicates that a GPA evaluator has determined that the BIDDER has not supplied sufficient evidence of qualifications and should not be allowed to participate in Step 2 – Price Proposal.

After each GPA evaluator has completed the evaluation and scoring of BIDDERS, GPA shall complete the Table below. The Procurement Officer will enter for each GPA evaluator and BIDDER one and only one of the following in the appropriate table cell below:

- Acceptable
- Potentially Acceptable
- Unacceptable.

The Procurement Officer or his designee may initiate Step Two if there are sufficient acceptable Unpriced Technical Proposals to assure effective price competition in the second phase without technical discussions. If the majority of the GPA evaluators rate the BIDDER as Acceptable , that BIDDER is determined to be Qualified and will be allowed to participate in Step 2– Price Proposal.

If the Procurement Officer or his designee finds that such is not the case, the Procurement Officer or his designee shall issue an amendment to this Invitation for Bid or engage in technical discussions with BIDDERs who are rated by a majority of the GPA evaluators as Acceptable or Potentially Acceptable. During the course of such discussions, the Procurement Officer or his designee shall not disclose any information derived from one Technical Proposal to any other BIDDER.

Once discussions are begun, any BIDDER who has been notified that its Offer has been finally found acceptable may submit supplemental information amending its Technical Proposal at any time. Such submission may be made at the request of the Procurement Officer or upon the BIDDER's own initiative.

BIDDERs who are rated by the majority of the GPA evaluators as Unacceptable is determined to be Not Qualified and will not be allowed to participate in Step 2– Price Proposal. The Procurement Officer shall record in writing the basis for finding a Bidder Not Qualified and make it part of the procurement file.

Table 1. Final Evaluation of Bidder Qualification

GPA Evaluator	BIDDER 1	BIDDER 2	BIDDER 3	BIDDER 4	BIDDER 5
1					
2					
3					
4					
5					

4.3. Price Proposal Evaluation

A. Supply to the GPA Bulk Storage

The contract will be awarded by site location to the BIDDER evaluated as being qualified and with the best-priced proposal for the TWO (2) year contract base period.

B. Delivery to the GPA Plants

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal for the FIVE (5) year contract period. GPA reserves the right to make multiple awards, partial awards, award by site location, or award in whole, whichever may be most advantageous to the Authority.

5. CONDITIONS OF CONTRACT

5.1. Definitions

Wherever used in these General Conditions or in the other Contract Documents, the terms used have the meanings indicated which are applicable to both the singular and plural thereof.

5.2. Accounting

For accounting purposes and for use in establishing property records, GPA may require CONTRACTOR to provide a reasonable price breakdown of the total price into separate prices applying to the individual items supplied under the Agreement.

5.3. Documentation

GPA shall have the right to reproduce any prints, or other data or documents received from CONTRACTOR.

5.4. Language and Trade Terms

All communications, documents, and execution of services hereunder, unless otherwise designated, shall be in the English language. INCOTERMS (International Rules for the Interpretation of Trade Terms) published by the International Chamber of Commerce in 1980 and any subsequent revisions thereto shall govern interpretation of trade terms in the Contract Documents

5.5. Release of Information

The CONTRACTOR 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 of GPA.

5.6. Limitations of Clause

Nothing herein contained shall excuse the CONTRACTOR from compliance with any rules of law precluding GPA and its officers and any CONTRACTORS from acting in collusion or bad faith in issuing or performing change orders that are clearly not within the scope of the contract.

Invitation For Re-Bid

Multi-Step IFB No. GPA-057-17

DIESEL FUEL OIL NO.2

A. SUPPLY TO GPA BULK STORAGE

Volume II

CONTRACT

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CONTRACT

CONTRACTOR

GUAM POWER AUTHORITY

2017

Re-Bid IFB No. GPA-057-17

SUPPLY OF DIESEL FUEL OIL NO.2

FORMAL CONTRACT

This Agreement and Formal Contract ("Contract"), is made and entered into on the _____ day of _____, 2017 by and between:

_____., hereinafter referred to as CONTRACTOR, duly organized, licensed, registered and qualified to do business in Guam with its principal address at _____

- and –

GUAM POWER AUTHORITY, hereinafter referred to as the **"Authority"** or **"GPA"**, a Public Corporation with its office located at the Gloria Nelson Public Service Complex, Fadian Mangilao Guam;

R E C I T A L S

WHEREAS, GPA desires to maintain uninterrupted supply of Diesel Fuel Oil No.2 to its Baseload Power Plants;

WHEREAS, the three (3) year base period the current contract for the supply if Diesel Fuel Oil No.2 will expire on December 31, 2017; and

WHEREAS, the current contract for the supply of Diesel Fuel Oil No.2 will be extended for six (6) months to expire on June 30, 2018; and

WHEREAS, GPA seeks to procure a new Diesel Fuel Oil No.2 Supply Contractor; and

WHEREAS, the Consolidated Commission on Utilities has determined that the (CONTRACTOR) is a preferred option for GPA to supply the Diesel Fuel Oil No.2 requirements for the Authority;

WHEREAS, the Guam Public Utilities Commission has, through stipulation, ordered GPA to proceed with the procurement of a CONTRACTOR for the Supply of Diesel Fuel Oil No.2;

WHEREAS, GPA has issued an Invitation For a Multi-Step Bid for the Supply of Diesel Fuel Oil No.2 under Re-bid IFB GPA-057-17; and

WHEREAS, **CONTRACTOR** submitted a bid in response to the Invitation for Bid for the Supply of Diesel Fuel Oil No.2;

WHEREAS, GPA, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR**. is the lowest responsive and responsible bidder;

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledged; **CONTRACTOR** and GPA hereby agree as follows:

SECTION 1. DEFINITIONS

"Fuel oil" means a liquid hydrocarbon product satisfying the specifications in Schedule A

**"$"** The term "$" refers to currency in U.S. dollars.

"ASTM" The term "ASTM" shall mean the American Society for Testing and Materials.

"API" The term "API" shall mean the American Petroleum Institute.

"Gallon" shall mean a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

"Barrel" The term "Barrel" means a volume equivalent to 42 U.S. gallons.

"Contract" The term "Contract" means the Diesel Fuel Oil No.2 Supply Contract executed as a result of this IFB.

"Contract Agreement (Agreement)" The written agreement between GPA and CONTRACTOR covering the Supply of Diesel Fuel Oil No.2 any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

"Contract Documents" The Contract Agreement, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract Agreement, together with all Modifications issued after execution of the Contract Agreement.

"Contracting Officer" The term "Contracting Officer" as used herein means the General Manager of the Guam Power Authority and shall include his authorized representatives.

"CONTRACTOR" The term "CONTRACTOR" as used herein means the party or parties who or which shall have duly entered into a contract with the Guam Power Authority to perform the work herein contemplated or his or their

authorized assignee.

"**Day"** A calendar day of twenty-four (24) hours measured from midnight to the next midnight.

"Delivery Time" The total number of days or the dates stated in the Agreement for furnishing the product.

"General Manager" The General Manager is the Chief Executive Officer of the Guam Power Authority. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of the Guam Power Authority.

"Notice" The term "Notice" as used herein shall mean and include all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with contract requirements. Any written notice by either party to the contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box. The CONTRACTOR must provide and maintain a post office address within Guam and file the same with the Contracting Officer.

"Procurement Officer" The General Manager of the Guam Power Authority or the General Manager's designee.

"PURCHASER" The Guam Power Authority with whom CONTRACTOR has entered into the Contract Agreement.

"Seller" The CONTRACTOR.

"Territory" The Territory of Guam.

"OPA'90" means the Oil Pollution Act of 1990 by the U.S. Congress.

"Platt's Asia-Pacific/ Arab Gulf Marketscan" refers to the source document for the ` fuel Contract pricing.

"D.E.S." means Delivered Ex- Ship.

"Receiving facility" means any wharf, dock, jetty, pier, quay, sea terminal, buoy, lighter, barge, vessel, or other suitable apparatus capable of receiving fuel oil in bulk.

SECTION 2. FUEL OIL TO BE SUPPLIED

CONTRACTOR agrees to furnish and **GPA** agrees to accept and pay for all of **GPA**'s diesel fuel oil requirements for power generating plants in Guam for the term of the Contract.
Fuel Oil to be supplied to **GPA** shall conform to the product quality requirements specified in Schedule A and shall come from reputable sources not sanctioned by the United States government. The **estimated** total fuel oil requirement is about ONE MILLION BARRELS PER YEAR (1,000,000 bbls/yr). The Minimum Purchase under the Contract is estimated at FIVE HUNDRED THOUSAND BARRELS PER YEAR (500,000 bbls/yr). The first delivery of fuel oil pursuant to the Contract is anticipated to be on or about **July 01, 2018**.

SECTION 3. CONTRACT TERM

The Contract Term shall be for TWO (2) years and shall commence on or about after 0:00 hour on **July 01, 2018**, and shall continue until midnight of **June 30, 2020**. GPA has the option to extend the contract for THREE (3) years renewable annually with mutual consent of parties.

SECTION 4. CONTRACT PRICE

The total contract price in U.S. Dollars per barrel for all Diesel Fuel Oil No.2 delivered D.E.S. Guam (discharge port) to **GPA** shall be inclusive of all costs and liabilities incurred prior to delivery at discharge port, Cabras Island, Guam.

DES (Delivered Ex- Ship) PROVISIONS:

Under this term, the **CONTRACTOR** quotes a price including the cost of the goods, the marine insurance, and all transportation charges to the designated point of destination (**GPA**). Under this quotation, the **CONTRACTOR** must:

(1) provide and pay for transportation to named point of destination (**GPA**);

(2) pay applicable taxes or charges levied on the cargo outside Guam;

(3) provide and pay for marine insurance;

(4) provide war risk insurance;

(5) obtain and dispatch promptly to **GPA,** or its agent, copies from the original document of a clean bill of lading, and also insurance policy or negotiable insurance certificate;

(6) provide **GPA** with copies from the original document of certificates of origin, or any documents issued in the country of origin, or of shipment, or both, which **GPA** may require for importation of goods and, where necessary, for their passage in transit into another country.

(7) where received-for-shipment ocean bill of lading may be tendered, be responsible for any loss or damage, or both, and other charges until the goods have been delivered into the custody of the ocean carrier to **GPA**;

(8) where on-board ocean bill of lading is required, be responsible for any loss or damage, or both, and other charges until the goods have been delivered on board the vessel to **GPA**;

The **CONTRACT PRICE** shall be the **BID PRICE OFFER** calculated as the **BID REFERENCE PRICE** plus the Contractor's **FIXED SERVICE FEE** in U.S. dollars per barrel for all fuel oil delivered to **GPA** at the Port of Guam.

BID REFERENCE PRICE:

The BID REFERENCE PRICE shall be based on the Platt's Singapore Products Assessment for Fuel Oil Cargoes "Gasoil 10 ppm**"** for July 21, 2017.

Reference date: July 21, 2017

	Low ($/bbl)	High ($/bbl)
HSFO 180 CST	$ 62.26	$ 62.30

The following is a sample calculation of the mean price for "Gasoil 10 ppm" published in the **Platt's Marketscan, Singapore Products Assessments** for Fuel Oil Cargoes for July 21, 2017.

Mean Singapore Spot = Low + High Price Assessments:

$$= \frac{\$\ 62.26 + \$\ 62.30}{2} \text{ per barrel}$$

= $ 62.280 per barrel

BID REFERENCE PRICE = $ 62.280 per barrel

Diesel Fuel Oil No.2 Supply	**1st year $/bbl (in 3 decimals)**	**2nd year $/bbl (in 3 decimals)**	**3rd yr $/bbl (in 3 decimals)**	**4th yr $/bbl (in 3 decimals)**	**5th yr $/bbl (in 3 decimals)**
BID PRICE					
CONTRACT FIXED SERVICE FEE					

SECTION 5. INVOICE PRICE DETERMINATION

Price shall be based on the arithmetic average of the mean of the high/low quotations for "Gasoil 10 ppm" as published in Platts Asia Pacific/Arab Gulf Marketscan under the heading "FOB Singapore" priced for five (5) valid consecutive quotations immediately prior to B/L date and five (5) immediately after the B/L date plus the FIXED SERVICE FEE.

In case of "No Posting" on the B/L date, no price will be used and the remaining 10-days average will be used. All price postings are at the prices effective dates.

Sample Calculation:

B/L date = July 8, 2017

Marketscan Postings, Gasoil 10 ppm ($/bbl)

	Date		Low	High	Avg
5	July 03, 2017	(Mon)	60.34	60.98	60.960
4	July 04, 2017	(Tue)	62.16	62.20	62.180
3	July 05, 2017	(Wed)	62.84	62.88	62.860
2	July 06, 2017	(Thu)	61.80	61.84	61.820
1	July 07, 2017	(Fri)	59.93	59.97	59.950
B/L	July 08, 2017	(Sat)	No Posting	No Posting	
1	July 10, 2017	(Mon)	58.92	58.96	58.940
2	July 11, 2017	(Tue)	58.97	59.01	58.990
3	July 12, 2017	(Wed)	60.62	60.66	60.640
4	July 13, 2017	(Thu)	59.14	59.18	59.160
5	July 14, 2017	(Fri)	60.30	60.34	60.320
		Mean Arithmetic Average ($/bbl) =			60.582

Invoice Reference Price: $60.582/bbl

Sample Fixed Service Fee: $8.000/bbl

Invoice Price Calculation = Invoice Reference Price + Fixed Service Fee = $68.582/bbl

For invoice calculation purposes, quantity shall be reported in barrels at standard sixty degrees Fahrenheit (60ºF) as declared in the Bill of Lading.

SECTION 6. TITLE, CUSTODY AND RISK OF LOSS

Title to the fuel oil and custody thereof shall pass from **CONTRACTOR** to **GPA** when the fuel oil has passed the vessel's permanent flange hose connection at the discharge port.

SECTION 7. TERMS OF PAYMENT

Payment shall be made in U.S. Dollars Funds without off-set, deduction, or counter-claim within THIRTY (30) calendar days (30-days net term) after the Bill of Lading date provided vessel tenders its NOR within TWELVE (12) days after the B/L date, otherwise it extends day by day (B/L date inclusive). In case payment due date falls on a Bank holiday or Saturday in Guam, payment shall be made immediately preceding banking day. However, should payment due falls on Sunday or Monday bank holiday in Guam, payment shall be made on the immediately following banking day.

Payment shall be available at Seller's account on Maturity Date. If Buyer fails to pay on the maturity date, Seller shall be reimbursed for the interests related to the time of delay. Interest Rate shall be calculated based on the one month London Interbank Offered Rate (LIBOR) for US Dollar Deposits offered by Bloomberg Publication at 11:00 A.M. London Time, as quoted on page BBAM in effect on the date buyer's payment was due, plus one and one-half percent (1.5%) per annum.

In the event that a duly executed Documentary Letter of Credit (L/C) is amended or cancelled due to error or adjustments caused by the **CONTRACTOR**, the **CONTRACTOR** shall reimburse **GPA** for any penalties for the amendment or cancellation of the LC.

The **CONTRACTOR** shall endeavor to assist **GPA** to revise the payment due dates if requested by **GPA** accordingly. GPA has the right to request for revision of the payment due dates and Contractor has the right to reject it at its sole discretion.

CONTRACTOR may provide GPA a Line of Credit, but it is not a requirement in the contract. If the amount due under this contract exceeds the **GPA**'s credit line of:

(Amount in Words _____)
(US$_____),

available at **CONTRACTOR** system, then as a loading condition, for the amount not covered under the credit line, **GPA** shall:

(i) Make advance payment not later than one day before the cargo is loaded; OR

(ii) Open a **DOCUMENTARY LETTER OF CREDIT (L/C)** at a first class international bank mutually agreeable to both **GPA** and the **CONTRACTOR**

SECTION 8. PAYMENT OF TAXES AND OTHER GOVERNMENT CHARGES

All fuels under the terms of this Contract are exempt from the Government of Guam Liquid Fuel Tax and the Government of Guam Gross Receipts Tax as provided by 12 G.C.A., Section 8115.

CONTRACTOR shall be responsible for filing appropriate tax returns or other filings and requesting rebates, credits, drawbacks or exemptions.

In the event any liquid fuel tax or gross receipts tax or other tax including, but not limited to, excise tax, duty, toll, fee, charge for other exaction or the amount equivalent thereto, and any increase thereof, now or hereafter imposed, levied or assessed by the United States Government, the Government of Guam, the Port Authority of Guam, or other instrumentality or agency thereof in connection with and as a result of the sale of fuel oil herein provided for is collectible or payable by **CONTRACTOR**, (except taxes, penalties, fees or other charges that may be imposed on **CONTRACTOR** because of **CONTRACTOR** 's failure to make proper tax filings including requests for credits, exemptions, drawbacks or rebates) it shall be paid by **GPA** as part of the fuel price set forth herein, on demand by **CONTRACTOR**. Any such payment shall be in addition to the price otherwise herein provided for.

Notwithstanding these provisions, should the payment of any such charges described in this section be unduly burdensome to **GPA**, it shall be grounds for renegotiation for an equitable adjustment in price.

CONTRACTOR shall be solely responsible for filings and payment of income tax or taxes measured on net income.

SECTION 9. WARRANTY AND CLAIMS

CONTRACTOR warrants that the fuel oil shall meet the specification prescribed herein under Schedule A, and other pertinent sections. If the fuel oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom.

CONTRACTOR shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of oil shipment and delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of their negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of fuel oil as specified in Section 4.

SECTION 10. PRODUCT AND QUALITY

The fuel oil delivered hereunder shall have the physical and chemical characteristics as described in Schedule A.

The Authority reserves the right to require the supplier to add and to conduct additional tests as may be required.

SECTION 11. QUANTITY AND QUALITY ASSURANCE

(a) Inspection of fuel oil cargo loading and discharge to determine quantity and quality shall be witnessed and or conducted by the appointed third party independent Inspector mutually acceptable to **GPA** and the **CONTRACTOR**. Such independent inspector shall also perform or witness the required sampling, gauging, and inspection of vessel and shore tanks before and after loading at load port as well as discharge port, Guam. Final determination shall be based on the discharge port findings. All quantity calculations and correction to volume at sixty (60) degree (Fahrenheit) shall be in accordance with the ASTM-IP Petroleum Measurement Tables, Table 6- the latest edition published shall be applicable. All costs and charges for the inspections for the load port shall be borne by the **CONTRACTOR**, and costs at the discharge port shall be equally shared by **GPA** and the **CONTRACTOR**.

(b) Load port samples from each individual shore loading tanks shall be sampled by the independent inspector who shall perform or witness the required tests for quality certification prior to loading. Shore tank composite from each individual shore loading tanks shall be separately tested and the quality must conform to the specifications under Schedule A of the contract. Vessel's composite samples from all vessel's cargo compartments shall also be obtained by the inspector for the consignee, **GPA**, in care of the ship's master. All Samples shall be equally divided into THREE (3) parts, sealed, properly identified, and designated with the required "Chain of Custody of Samples" documentations.

(c) The quality of the cargo to be delivered shall be determined by an independent inspector mutually acceptable to GPA and the **CONTRACTOR** and is to be based on the ship composite samples taken at the port of discharge in such a manner as to secure samples which are representative of the entire cargo delivery. Discharge tanks samples and ship's composite samples shall be divided into THREE (3) parts. One part shall be for **CONTRACTOR** and TWO (2) parts

shall be for **GPA**, and **GPA** shall utilize one sample for recertification and reserve the other sample as a retained referee sample. All discharge port samples shall be presented by the inspector for **GPA** in care of the Master of the ship. All samples shall be retained for not less than ONE HUNDRED TWENTY (120) days after delivery. In the event of dispute as to quality, analysis of the samples taken at the discharge port shall be made by an independent inspector, which analysis shall be final and binding upon both parties.

GPA reserves the right to reject any or all deliveries that fail to conform to the quality requirements specified in Schedule A.

GPA has the right to reject any cargo outside the specifications limits, as these are agreed in the context of this contract. In this respect, the quality analysis certificate together with the other shipping documents (B/L, certificate of origin, cargo manifest, certificate of origin, certificate of quantity with shore tank measurement report, certificate of quantity, etc) must be transmitted by fax or e-mail to GPA upon completion of loading.

Original/copy of the quality analysis certificates and ship's "certificate of cleanliness" issued before loading to be handed over with the other shipping documents (B/L, Certificate of Origin, Cargo Manifest, Certificate of Quality, Certificate of Quantity with shore tank measurement report, etc.) upon arrival of vessel at discharge port.

It is understood that any delay as may be incurred in discharge due to unavailability of copy of the Bill of Lading will be for **CONTRACTOR's** account. Furthermore, the correct documentation in original format is required in order to establish to the full satisfaction of GPA.

SECTION 12. QUANTITY DETERMNATION

Quantity determination shall be performed by a third party independent inspector mutually acceptable to **GPA** and the **CONTRACTOR.** Quantity shall be based from the load port shore tanks gauges as to be reflected as Bill of Lading quantity NET barrels at sixty degrees Fahrenheit (60 ^{o}F). The Certificate of Quantity shall separately use the density from each individual shore loading tanks. All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 ^{o}F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable. A copy of the load port shore tank measurements shall be included as supplemental documents.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

In the event of the variances between the B/L quantity and the discharge port (shore tanks) receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE- FOURTH PERCENT (0.25 %) of the barrel established quantity; shortages beyond the 0.25% shall be covered by the **CONTRACTOR**.

SECTION 13. SECURITY OF SUPPLY

For security of supply, **CONTRACTOR** reserves the right to supply fuel oil meeting **GPA** specifications from any source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in Section 4 above.

SECTION 14. GOVERNMENT LAWS AND REGULATIONS

(a) If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent **GPA** from burning the type of fuel oil to be supplied hereunder, **GPA** shall use its best efforts to obtain an exemption. In the event **GPA** cannot obtain an exemption from such laws and regulations, **CONTRACTOR** shall use his best efforts to furnish **GPA** substitute fuel oil which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute fuel oil causes an increase or decrease in **CONTRACTOR** 's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by **CONTRACTOR** of the notification of substitute fuel oil in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Disputes". However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract fuel oil specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the parties cannot mutually agree upon the price at which **CONTRACTOR** is to furnish such substitute fuel oil, and **CONTRACTOR** refuses to provide such substitute fuel oil at the Contract price set out herein shall **GPA** then have the option of purchasing from other sources fuel oil at a lower price

than that offered by **CONTRACTOR** in such negotiations which complies with such laws and regulations, but in any event, the **CONTRACTOR** shall have no recourse, other than those specified herein.

(b) **CONTRACTOR** shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 15. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 16. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

(a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;

(b) Restraints. Arrest or restraint of princes, rulers or peoples;

(c) Confiscation. Expropriation, requisition, confiscation or nationalization;

(d) Rationing. Embargoes, export or import restrictions or rationing or allocation, whether imposed by law, decree or regulation or by voluntary cooperation of industry at the insistence or request of any governmental authority or person purporting to act therefore;

(e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;

(f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;

(g) Loss for Tankers. Loss of tanker tonnage due to sinking by belligerents or to governmental taking whether or not by formal requisition;

(h) Accidents. Accidents to or adjuncts of shipping navigation;

(i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;

(j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;

(k) Taking by Government. Unavailability of fuel because of the election of the government of the country of its origin to take royalty product in kind;

(l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 17. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 16, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 18. PAYMENT REQUIRED

Notwithstanding the provisions of Section 16, supra, **GPA** shall not be relieved of any obligation to make payments for any fuel delivered to Guam dock/**GPA** tanks hereunder; however, during the

force majeure condition the obligation shall be suspended, except for fuel oil deliveries made prior to the force majeure condition.

SECTION 19. PRORATION OR EQUITABLE ALLOATION

If any of the events enumerated in Section 16, supra, have occurred, **CONTRACTOR** shall prorate or otherwise allocate in a fair and equitable manner among its customers, including **GPA**, the supplies of fuel oil **CONTRACTOR** has available for delivery at the time of the occurrence or for the duration of such event taking into account **GPA**'s unique situation as Guam's total dependence on fuel oil. **CONTRACTOR** shall also seek an alternative source of fuel oil to fulfill its contractual obligations.

SECTION 20. ALTERNATE SUPPLY

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 16, supra, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition shall exist.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the Contractor, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition of negligence shall exist. If the cost of fuel during such period of negligence shall exceed the Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

SECTION 21. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any fuel to be sold under the Contract for the reasons which fall within the provisions of Section 16, supra, then the party so prevented shall, as to the remainder of the fuel not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 16, supra, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 22. GOVERNING LAW AND DISPUTES

This CONTRACT shall in all respects be governed by the Laws of Guam. The provisions of the United Nations Convention on Contracts for the International Sale of Goods are expressly excluded.

This CONTRACT shall not be construed to confer any benefit on any person not being a party to this Contract not shall it provide any rights to such person to enforce any of its provisions. The provisions of the English Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

In the event of any controversies, dispute or difference of any nature (a "Dispute") between the parties arising from or in connection with this Contract, either party may give notice to the other in writing of the existence of such dispute specifying its nature and the points at issue. If the dispute shall not have been amicably resolved within thirty (30) days from the date of the said notice, then the same shall be exclusively and definitely resolved through final and binding arbitration in New York, by the AMERICAN ARBITRATION ASSOCIATION ('AAA'), in accordance with the rules of arbitration of such institution in effect as of the date the existence of the controversy is notified by one of the parties. The arbitration shall be conducted by three arbitrators, unless all parties to the dispute agree to a sole arbitrator within thirty (30) days after the filing of the arbitration. Each party to the dispute shall appoint one arbitrator within thirty (30) days of the filing of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators have been appointed by the parties to the dispute. If a party to the dispute fails to appoint its party-appointed arbitrators or if the two party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then LCIA shall appoint the remainder of the three arbitrators. The arbitration proceedings shall be conducted in English and the arbitrator(s) shall be fluent in the English language. The award of the arbitral tribunal shall be final and binding. Judgment on the award of the arbitral tribunal may be entered and enforced in any court having jurisdiction thereof. The cost of the arbitration proceedings, including attorneys' fees, shall be borne in the manner determined by the arbitral tribunal. Any right to appeal or challenge any arbitral decision or award is hereby waived. The parties may seek a preliminary injunction or other preliminary judicial relief, if in its judgment such action is necessary to avoid irreparable damage. It is expressly agreed that indirect, special, punitive and consequential damages shall not be awarded.

SECTION 23. CONTRACTOR'S INSURANCE

The **CONTRACTOR** shall maintain an insurance policy or ensure that vessel nominated have in place an insurance policy for oil pollution (throughout the entire period of the voyage to and from the discharge port) with coverage consistent with the provisions in compliance to the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90) and any amendments thereto. This includes, but is not limited to, compliance with oil spill clean up plan, financial responsibility, and all other provisions of OPA 90.

SECTION 24. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any oil spillage caused by it or its agent or **CONTRACTOR**s during the process of oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any vessel owned or chartered by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90).

SECTION 25. TRANSPORTATION

The Authority shall nominate and advise the **CONTRACTOR** of the 10-day delivery date range not later than 30 days before the 1st calendar day of the delivery date range. The **AUTHORITY** and **CONTRACTOR** shall mutually agree to narrow down to a 5-day delivery date range 21 days prior to the 1st day of the 5-day delivery date range.

(a) **CONTRACTOR** shall arrange for the transportation of the fuel oil from loading port to the Guam dock, and give **GPA** at least FIFTEEN (15) days prior notice of the approximate arrival date of each tanker.

All risk of loss, cost and liabilities prior to the time of passage of title of the fuel oil to shall be on the **CONTRACTOR**. **CONTRACTOR** or its agents shall further arrange for the use of pier receiving facilities' Manager (Tristar), U.S. Coast Guard, U.S. Custom and Immigration

inspections, Guam Commercial Port authorities, Guam tug services, Port Stevedores services, and others as necessary for the safe berthing of fuel tankers.

GPA shall exercise due diligence and make its best effort to assist the **CONTRACTOR** in arranging for safe berthing facilities to accommodate vessels at the F-1 dock with the following information:

Maximum LOA	237 meters
Maximum breadth	45 meters
Maximum vessel draft alongside	14.8 meters
Maximum displacement	120,000 tonnes

GPA shall provide the **CONTRACTOR** an estimated total cargo quantity to be delivered approximately THIRTY (30) days from estimated 10-day delivery date range.

GPA shall provide notification to the **CONTRACTOR** as to the final split cargo delivery quantity approximately TWENTY-ONE (21) days prior to the first (1st) day of the estimated 5-day delivery date range which will also be specified in this final notice. **GPA** estimates a single delivery requirement in the range of FORTY THOUSAND TO ONE HUNDRED TWENTY THOUSAND BARRELS (40,000 -120,000 bbls).

For each delivery **CONTRACTOR** will have an operational tolerance of ~~five~~ ONE-FOURTH PERCENT (0.25%) on the cargo size, as well as the obligation to deliver the shipment within defined delivery date range, as has been notified by **GPA**.

GPA shall have the right to cancel or change the previously notified cargo size and/or delivery date within twenty one (21) calendar days prior to the first day of the delivery range without penalty.

(b) **Tanker nomination procedures:**

The **AUTHORITY** shall advise the contractor of projected "tankers' schedule and quantities per slate" THIRTY (30) days before the commencement of the contract, and **CONTRACTOR** agrees to provide all fuel requirements of **GPA** as advised and all succeeding cargo requirements thereafter.

(i) **Vessel Specification**:

All vessels nominated by the **CONTRACTOR** for fuel oil deliveries to **GPA** shall meet Tristar's vessel vetting requirements and be pre-approved by the F-1 dock facility manager (Tristar), having its registered office at:

414 West Soledad Avenue
GCIC Building, Suite 500P
Hagatna, Guam 96910
Tel : (671) 565-2300/ 565-9021
Fax: (671) 565-3909

The **CONTRACTOR** or its agents shall be responsible in seeking vessel clearance from Tristar. In the event that vessels owned or chartered by the **CONTRACTOR** do not meet the Tristar specification, **CONTRACTOR** shall have the vessel shortfalls corrected or have another vessel nominated and ensure that a suitable vessel is cleared for timely delivery of cargo to **GPA**. The **CONTRACTOR** or its agents shall be responsible for the scheduling and reservation of the dock with Tristar.

The **CONTRACTOR** shall ensure that the vessel assigned to perform the voyage should be rid of any slop before reaching the designated port and have adequate slops – storage capacity to ensure that unloading of any slops is avoided.

(c) **Ship Lay time and Demurrage:**

Ship lay time of thirty-six (36) hours at the discharge port shall commence six (6) hours after the tender of Notice of Readiness (NOR) or when the vessel berths whichever occurs first, and to cease upon last cargo hoses disconnection. Official NOR shall be tendered/ re-tendered after completion of inspection and clearance for conducting cargo discharging operations is granted by the Port Authorities.

However, if the vessel arrives before the first day of the agreed arrival date range, lay time shall not commence until 06:00 AM on the first day of the agreed arrival date range or the time discharge commences whichever is earlier. If the vessel arrives after the last day of the agreed arrival date range lay time shall commence at the time discharge commences.

If regulations of the Port Authorities prohibit the discharge of cargo at night, the time so lost shall not count as used lay time.

(i) **<u>Ship Demurrage</u>:**

If lay time allowed is exceeded, GPA shall be liable to pay the **CONTRACTOR** for applicable demurrage. However, any delay due to vessel inspection and clearance by Local and Federal Authorities, breakdown of the vessel's equipment, or failure by vessel to comply with the requirements of the discharge port with respect to equipment aboard, shall not be counted in the lay time used for calculating demurrage. Waiting period for berthing, port formalities, product sampling and testing for quality conformance shall be deducted in the lay time calculation.

The vessel must be able to attain a minimum discharge rate of four thousand barrels per hour (4,000 bbls/hr) and a discharge pressure of up to one hundred (100) psi measured at the F-1 Dock manifold. Time lost for slow discharging shall be deducted from the lay time used for calculating demurrage.

Demurrage cost if payable by **GPA** shall be at the single voyage demurrage rate specified in the single voyage Charter Party of the vessel loading the cargo in question and the **CONTRACTOR** shall furnish **GPA** with a copy of such Charter Party. Such charges must be submitted to **GPA** within 90 days after Bill of Lading date.

CONTRACTOR 's and **GPA**'s rights and duties under Section 24 and Section 25 do not supersede or control the provisions of Section 16 Force Majeure.

(d) **Dock Use Lay time Charges**:

Dock lay time of thirty-six (36) hours at the discharge port, to commence upon commencement of cargo discharging, and to cease upon last cargo hose disconnection. Dock lay time charges in excess of the first thirty-six (36) hours are paid by GPA to the dock facility manager, Tristar.

In the event that the allowable lay time of thirty-six (36) hours is exceeded due to delays caused by the vessel, the Contractor shall reimburse GPA for any charges in excess of the allowable lay time. Calculation for reimbursement shall be based on the Letter of Protest issued to the Vessel's Officer converted to time units multiplied by the dock excess lay time charge and dock operator overtime cost.

SECTION 26. COORDINATION – AMMUNITION LOADING

(a) The **CONTRACTOR** is hereby advised and agrees that the unloading of fuel oil is not

permitted during the time that the unloading or loading of ammunition is taking place at the U.S. Navy's ammunition wharf.

(b) Coordination to prevent conflict in unloading between ammunition and fuel oil will be effected jointly by responsible parties representing the U.S. Navy, the Port Authority, **GPA** and the **CONTRACTOR**. Any charges that may result because of demurrage caused by delay in discharge of fuel oil related to ammunition unloading or loading will be borne by the **GPA**, provided that notice of arrival of tanker is given to **GPA** by the **CONTRACTOR** at least FIFTEEN (15) days prior to ETA Guam. In absence of such notice any delay costs shall be borne solely by the **CONTRACTOR**.

SECTION 27. FAILURE TO SUPPLY

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of fuel oil supply or commits any other substantial breach of this Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure fuel oil supply from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 28. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

(a) Terminate the Contract forthwith or forthwith suspend delivery under the contract until further notice, on notifying GPA orally or by notice in writing; or

(b) Continue to supply fuel oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 29. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR** 's performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon THRITY (30) days written notice.

SECTION 30. PENALTY CLAUSES

(a) **Late Deliveries**

(1) In case of five (5) delayed deliveries beyond the last day of the stipulated delivery date range on the discharge port, after the stipulated delivery date as set out in the nomination procedure, **GPA** reserves the right to terminate the present contract by his written notification, without obligation to indemnify the **CONTRACTOR**.

(2) **CONTRACTOR** accepts to pay **GPA** for every delayed delivery beyond the last day of the five (5) days stipulated delivery date range as set out in the nomination procedure, a penalty equivalent to:

- $0.10/bbl multiplied by the Bill of Lading quantity for every day of delay if delivery is less than five days late.
- 0.20/bbl multiplied by the Bill of Lading quantity for every day of delay if delivery is more than five days late.

In case of delay due to **GPA**'s fault or Force Majeure, the time of delivery shall be correspondingly extended, the **CONTRACTOR** waiving any respective claim against **GPA**.

(b) **Quality Outside Contractual Specifications**

In the event that any fuel, according to the analysis results of either the composite vessel sample or the "Umpire" sample has one or more quality characteristics outside the contractual specifications set in Schedule A, then in addition to any other rights or remedies available to the **GPA** under this contract a penalty will be imposed according to the following:

(1) If the bottom sediment and water exceeds the specification limit, then a price reduction shall be made for all water and non-petroleum sediment in excess of maximums specified in Schedule A multiplied by the Bill of Lading Quantity.
(2) If the heating value is less than the specification limit, then there will be a price reduction calculated as the ratio of the Out-of- Specification heating value and the Guaranteed Heating Value specified in Schedule A, multiplied by the Bill of Lading Quantity.

If any other quality parameter (besides the ones stated in) exceeds the specifications' limits, then a penalty will be agreed between **GPA** and **CONTRACTOR**.

It is expressly agreed that the present penalty clauses shall be imposed regardless of whether damages were or not suffered by the **GPA** due to the delay in delivering the fuel and fuel quality outside contractual specifications, and that the **GPA** reserves the right to claim cumulatively both the amount of the penalty clauses and indemnification for every direct damage suffered by him due to **CONTRACTOR** non-contractual actions or omissions. If during the period of this contract the **GPA** is forced to purchase fuel oil in order to maintain the **GPA**'s Power Stations on full commercial load as a result of failure on the part of the **CONTRACTOR** to deliver fuel oil in accordance with the terms of this contract (save for events of Force Majeure) any additional cost borne by the **GPA** over and above the price provided for in this Contract will be liable to be refunded to the **GPA** either by payment from the **CONTRACTOR** or by way of reduction from his debts to the **CONTRACTOR** or from the Good Performance Bond of the Contract, or partially from both.

GPA reserves the right to retain the amount of the penalty clauses from his debts to the **CONTRACTOR** or from the Good Performance Bond of the Contract, or partially from both.

SECTION 31. DEFAULT

"If the PARTY refuses or fails to perform any of their obligations under this agreement, non-breaching PARTY shall notify the PARTY either by e-mail or in writing within thirty (30) days of the breach. If the PARTY does not remedy the breach within thirty (30) days after the date of notification, non-breaching PARTY may by giving notice to the other PARTY terminate the Agreement in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, GPA reserves the right to procure fuel supply from another source upon notification to CONTRACTOR either by e-mail or

in writing. Fuel to be procured shall be at the prevailing market price at the time of partial termination or suspension.

The CONTRACTOR shall be liable for the difference between the contract price and the prevailing market price at the time of termination."

SECTION 32. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 33. TERMINATION FOR CONVENIENCE

(a) **Termination**.

The delivery of fuel oil supply under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which supply of fuel oil under the Contract is terminated, and the Contract shall be terminated effective THREE HUNDRED SIXTY (360) days after receipt of notice by **CONTRACTOR**.

In the case of termination of this Contract, GPA shall reimburse the CONTRACTOR of all the expenses related to the period of the Performance Bond that were not used.

(b) **CONTRACTOR's Obligations.**

The **CONTRACTOR** shall incur no further obligations in connection with the terminated fuel oil supply delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of fuel oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for fuel oil supply. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and Contracts, if any, connected with the terminated fuel oil supply delivery. **GPA** may direct the **CONTRACTOR** to assign the Contractor's right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver fuel oil supply not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) **Right to Supplies.**

GPA may require the **CONTRACTOR** to transfer title of fuel oil cargo in transit to Guam at the time of receipt by Contractor of **GPA**'s Notice of Termination.

(d) **Compensation.**

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within ONE (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** 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 by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Guam Uniform Commercial Code, and the Contract price of the fuel supply not terminated.

(3) Absent complete agreement under subparagraph (1) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

(i) Fuel oil Contract prices for supplies or services accepted under the Contract by **GPA**;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of fuel oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted fuel oil supplies or services; provided, however, that if it appears that the **CONTRACTOR** would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of Contracts

or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;

(iv) 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 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 this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code.

SECTION 34. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 35. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 36. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly

stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving FIFTEEN (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____
_____
_____
_____

SECTION 37. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 38. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter **CONTRACTOR**'s obligations hereunder. No assignee of **CONTRACTOR** shall have the right

to assign the Contract without **GPA**'s consent which may be given or refused at **GPA**'s absolute discretion.

SECTION 39. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 40. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind the **AUTHORITY**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 41. DESCRIPTIVE HEADINGS

The descriptive headings of the several Sections and Subsections in this Invitation are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 42. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 43. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 44. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 45. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 46. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for

employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 47. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY

GCA 5 §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION 48. RESTRICTION AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

GCA 5 §5253(b) restricts the CONTRACTOR against employing convicted sex offenders from working at Government of Guam venues. It states:

> (b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the CONTRACTOR has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the CONTRACTOR is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

SECTION 49. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the Re-Bid **IFB-GPA-057-17**. This Contract is subject to the approval of **GPA** and the Public Utilities Commission and it shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority** (**GPA**):

_____ _____

John M. Benavente, P.E. **DATE**
General Manager

For **(CONTRACTOR)** :

(Company Name and Seal)

_____ _____

CONTRACTOR, Duly Authorized **DATE**
REPRESENTATIVE OF COMPANY

APPROVED AS TO FORM:

_____ _____

Graham Botha, Legal Counsel **DATE**
GUAM POWER AUTHORITY

PERFORMANCE AND PAYMENT BONDS

KNOW ALL MEN BY THESE PRESENTS that _____

_____

_____

(Name of CONTRACTOR)

herein after called the CONTRACTOR and _____

_____

_____

(Name of Surety)

a corporation duly organized under the laws of the State of _____

_____

(hereafter referred to as: "Surety") authorized to transact business in Guam as Surety, are held and firmly bound unto the Guam Power Authority, as obligee, for use and benefit of claimants as herein below defined, in the amount of _____

_____Dollars (US$_____) for the payment whereof the CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the CONTRACTOR has by written agreement dated _____, 20 _____, entered into a Contract with the Guam Power Authority for the **Supply of Diesel Fuel Oil No.2** in accordance with the Specifications prepared by the Guam Power Authority, which Contract is by reference made a part hereof, and is hereafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the CONTRACTOR shall promptly and faithfully perform said Contract, and shall promptly make payment to all claimants as hereinafter defined for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

A. The Surety hereby waives notice of any alteration or extension of the time made by the Guam Power Authority provided the same is within the scope of the Contract.

B. Whenever CONTRACTOR shall be and is declared to be in default under the Contract by the Guam Power Authority, and the Guam Power Authority has performed its Contract obligations, the Surety may promptly remedy the default or shall promptly:

1. Complete the Contract in accordance with its terms and conditions; or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Guam Power Authority and the Surety of the lowest responsive, responsible bidder, arrange for a Contract between such bidder and the Authority, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less than balance of the Contract price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph shall mean the total amount payable by the Guam Power Authority to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by the Guam Power Authority to CONTRACTOR.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Guam Power Authority or successors of the Authority.

C. A claimant is defined as one having a direct contract with the CONTRACTOR, or with a sub-CONTRACTOR of the CONTRACTOR for labor, material, or both, used or reasonably required for use in the performance of the Contract labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

D. The above-named CONTRACTOR and Surety hereby jointly and severally agree with the Guam Power Authority that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) calendar days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Guam Power Authority shall not be liable for the payment of any costs or expenses of any such suit.

E. No suit or action shall be commenced hereunder by a claimant:

1. Unless claimant, other than one having a direct contract with the CONTRACTOR, shall have given written notice to any two of the following:

   The CONTRACTOR, the Guam Power Authority, or the Surety above named, within ninety (90) calendar days after such claimant did or performed that last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was

done or performed. Such notice shall be personally served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the CONTRACTOR at any place the principal maintains an office or conducts it business.

2. After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.

3. Other than in a court of competent jurisdiction in and for Guam.

F. The amount of the payment bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED THIS _____ day of _____ 20___ .

IN THE PRESENCE OF:

(Note: If the Principles are Partners, each must execute the Bond)

_____ _____

(WITNESS) (CONTRACTOR) (SEAL)

_____ _____

(TITLE)

(MAJOR OFFICER OF SURETY)	(MAJOR OFFICER OF SURETY)
(TITLE)	(TITLE)

SCHEDULE A: PRODUCT QUALITY SPECIFICATION

DIESEL FUEL Oil No. 2

Property	ASTM Test Method [B]	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	60 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm^2 at 40°C	1.9 Min 4.1 Max
Total Aromatic Hydrocarbons	IP 391		% mass	15 Min 35 Max
Polycyclic Aromatic Hydrocarbons	IP 391		% mass	11 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453	D-7039	ppm (µg/g)	14 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	15 Min 35 Max
Micro Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	400 Max
Conductivity	D2624	D4308	pS/m	100 Min 600 Max
Density @ 15°C	D1298	D4052	Kg/m^3	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Hydrogen Sulfide in Liquid	IP 570A		Mg/kg	
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.25 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp	Visual			Report
Haze Rating	D4176		Haze Rating	1 Max
Fatty Acid Methyl Ester (FAME)	D 7371-14	EN 14078	% vol	0.1 Max
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min
Stadis 450	Declared		Mg/L	
Lubricity Additive	Declared		Mg/kg	

The Authority may require the supplier to conduct additional test as necessary for plant's performance/efficiency evaluation.

Invitation For Re-Bid

Multi-Step IFB No. GPA-057-17

DIESEL FUEL OIL NO.2

B. DELIVERY TO GPA PLANTS

Volume II

CONTRACT

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CONTRACT

(CONTRACTOR)

GUAM POWER AUTHORITY

2017

Re-Bid

Multi-Step IFB No. GPA-057-17

DELIVERY OF DIESEL FUEL OIL NO.2

FORMAL CONTRACT

This Agreement and Formal Contract ("Contract"), is made and entered into on the _____ day of _____, 2017 by and between:

_____, hereinafter referred to as "**CONTRACTOR"**, with its principal address at _____;

\- and –

GUAM POWER AUTHORITY, hereinafter referred to as the **"Authority"** or **"GPA"**, a Public Corporation with its office located at the Gloria Nelson Public Service Complex, Fadian Mangilao Guam;

R E C I T A L S

WHEREAS, the current services contract for the delivery of Diesel Fuel Oil No.2 will expire on December 31, 2017; and

WHEREAS, the current services contract for the delivery of Diesel Fuel Oil No.2 is extended by six (6 months) until June, 2018; and

WHEREAS, **GPA** sought to procure a new **CONTRACTOR** for the delivery of Fuel Oil to the with the following Baseload Plants and Peaking Units site locations: (**1) Cabras 1&2 and MEC 8&9**; (**2) Tenjo Vista; (3) Manenggon and Talofofo; (4) TEMES CT; (5) Dededo CT and Macheche CT;** and **(6) Yigo CT, and Aggreko**; and

WHEREAS, GPA issued an Invitation For a Multi-Step Bid for the Delivery of Diesel Fuel Oil No.2 under re-bid IFB GPA-057-17; and

WHEREAS, **CONTRACTOR** submitted a bid in response to the Invitation for Bid for the Delivery of Diesel Fuel Oil No.2; and

WHEREAS, **GPA**, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR**. is the lowest responsive and responsible bidder for the following GPA plant locations: _____; and

WHEREAS, the Guam Consolidated Commission on Utilities (CCU) and the Guam Public Utilities Commission (PUC) has determined that the **CONTRACTOR** is the preferred option for **GPA** to delivery the Fuel oil requirements for the Authority for those plant locations.

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledge; **CONTRACTOR** and **GPA** hereby agree as follows:

SECTION 1. DEFINITIONS

"$" refers to currency in U.S. dollars.

"ASTM" means the American Society for Testing and Materials, a recognized organization providing globally- accepted standard testing and evaluation methods for petroleum.

"API" means the American Petroleum Institute, a recognized organization providing globally accepted petroleum procedures.

"Barrel" means a volume equivalent to 42 U.S. Gallons.

"Contract" means this written agreement between **GPA** and **CONTRACTOR** covering the Delivery of Fuel oil and any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

"Contract Documents" means the Contract, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract, together with all Modifications issued after execution of the Contract.

"Contracting Officer" means the General Manager of the **GPA** and shall include his authorized representatives.

"CONTRACTOR" means the party which has duly entered into this Contract with **GPA** to perform the work herein contemplated or his or their authorized assignee.

"**Day"** means a calendar day of twenty-four (24) hours measured from midnight to the next midnight.

"Month" means a calendar month.

"Year" means a calendar year.

"Delivery Time" means the total number of hours or days or the dates stated in this Agreement for furnishing the Fuel Oil.

"General Manager" means the Chief Executive Officer of **GPA**. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of **GPA**.

"Notice" means and includes all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with Contract requirements. Any written notice by either party to the Contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box and file the same with the Contracting Officer.

"Procurement Officer" means the General Manager or the General Manager's designee.

"PURCHASER" means **GPA**.

"Seller" means the **CONTRACTOR**.

"Territory" means the Territory of Guam.

"OPA'90" means the Oil Pollution Act of 1990 enacted by the U.S. Congress.

"Platt's Asia-Pacific/ Arab Gulf Marketscan" refers to the source document for the `Fuel Oil Contract pricing.

"Metric Ton" means unit of mass equal to 1,000 kilograms (2,205 pounds)

"Fuel Oil" means a liquid hydrocarbon product satisfying the specifications in Section 8 and Schedule A.

"Gallon" means a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

"CCU" means the Guam Consolidated Commission on Utilities.

"PUC" means the Guam Public Utilities Commission.

"COA" means Certificate of Analysisor Quality Certificate, a formal document recording the CONTRACTOR's laboratory determination of quality of a particular sample which represents a specific delivery, said laboratory determinations having been performed in accordance with the test methods specified in Schedule A.

"Independent Inspector" means a qualified third-party petroleum inspection contractor acceptable to both parties providing petroleum sampling, measurement and other services before, during and after a delivery.

"Receiving Facility" means any of GPA's generating facilities, storage facilities and/or other facilities used to receive, transport, store, or otherwise handle the Diesel, and/or ULSD located on the island of Guam as designated by GPA.

"ULSD" means Ultra-Low Sulfur Diesel produced in conformity with the provisions of the quality in the Specification which are set forth in Schedule A.

SECTION 2. CONTRACT TERM

The Contract term shall be for FIVE (5) years to commence on or about July 01, 2018 and shall continue until midnight of June 30, 2023.

SECTION 3. CONTRACT PRICE

The **CONTRACT PRICE** shall be the **FIXED SERVICE FEE** in U.S. dollars per Gallon ($/gal) for all deliveries of Fuel Oil to the **GPA** plants shall be inclusive of all costs and liabilities required to fulfill the contract.

The **FIXED SERVICE FEE** for all deliveries of Fuel Oil to certain GPA Plants identified on Schedule B hereto shall be as follows:

CONTRACT PRICE	1st year $/gallon	2nd year $/gallon	3rd yr $/gallon	4th yr $/gallon	5th yr $/gallon

	(in 3 decimals)	(in 3 decimals)	(in 3 decimals)	(in 3 decimals)	(in 3 decimals)
FIXED SERVICE FEE					

SECTION 4. FUEL OIL DELIVERY

CONTRACTOR agrees to deliver and **GPA** agrees to accept and pay for all of **GPA**'s Fuel Oil delivery requirements for the power generating plants in Guam identified in Schedule B on an "As Needed Basis" as determined by **GPA** for the term of the Contract.

CONTRACTOR shall own, lease or have the right to use tanker trucks, storage tanks, loading racks, and other facilities sufficient to meet **CONTRACTOR**'s obligations under this Contract. Cost for the use of such resources shall be borne by the **CONTRACTOR.**

The **estimated** total Fuel Oil delivery requirement is listed in Schedule B. This information is provided as reference material only. Although every attempt has been made to ensure its accuracy, GPA makes no guarantees that these quantities will be achieved but they may be exceeded. GPA expressly disclaims any liability whatsoever arising from reliance or non-reliance of the data provided.

Actual quantities may vary depending on the dispatching of the plants. The estimated Fuel Oil requirement provided herein are only approximate values and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the estimated fuel oil requirements.

The first delivery of Fuel Oil pursuant to the Contract is anticipated to be on or about **July 01, 2018**.

The **CONTRACTOR** shall be available to deliver the Fuel Oil to the point of delivery as designated by **GPA** within twenty-four hours (24 hrs) notice or less of receiving a request. **CONTRACTOR** must be available to receive and accept delivery requests daily, including weekends and holidays. The **CONTRACTOR** shall provide transfer pumps at its delivery trucks and/or whatever else may be necessary to deliver Fuel Oil to **GPA** plant storage tanks to the height of 45 feet. Fuel Oil deliveries shall be on an "on call" basis. **CONTRACTOR** must closely coordinate with the plants and shall

exercise its best efforts to deliver Fuel Oil to **GPA** to meet operational requirements regardless of the estimates provided by **GPA.**

SECTION 5. TITLE, CUSTODY AND RISK OF LOSS

Title to the Fuel Oil shall remain with **GPA.**

a. Pipeline transfer to CONTRACTOR's Storage Tank.

All risk of loss, cost and liabilities shall pass from **GPA** to the **CONTRACTOR** when the Fuel Oil has passed the **GPA** pipeline flange connecting the **CONTRACTOR**'s pipeline flange.

b. **Delivery by Tanker Truck to GPA plants**.

All risk of loss, cost and liabilities shall pass from the CONTRACTOR to GPA when the Fuel Oil has passed the GPA pipeline flange at the GPA storage tanks connecting the CONTRACTOR's tanker truck delivery hose.

SECTION 6. TERMS OF PAYMENT

Invoices for Fuel Oil delivery services pursuant to quantity (Fuel Oil receipts) and quality prescribed under the terms of this contract shall be submitted no more than1 week after each delivery, based on the number of Gallons of Fuel Oil delivered to **GPA**. The invoices must be supported by Fuel Oil Bill of Lading (BOL) or delivery tickets including a receipt acknowledgement from a **GPA** representative. The payment terms are 30 days (net) beginning on the date the invoice is received by the **GPA** accounts payable section. All payments shall be based on the delivered quantity, corrected to volume (net) at 60 ^{o}F.

SECTION 7. WARRANTY AND CLAIMS

CONTRACTOR agrees, represents and warrants as follows:

CONTRACTOR warrants that it has the facilities sufficient to meet **CONTRACTOR**'s obligations under this Contract. Such facilites shall include, but not limited to: tanker trucks, storage tanks, loading racks, and other resources. Cost for the use of such resources shall be borne by the **CONTRACTOR.**

If the Fuel Oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom. **CONTRACTOR** shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of Fuel Oil delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of its negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of Fuel Oil as specified in Section 4.

SECTION 8. PRODUCT AND QUALITY

Test Methods shall be in conformance with the prescribed procedures set forth by the American Society for Testing and Materials (ASTM) Standards for Petroleum Products, Lubricants, and Fossil Fuels, or alternative tests acceptable and subject to prior authorization by **GPA**.

The Fuel Oil delivered to **GPA** shall have the physical and chemical characteristics as described in Schedule A.

SECTION 9. QUANTITY AND QUALITY ASSURANCE

a. Pipeline Transfer to CONTRACTOR's Storage Tank

In the event that CONTRACTOR shall use its storage tank to transfer product from the **GPA** bulk storage tank, quantity determination of product transferred by the **CONTRACTOR** by pipeline from the **GPA** bulk storage shall be determined at the time of each transfer by the Independent Inspector gauging the **GPA** bulk storage tank and **CONTRACTOR** receiving tanks before and after delivery. Cost shall be borne by the **CONTRACTOR.**

CONTRACTOR shall also test the product in its storage tank without additional cost to GPA.

Quantity shall be corrected to the volume at sixty degrees Fahrenheit. Conversion shall be made in accordance with the ASTM-IP Petroleum Measurement Tables (IP-200), Table 6B (latest edition). Quantity certification prepared by independent inspector shall be final and binding upon both parties.

b. Delivery to the GPA plants

CONTRACTOR'S calibrated load rack meters shall be utilized to determine the quantity of Fuel Oil delivered by tanker truck to **GPA.** Quantity of product delivered by CONTRACTOR at

CONTRACTOR's nominated terminal to the CONTRACTOR's nominated tanker truck(s) to the GPA plants shall be determined at the time of each delivery by CONTRACTOR, converted in each instance to volume at 60 degrees Fahrenheit by the automated rack control system and shall be the basis for the Bill of Lading (BOL).

CONTRACTOR shall have such meters calibrated no less than annually or as required and agreed by CONTRACTOR and GPA. CONTRACTOR shall furnish **GPA** a copy of the certificate of newly calibrated meter(s) within 10 days after the calibration date. In the event of a dispute over the accuracy of the **CONTRACTOR's** meters, an independent third party mutually agreeable to both parties will be brought in to perform a recalibration. In the event of a miscalibration, the costs shall be borne by the **CONTRACTOR**. Any loss incurred by **GPA** as a result of miscalibration of meters shall be negotiated and returned to **GPA**.

BOL quantities shall be deducted from the quantity of product withdrawn by the **CONTRACTOR** in the GPA bulk storage. Any undelivered product withdrawals shall be returned to GPA or issued a credit invoice equivalent to the cost of the undelivered product.

Appropriate Certificate of Analysis (COA) reports shall also accompany each delivery and must be presented to the **GPA** receiving facility. Quality must conform with the requirements specified under Section 8 and Schedule A as a condition for acceptance of delivery.

In the event of a dispute over the quality of Fuel Oil received by **GPA**, an inspection of Fuel Oil will be conducted by an appointed third party inspector mutually acceptable to **GPA** and the **CONTRACTOR**.

CONTRACTOR, at its own expense, is required to install security seals on valves and compartments of the delivery tanker trucks after Fuel Oil loading is completed. Seals shall remain intact upon inspection by the **GPA** receiving facility. Seal numbers shall be recorded in the delivery receipt and initialed by an authorized terminal representative. **GPA** reserves the right to reject deliveries with tampered or missing seals.

CONTRACTOR shall provide a comprehensive summary of the Fuel Oil delivery reports. **CONTRACTOR** shall tailor its reports to **GPA's** needs. **CONTRACTOR** shall submit copy(ies) of all Certificates of Analysis (COA) for the delivery month. Reports shall be submitted to the GPA within five (5) working days after each report month. **CONTRACTOR** shall also submit other reports and/or documentations that is relevant to the contract as may be required by the Authority.

SECTION 10. QUANTITY DETERMINATION

In the event of the variances between the BOL quantity and the GPA plant receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE-FOURTH PERCENT (0.25 %) of the gallons established quantity; shortages beyond the 0.25% tolerance shall be covered by the **CONTRACTOR**.

GPA reserves the right to require the intervention of a third party independent inspector for quantity determination. Such inspector shall be mutually acceptable to **GPA** and the **CONTRACTOR.** Cost shall be borne by the **CONTRACTOR.** All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 ^{o}F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

SECTION 11. GOVERNMENT LAWS AND REGULATIONS

CONTRACTOR shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 12. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 13. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

(a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;

(b) Restraints. Arrest or restraint of princes, rulers or peoples;

(c) Confiscation. Expropriation, requisition, confiscation or nationalization;

(e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;

(f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;

(i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;

(j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;

(k) Taking by Government. Unavailability of Fuel Oil to deliver because of the election of the government of the country of its origin to take royalty product in kind;

(l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 14. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 13, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible

after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 15. PAYMENT REQUIRED

Notwithstanding the provisions of Section 13, supra, **GPA** shall not be relieved of any obligation to make payments for any Fuel Oil delivered to **GPA** tanks hereunder; however, during the force majeure condition the obligation shall be suspended, except for deliveries of Fuel Oil made prior to the force majeure condition.

SECTION 16. ALTERNATE DELIVERY

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 13, supra, or if CONTRACTOR will be unable to deliver at the time needed, **CONTRACTOR** shall seek an alternative delivery source so long as such condition shall exist.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the **CONTRACTOR**, **CONTRACTOR** shall seek an alternative delivery source so long as such condition shall exist, without additional cost to **GPA**.
GPA may at its sole discretion seek an alternative delivery source so long as such condition of negligence shall exist. If the cost of delivery during such period of negligence shall exceed the Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

SECTION 17. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any Fuel Oil to be delivered under the Contract for the reasons which fall within the provisions of Section 13, supra, then the party so prevented shall, as to the remainder of the Fuel Oil not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 13, supra, shall operate to extend the term of or terminate the Contract

unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 18. GOVERNING LAW AND DISPUTES

(a) All controversies between **GPA** and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by **GPA** pursuant to Guam Procurement laws and regulations.

(b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.

(c) The **CONTRACTOR** shall comply with any decision of **GPA** and proceed diligently with performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of **GPA** has made a written determination that continuation of work under the Contract is essential to the welfare of the Territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 19. CONTRACTOR'S INSURANCE

CONTRACTOR shall not commence work under this Contract until he has obtained all insurance required under this section and such insurance has been approved by **GPA**, nor shall the **CONTRACTOR** allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to GPA within the period prescribed by **GPA**. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

Failure on the part of the **CONTRACTOR** to provide the required documents and/or to enter into a contract with **GPA** shall be sufficient grounds for the annulment of the award. **GPA** may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

A. WORKMEN'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE: The **CONTRACTOR** shall take out and maintain during the life of this Contract the applicable statutory Workmen's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable State or Territory covering all his employees, and in the case of any work sublet, the **CONTRACTOR** shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees. The **CONTRACTOR** shall secure and maintain, during the life of this Contract, Employer's Liability Insurance with a limit of $500,000 with an insurance company authorized to write such insurance in all states or territories where the Contractor will have employees located in the performance of this Contract. **CONTRACTOR** shall provide a Waiver of Subrogation in favor of **GPA** via endorsement to the Workers Compensation policy.

B. COMMERCIAL GENERAL LIABILTY:

1. The **CONTRACTOR** shall maintain, during the life of this Contract, such Commercial General Liability as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from operations under this Contract whether such operations be by himself or by any Subcontractor or anyone

directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided Liability Insurance shall be as follows:

Bodily Injury Limits:	$ 1,000,000 Each Person
Property Damage Limits:	$ 1,000,000 Each Occurrence
	$ 2,000,000 Aggregate

2. The Commercial General Liability required by the preceding Subparagraph 1 shall include the following extensions of coverage:

(a) The property damage coverage shall include a Broad Form Property Damage Endorsement.

(b) Contractual Liability coverage shall be included.

(c) Protective Liability coverage shall be included to protect the **CONTRACTOR** against claims arising out of operations performed by his Subcontractors.

(d) Products Liability and/or Completed Operations coverage shall be included.

(e) **GPA** shall be an additional insured on Commercial General Liability policy.

(f) **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**.

C. AUTOMOBILE LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, such Automobile Liability insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this Contract. **GPA** shall be an additional insured on Auto Liability policy. **CONTRACTOR** will grant Waiver of Subrogation in favor of **GPA**. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits:	$ 1,000,000 Each Person
	$ 1,000,000 Each Occurrence
Property Damage Limits:	$ 1,000,000 Each occurrence

D. POLLUTION LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, Pollution Liability Insurance with minimum limits of $5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of **GPA**. **GPA** is to be an additional insured.

E. EXCESS LIABILITY

Excess Liability with limits of $5,000,000. **GPA** shall be an additional insured. **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**.

F. CERTIFICATE OF INSURANCE:

The **CONTRACTOR** shall furnish **GPA** with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give **GPA** at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the **CONTRACTOR** shall furnish a Certificates of Insurance evidencing renewal of such coverage to **GPA**. The Certificates of Insurance shall clearly show this Contract number.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to **GPA** as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

G. SUBCONTRACTOR'S INSURANCE:

The **CONTRACTOR** shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the **CONTRACTOR** under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the **CONTRACTOR** two (2) copies of a Certificate of Insurance and such certificate shall contain

the same information required in Paragraph C. above. The **CONTRACTOR** shall furnish one (1) copy of the certificate to **GPA**.

H. INSURANCE COMPANY AND AGENT:

All insurance policies herein required of the **CONTRACTOR** shall be written by a company duly authorized to do business in the Territory where deliver under this Contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

SECTION 20. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any Fuel Oil spillage caused by it or its agent or **CONTRACTOR**s during the process of Fuel Oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any transportation owned or leased by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90) and other regulatory agencies.

SECTION 21. TRANSPORTATION

CONTRACTOR shall arrange for the transportation of the Fuel Oil to **GPA**. **CONTRACTOR** shall have the tanker truck fleet that is sufficient to meet **CONTRACTOR**'s obligations under this Contract. All risk of loss, cost and liabilities shall pass from the CONTRACTOR to GPA when the Fuel Oil has passed the GPA pipeline flange at the GPA storage tanks connecting the CONTRACTOR's tanker truck delivery hose.

CONTRACTOR 's and **GPA**'s rights and duties under Section 20 and Section 21 do not supersede or control the provisions of Section 13 Force Majeure.

SECTION 22. FAILURE TO DELIVER

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of Fuel Oilor commits any other substantial breach of this

Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure Fuel Oil delivery services from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 23. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

(a) Terminate the Contract forthwith or forthwith suspend delivery under the Contract until further notice, on notifying **GPA** orally or by notice in writing; or

(b) Continue to deliver Fuel Oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 24. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR** 's performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon THRITY (30) days written notice.

SECTION 25. DEFAULT

If a PARTY refuses or fails to perform any of its obligations under this Contract, the non-breaching PARTY shall notify the PARTY either by e-mail or in writing within thirty (30) days of the breach. If the PARTY does not remedy the breach within thirty (30) days after the date of notification, non-

breaching PARTY may by giving notice to the other PARTY terminate the Contract in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, **GPA** reserves the right to procure Fuel Oil delivery from another source upon notification to **CONTRACTOR** either by e-mail or in writing. Fuel Oil to be procured shall be at the prevailing market price at the time of partial termination or suspension.

In the event of termination because of **GPA's** default, the **CONTRACTOR** shall not be liable for the difference between the Contract price and the prevailing market price at the time of termination.

SECTION 26. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 27. TERMINATION FOR CONVENIENCE

(a) **Termination**.

The delivery of Fuel Oil deliver under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which deliver of Fuel Oil under the Contract is terminated, and the Contract shall be terminated effective NINETY (90) days after receipt of notice by **CONTRACTOR**.

In the case of termination of this Contract, **GPA** shall reimburse the **CONTRACTOR** of all the expenses related to the period of the Performance Bond that were not used.

(b) **CONTRACTOR's OBLIGATIONS.**

The **CONTRACTOR** shall incur no further obligations in connection with the terminated Fuel Oil deliver and delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of Fuel Oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for Fuel Oil delivery. The

CONTRACTOR shall settle the liabilities and claims arising out of the termination of orders and Contracts, if any, connected with the terminated Fuel Oil delivery. **GPA** may direct the **CONTRACTOR** to assign the **CONTRACTOR'S** right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver Fuel Oil where delivery is not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) **Compensation.**

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within ONE (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** 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 by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code of Guam, and the Contract price of the Fuel Oil delivery not terminated.

(3) Absent complete agreement under subparagraph (2) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

(i) Contract prices for delivery of Fuel Oil services accepted under the Contract by **GPA**;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of Fuel Oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted Fuel Oil delivery services; provided, however, that if it appears that the **CONTRACTOR** would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of Contracts or

orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;

(iv) 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 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 this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code.

SECTION 28. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 29. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 30. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving fifteen (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____
_____
_____
_____
_____
_____

SECTION 31. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 32. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter **CONTRACTOR**'s obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the Contract without **GPA**'s consent which may be given or refused at **GPA**'s absolute discretion.

CONTRACTOR and **GPA** shall not transfer or assign its rights and obligations under this contract, in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, the **CONTRACTOR** may transfer or assign its rights and obligations under this contract, in whole or in part, to a US based affiliate (as defined hereinafter), with ninety (90) days prior notice to and at the consent of **GPA**. For the purpose of this contract, "US based affiliate" means any company or legal entity based in the United States of America which (a) controls either directly or indirectly a party hereto, or (b) is controlled directly or indirectly by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such party. "Control" for purposes of the previous sentence means the ability to direct the management and policies of a company or legal entity, whether through ownership of securities, by contract or otherwise.

SECTION 33. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 34. SPECIFICATIONS

Should **GPA** wish to alter any of the specifications set out in Section 8 and Schedule A, method and terms of delivery, for good cause, it shall give written notice to **CONTRACTOR** within thirty (30) days. If such changes cause an increase or decrease in **CONTRACTOR**'s cost of performance of Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim by **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from the date of receipt by **CONTRACTOR** of the notification of changed specifications. **CONTRACTOR** and **GPA** shall, in good faith, negotiate an equitable adjustment pursuant to the change in specifications. If **CONTRACTOR** and **GPA** fail to agree on the adjustment to be made within thirty (30) days after **CONTRACTOR** receives notice of altered specifications, or if

CONTRACTOR is unwilling to meet the altered specifications, the parties shall be subject to the provisions under Section 18 (Governing Law and Disputes) clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract Fuel Oil specifications as changed.

SECTION 35. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind **GPA**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 36. DESCRIPTIVE HEADINGS

The descriptive headings of the several sections and subsections in this Contract are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 37. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 38. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 39. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 40. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 41. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 42. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRIRORY.

5 GCA §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION 43. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

5 GCA §5253(b) restricts the **CONTRACTOR** against employing convicted sex offenders from working at Government of Guam venues. It states:(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the **CONTRACTOR** has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the **CONTRACTOR** is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

SECTION 44. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the re-bid **IFB-GPA-057-17**. This Contract is subject to the approval of **GPA** and the Public Utilities Commission and it shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority** (**GPA**):

_____ _____
John M. Benavente, P.E. **DATE**
General Manager

For **(CONTRACTOR)**: _____
(Company Seal)

_____ _____
CONTRACTOR, Duly Authorized **DATE**
REPRESENTATIVE OF COMPANY

APPROVED AS TO FORM:

_____ _____
Graham Botha, Legal Counsel **DATE**
GUAM POWER AUTHORITY

SCHEDULE A: PRODUCT QUALITY SPECIFICATION

DIESEL FUEL Oil No. 2 [A]

Property	ASTM Test Method [B]	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	60 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm^2 at 40°C	1.9 Min 4.1 Max
Total Aromatic Hydrocarbons	IP 391		% mass	15 Min 35 Max
Polycyclic Aromatic Hydrocarbons	IP 391		% mass	11 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453	D-7039	ppm (µg/g)	14 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	15 Min 35 Max
Micro Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	400 Max
Conductivity	D2624	D4308	pS/m	100 Min 600 Max
Density @ 15°C	D1298	D4052	Kg/m^3	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Hydrogen Sulfide in Liquid	IP 570A		Mg/kg	
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.25 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp	Visual			Report
Haze Rating	D4176		Haze Rating	1 Max
Fatty Acid Methyl Ester (FAME)	D 7371-14	EN 14078	% vol	0.1 Max
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min
Stadis 450	Declared		Mg/L	
Lubricity Additive	Declared		Mg/kg	

The Authority may require the supplier to conduct additional test as necessary for plant's performance/efficiency evaluation.

SCHEDULE B: ESTIMATED ANNUAL FUEL OIL REQUIREMENTS

This information is provided as reference material only. Although every attempt has been made to ensure it accuracy, GPA makes no guarantees that these quantities will be achieved but they may be exceeded. GPA expressly disclaims any liability whatsoever arising from reliance or non-reliance of the data provided.

Plant Location	Estimated Annual Requirement (Gallons per Year)
1. Cabras 1&2 and MEC 8&9	**100,000 - 200,000**
2. Tenjo Vista	**5,000,000 – 7,000,000**
3. Manenggon and Talofofo	**3,000,000 – 4,000,000**
4. TEMES CT	**1,700,000 – 2,500,000**
5. Dededo CT and Macheche CT	**3,000,000 – 4,000,000**
6. Yigo CT and Aggreko	**8,000,000 – 10,000,000**
TOTAL	**20,800,000 - 27,700,000**

Actual quantities may vary depending on the dispatching of the plants. The estimated Fuel Oil requirement provided herein are only approximate values and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the estimated fuel oil requirements.

SCHEDULE C: PLANT CONSUMPTION AT MAXIMUM CAPACITIES

Plant Location	Max. Load per Plant (MW)	Plant Efficiency (kwh/gal)	Fuel Consumption per unit (gals/hr)	Fuel Consumption per unit (gals/day)	No. of Units	Total Fuel Consumption at Maximum Capacity (gals/day)	
Tenjo Vista	4.4	13.60	324	7,765	4	**31,059**	**31,059**
Talofofo	4.4	14.34	307	7,364	2	**14,728**	**31,999**
Manengon	5.3	14.73	360	8,635	2	**17,271**	
TEMES CT	40.0	9.16	4,367	104,803	1	**104,803**	**104,803**
Dededo CT	22.0	9.56	2,301	55,230	2	**110,460**	**160,986**
Macheche CT	22.0	10.45	2,105	50,526	1	**50,526**	
Yigo CT	22.0	11.64	1,890	45,361	1	**45,361**	**116,216**
Aggreko	1.0	13.21	76	1,817	39	**70,855**	
TOTAL						**445,064**	

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Issues for Decision

Resolution No. 2017 - 34:
Relative to the Relative to the Approval of Additional 40-45MW of Solar PV Acquisition with Energy Storage on Navy Leased Lands.

What is the project's objective and is it necessary and urgent?
GPA intends to obtain a contract(s) for renewable energy from Solar PV developed on leased Navy properties. The contracts will require all energy to be stored and delivered to GPA as request (i.e. during evening hours) and minimize intermittency impact to the GPA system. GPA intends to issue a Multistep Bid for an energy price for delivered renewable energy.

Where is it at?
Leased Navy properties are the South Finegayan site on Route 3 and four sites within Naval Base Guam.

How much will it cost?
This will be determined by bid process.

When will it be completed?
The following is a projected bid and construction schedules.

Task	Days	Start	End
Bid Schedule Milestones			
Announce	0	10-5-17 (Thu)	10-5-17 (Thu)
Bid Proposals Due	**0**	**12-11-17 (Mon)**	**12-11-17 (Mon)**
STEP 1: Technical Evaluation	21	12-11-17 (Mon)	1-1-18 (Mon)
STEP 2: Price Bid Evaluation	14	1-22-18 (Mon)	2-5-18 (Mon)
Contract Negotiation	14	2-19-18 (Mon)	3-5-18 (Mon)
CCU Worksession (2nd Wed)	0	3-15-18 (Thu)	3-15-18 (Thu)
CCU Approval (4th Tues)	0	3-27-18 (Tue)	3-27-18 (Tue)
PUC Approval (Last Thurs)	0	5-31-18 (Thu)	5-31-18 (Thu)

Solar Construction Milestones (Estimated)			
Contract Signing		6-14-18 (Thu)	6-14-18 (Thu)
Engineering / Procurement	480	6-14-18 (Thu)	1-2-19 (Wed)
Construction	480	1-2-19 (Wed)	4-26-20 (Sun)
Commissioning	31	4-26-20 (Sun)	5-27-20 (Wed)

What is its funding source?
GPA intends to seek LEAC recovery for renewable energy contracts.

The RFP/BID responses:
None. This request is to obtain authorization to petition approval of bid documents before solicitation.

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 2017–34

AUTHORIZING MANAGEMENT OF THE GUAM POWER AUTHORITY TO PETITION THE PUC FOR APPROVAL OF THE PHASE III RENEWABLE ACQUISITION MULTISTEP BID DOCUMENTS UNDER THE PROCUREMENT PROTOCOL

WHEREAS, in May 2015, via Resolution 2015-32, the CCU authorized GPA to initiate Phase III Renewable Acquisition for renewable energy from Solar PV on lease Navy properties; and

WHEREAS, the resolution referred to Phase II procurement documents with minor modifications that include GPA provided sites and restricted renewable resources to Solar Photovoltaic renewable energy on GPA provided sites; and

WHEREAS, since 2015, GPA has modified the Phase II bid documents to include energy storage for ramping; and

WHEREAS, preliminary drafts and discussions on the Phase II System Impact Studies and GPA's intended award for Phase II for up to 120 MW would impact GPA ability to receive solar energy during the solar energy production period; and

WHEREAS, GPA intends to increase the storage requirements for the primary purpose of shifting delivery of all energy produced by the solar facility to be delivered as required (i.e. during peak hours) with minimal intermittency impact on the grid; and

WHEREAS, GPA has modified the bid documents to reflect the land leased properties and additional energy storage requirements.

NOW, THEREFORE, BE IT RESOLVED, by the CONSOLIDATED COMMISSION ON UTILITIES subject to the review and approval of the Public Utilities Commission as follows:

1. The General Manager is authorized to petition the PUC for approval of the Phase III Renewable Acquisition Multi-Step Bid Documents which would require the shifting of all energy produced to the evening peak hours.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

DULY and REGULARY ADOPTED this 29th day of AUG 2017.

Certified by: **Attested by:**

JOSEPH T. DUENAS **CHAIRMAN**	**J. GEORGE BAMBA** **SECRETARY**

I, J. George Bamba, Secretary for the Consolidated Commission on Utilities do hereby certifies as follow:

The foregoing is a full, true, and correct copy of the resolution duly adopted at a regular meeting of the members of Guam's Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and members who were present voted as follows:

AYES: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

CONSOLIDATED
COMMISSION ON UTILITIES
Guam Power Authority • Guam Waterworks Authority
P.O.BOX 2977 • Agana,Guam 96932

RESOLUTION NO. 2015 – 32

RESOLUTION RELATIVE TO THE APPROVAL OF ADDITIONAL 45MW OF SOLAR PV ACQUISITION ON NAVY LAND

WHEREAS, the 2008 Integrated Resource Plan (IRP), approved by the PUC, identified the potential for renewable resources in the GPA system and authorized GPA to solicit up to 80MW of renewable energy contracts through a two phase process; and

WHEREAS, GPA's Phase I of its renewable acquisition was issued through Multi-Step Bid GPA-27-11 in 2011[1]. This resulted in the contracting of 35MW of renewable energy capacity thru power purchase agreements signed in 2012 and 2013 with Quantum Guam Power and Pacific Green Resources; and

WHEREAS, on May 3, 2013 GPA solicited Navy use of federal lands to support GPA's renewable efforts, specifically to partner with Navy for land and/or building use for renewable project installations that would benefit towards both GPA and Navy goals; and

WHEREAS, on January 16, 2014 Navy submitted a Letter of Intent to cooperate with GPA in assessing military lands for renewable project opportunities to achieve Federal, Department of Navy, and island-wide renewable energy mandates; and

WHEREAS, in July 2014 GPA met with Mr. Griffin, Director of the Navy Renewable Energy Program Office under the Secretary of Navy and other Navy officials to kick off GPA and Navy coordination for the assessment of Navy lands for solar photovoltaic project installations; and

WHEREAS, Navy has considered several models for acquiring renewable energy to meet energy goals:

[1] GPA's first attempt to bid Phase I of its renewable acquisition was issued and canceled in 2009 due to PL 30-66, which, upon its enactment, excluded current procurement as an authorized long term energy contract.

RESOLUTION NO: 2015-32

- Model 1 – Purchase of renewable energy not generated on Department of Navy (DON) land (GPA Phase 1 and 2 power purchase agreements to provide renewable energy that will be evenly distributed to all GPA customers)
- Model 2 – Purchase of renewable energy generated on DON land which is but delivered to GPA grid. (GPA to use DON land for new renewable facilities/contracts which would be evenly distributed to GPA customers.)
- Model 3 – Purchase of renewable energy generated on DON land and delivered directly to Navy customers. (This is similar to net metering.); and

WHEREAS, a high level preliminary assessment of over 330 acres of property with potential of 55 MW of solar photovoltaic capacity was submitted in September 2014; and

WHEREAS, Navy had indicated that the process for land lease for Model 2 would require a NEPA[2] study, lease negotiations and approval processes that would exceed a year to complete; and

WHEREAS, Investment Tax Credit, a federal tax incentive allowing 30% tax credit for solar systems, requires solar systems to be commissioned by December 31, 2016; and

WHEREAS, on July 1, 2014 GPA announced Phase II Renewable Acquisition Multi-Step Bid to acquire the additional 40-45 MW of renewable energy capacity through power purchase agreement; and

WHEREAS, the Phase II bid process is ongoing with price proposals to be received and evaluated in May 2015; and

WHEREAS, GPA and Navy teams continued to work together to refine sites that would be included in the draft Environmental Assessment released by Navy on May 8, 2015 for public comment; and

WHEREAS, Navy has indicated the final Environmental Assessment and Finding of No Significant Impact will not be completed until later this year which may impact final listing of leased lands for lease negotiations; and

WHEREAS, GPA believes that an accelerated bid and construction schedule due to pre-identified lands with completed environmental assessments may allow potential bidders to meet the Investment Tax Credit deadline of December 31, 2016; and

[2] NEPA stands for National Environmental Policy Act requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.

RESOLUTION NO: 2015-32

WHEREAS, under the procurement protocol ordered by PUC, GPA is required to obtain PUC approval for procurement documents for contracts in excess of $1.5 Million; and

WHEREAS, the draft Environmental Assessment has identified approximately 192 acres with potential of combined energy capacity of 43.8 MW and power purchase agreements in excess of 25 years would exceed GPA's contracting authorization of $1.5 million;

WHEREAS, GPA would like to initiate procurement protocol to assist in an accelerated bid schedule, and to modify the Phase II Renewable Acquisition documents by restricting bids to solar photovoltaic and to identify specifically the land in which the renewables are to be installed;

NOW, THEREFORE, BE IT RESOLVED, by the CONSOLIDATED COMMISSION ON UTILITIES, the GOVERNING BODY of the GUAM POWER AUTHORITY as FOLLOWS:

1. The CCU authorizes the GPA General Manager to petition the PUC to install 45MW of renewables on Navy land and for approval of procurement documents to solicit bids.

2. The CCU authorizes the GPA General Manager to continue to work with Navy in developing opportunities to meet Federal, DON and island-wide energy goals.

RESOLVED, THAT THE CHAIRMAN OF THE COMMISSION CERTIFIES AND THE SECRETARY OF THE COMMISSION ATTESTS THE ADOPTION OF THIS RESOLUTION.

DULY AND REGULARLY ADOPTED THIS 26th DAY OF MAY 2015.

Certified by:

JOSEPH T. DUENAS
CHAIRMAN

Attested by:

J. GEORGE BAMBA
SECRETARY

RESOLUTION NO: 2015-32

SECRETARY'S CERTIFICATION

I, **J. George Bamba**, Secretary, Consolidated Commission on Utilities, hereby certifies as follows;

The foregoing is a full, true, and correct copy of a resolution duly adopted at a regular meeting of the members of the Consolidated Commission on Utilities of the Guam Power Authority duly and legally held at the meeting place thereof on May 26th, 2015, at which meeting all of the said members had due notice and at which at least a majority thereof were present.

At said meeting, said resolution was adopted by the following vote:

Ayes 5

Nays 0

Abstain 0

Absent 0

Said original resolution has not been amended, modified, or rescinded since the date of its adoption, and the same is now in full force and in effect.

SO CERTIFIED this 26th day of May 2015.

J. GEORGE BAMBA
Secretary, Consolidated Commission on Utilities

CCU RESOLUTION #2015 - 32

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Issues for Decision

Resolution No. 2015-32:
Relative to the Relative to the Approval of Additional 40-45MW of Solar PV Acquisition on Navy Leased Lands.

What is the project's objective and is it necessary and urgent?
Navy and GPA have agreed to cooperate in identifying potential military lands allowing both parties to meet renewable energy goals. Navy released a draft Environmental Assessment (EA) for public comment on May 8 fulfilling one of several milestones towards a lease agreement with GPA. The draft EA has identified approximately 192 acres with potential of combined energy capacity of 43.8 MW. Power purchase agreements for this capacity would exceed GPA's contracting authorization of $1.5 million requiring PUC approval of solicitation documents. GPA would like to initiate PUC approval so potential bidders may be able to take advantage of the Investment Tax Credit which allows 30% tax credit of solar photovoltaic project costs before it expires on December 31, 2016.

Where is it at?
Navy property identified for potential PV sites include four sites in Northern Guam (South Finegayan, former Tumon Tank Farm, Harmon Booster Station, and Harmon Annex) and four sites at Naval Base Guam. These properties are being considered for up to 37 years lease to GPA. Sites may be removed during Navy lease process.

How much will it cost?
This will be determined by bid process.

When will it be completed?
GPA has projected the following bid and construction schedule. GPA believes that there may be opportunities to improve on this schedule through accelerated or parallel efforts in approval processes, negotiations, and contractor design and construction activities to meet December 31, 2016 deadline for Investment Tax Credits. Note that this schedule allocates 93 days for PUC approvals. If GPA can significantly reduce regulatory approval time or obtain approvals in parallel with other activities, then GPA may meet 2016 calendar year completion date.

What is its funding source?
GPA intends to seek LEAC recovery for renewable energy contracts.

The RFP/BID responses:
None. This request is to obtain authorization to petition approval bid documents before solicitation.

Bid Schedule Milestones			
Task	**Days**	**Start**	**End**
PUC Approval	47	5-27-15 (Wed)	7-13-15 (Mon)
Announce	0	8-3-15 (Mon)	8-3-15 (Mon)
Bid Proposals Due	45	8-3-15 (Mon)	9-17-15 (Thu)
STEP 1: Technical Evaluation	21	9-17-15 (Thu)	10-8-15 (Thu)
Priced Proposals Due	21	10-15-15 (Thu)	11-5-15 (Thu)
STEP 2: Price Bid Evaluation	21	11-5-15 (Thu)	11-26-15 (Thu)
System Impact Study	46	11-26-15 (Thu)	1-11-16 (Mon)
Contract Negotiation	30	1-11-16 (Mon)	2-10-16 (Wed)
CCU Approval (4th Tues)	0	2-23-16 (Tue)	2-23-16 (Tue)
PUC Approval	46	2-25-16 (Thu)	4-11-16 (Mon)
Solar Construction Projected Schedule			
Task	**Days**	**Start**	**End**
Eng/Procure/Construct / Commission	380	4-11-16 (Mon)	4-26-17 (Wed)

INVITATION FOR MULTI-STEP BID

NO.: GPA-XXX-17

RENEWABLE ENERGY RESOURCE

PHASE III



JENNIFER G. SABLAN, P.E.
MANAGER OF SPORD

JOHN J. CRUZ JR., P.E.
ASSISTANT GENERAL MANAGER OF
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P.O. BOX 2977
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INVITATION FOR MULTI-STEP BID

NO.: GPA-XXX-17

RENEWABLE ENERGY RESOURCE

PHASE III

Volume I

Commercial Terms & Conditions

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1. Introduction

The Guam Power Authority (GPA) is inviting Renewable Resource Developers to participate in a Multi-Step Bid to provide renewable energy to serve the GPA power system. This Invitation for Multi-Step Bid (IFB) is an effort to comply with Public Law 29-62, which requires GPA to establish renewable portfolio standard goals and add additional renewable capacity with each construction of a conventional base load unit. GPA and United States Navy (Navy) have partnered in developing renewable energy resources that will aid both parties to achieve renewable goals. Navy has offered to lease properties to GPA to develop lands for installation of solar photovoltaic farms or facilities. The sites include one site in Northern Guam (South Finegayan) and four sites at Naval Base Guam.

This IFB is Phase III of GPA's effort to procure renewable energy resources. The Phase I solicitation resulted in two PPAs under NRG Energy, LLC for a combined output of 26MW using solar PV. The NRG facility is located in Dandan and was commissioned in October 2015. GPA is presently finzaling award for the Phase II solicitation. The contract award is potentially for a total of 120MW consisting for two 30 MW projects located in Mangilao and two 30MW proposals located in Dandan. GPA expects to complete the award by fourth quarter of 2017. Projects are expected to be online by 2020.

In this Phase III acquisition, GPA intends to acquire up to 40 MW (AC) of renewable capacity with Energy Storage System. Proposed projects must meet the following established requirements:

- The Bidder's resource technology SHALL be a utility scale **Solar Photovoltaic system** with renewable integration energy storage system that will meet GPA's requirements as described in section 2.2.2 Acceptable ESS Technologies in "Volume II: Technical Qualification Proposal Requirements."
    - The primary purpose of the ESS shall be for energy shifting which is to deliver the solar produced energy at another time or period of the day.
    - The alternate function of the ESS shall be Renewable integration (RI-ESS). If and when required, i.e. GPA allows delivery directly to the grid, the RI-ESS must provide the following functions:
        - Significantly reduce the impact of intermittent ("non-firm") renewable energy generation power fluctuations on GPA's power system frequency and voltage at the point of interconnection
        - Achieve this by providing a supporting energy storage system to quickly respond to the variable renewable generation output and ameliorate the power imbalance within GPA's power grid or an assigned local micro grid.
        - Providing highly reliable fault recovery and optimizing power distribution
        - Provide a reactive capability requirement up to 0.95 lag to lead at the point of interconnection as required by GPA.
        - Demand Response Controls.

- The renewable resource will be available for commercial operation within 36 months from the contract execution.
- The technology proposed for the renewable resource will have at least 1 year of commercial operations history in a utility environment.
- The renewable resource will deliver energy directly to the existing GPA 34.5 KV transmission system.
- The renewable resource will provide energy for a term of 25 years.
- The Bidder's renewable resource project will have a total minimum nameplate capacity of 5 MW (AC) and a maximum nameplate capacity of 30 MW (AC); this may be the combination of several systems at one site.

- The renewable resources shall be installed on predetermined sites GPA has leased from the U.S. Department of Navy on Guam military sites and would require successful bidders to enter into a sublease agreement with GPA subject to approval by the U.S. Department of Navy.
- The renewable resources shall conform to the Buy American Act for projects located on federal lands.
- Bidders will be required to obtain security access to sites as required by the Federal Government which may include local Rapid Gate processing and fees.

The GPA webpage, http://guampowerauthority.com/special/renew1.php, also has the following information for your use:

- Public Law 29-62 (An act to promote the development of renewable energy)
- Public Law 30-66 (An act relative to permitting GPA and GWA to enter into long term contracts)
- Solar Energy Data from the Talofofo substation of the Dandan 25.65 MW solar photovoltaic farm

This bid shall be a Two Step process. Step One will establish a Qualified Bidders List (QBL) based on acceptable submitted non-price Bid information (or Technical Qualification Proposals). Step Two will evaluate the Priced Proposals from the vendors identified on the QBL and which, if any, Qualified Bidder(s) will be awarded a contract(s). Step One is the period from IFB announcement through Notification of Qualified Bidders. Step Two is the period after completion of the Technical Proposal Evaluation and notification of the QBL to the contract award date.

GPA will qualify the Bidders based on their Technical Qualification Proposals and the Qualitative Scoring Workbook. GPA will notify the Bidders selected for the QBL and will proceed with the second step of the bid process to open the sealed bid Priced Proposals of the qualified bidders. GPA will perform a comprehensive evaluation of each bid and select the Bidder(s) with the best bids based on the submitted purchase power price, minimum guarantees, and required technical data. After the selection of the winning Bidders(s), GPA will conduct system integration studies, at the selected Bidders' expense, to determine system upgrades or improvements required and the associated cost necessary for the selected renewable resource's integration into the GPA transmission system. If the selected Bidder(s) cannot proceed with the contract, GPA may elect to 1) go to the next best Bidder or 2) cancel the bid.

Table 1 indicates the anticipated milestones for the Bid process. GPA reserves the right to change the Bid process schedule at its sole discretion.

Table 1: Bid Schedule

Bid Process Milestones		From Date	To Date
Bid Announcement			
Vendors Submit Questions			
Site Visit 1 – Naval Base Guam			
Deadline for registration & payment of transportation fee			
Pre-Bid Conference & Site Visit (Meet at the GPA Main Office)			
Site Visit 2 – South Finegayan Site on Route 3			
Cut-Off Date for Receipt of Technical Proposals (Unpriced)			
GPA Review and Answer Questions			
Vendors Prepare Bids			
EVALUATION Step One:	Technical Proposal Evaluation		
	Notification of Qualified Bidders		
EVALUATION Step Two:	**Cut-Off Date for Receipt of Priced Proposals**		
	Opening of Priced Proposals (Public Opening)		
	Evaluation of Priced Proposals		
	Notification of Successful Bidder(s)		
System Impact Study		TBD	TBD
Contract Negotiation		TBD	TBD
Contract Approval & Recommendation to Award (GPA Mgmt & CCU)		TBD	TBD
Public Utilities Commission Review		TBD	TBD
Contract Signing		TBD	

1.1. Invitation for Bid (IFB) Document Organization

Invitation for Bid documents are organized into five separate volumes, as follows:

Volume I: Commercial Terms and Conditions
Volume II: Technical Qualification Requirements
Volume III: Draft Renewable Energy Purchase Agreement
Volume IV: Bid Scoring Mechanism
Volume V: Appendices

In addition, the IFB documents include two sets of electronic spreadsheets (Microsoft Excel Workbooks):

- Qualitative Scoring Workbook.xls
- Priced Proposal Workbook.xls

GPA reminds Bidders to submit the Priced Proposal in a separate sealed envelope clearly marked "Priced Proposal" for Step Two of the bid process.

1.2. GPA Overview

GPA is a public utility corporation that provides electric power service throughout the entire island of Guam. GPA, in conjunction with Private Partners, operates and maintains 9 power plants, with a total rated capacity of 428.8 MW. The Authority also has installed and maintains an estimated combined total of 182 miles of 115 kV and 34.5 kV transmission lines and an estimated 585 miles of primary distribution lines, and 30 substations. In addition, the authority owns, operates and maintains a total capacity of 18 MW for emergency generators to support 128 Guam Waterworks Authority water and sewage pump stations and sewage treatment facilities situated at various locations throughout Guam and 10 portable units.

1.2.1. Generation Overview

An overview of GPA's generation resources and transmission systems is provided in GPA's Integrated Resource Plan, which can be found at the following webpage:
http://guampowerauthority.com/gpa_authority/strategicplanning/2012IRP.php

1.2.2. Electrical System Overview

Guam Power Authority has approximately 182 miles of 115KV and 34.5KV transmission lines. There are 6 ea 115KV and 35 ea 34.5KV lines connecting 30 substations throughout the island. These Substations have 63 ea 13.8KV distribution feeders with approximately 592 miles of lines. The Guam Power Authority follows National Electrical Manufacturers Association (NEMA) ANSI C84 for delivery of power and imbalance.

The GPA Islandwide System Transmission Single Line Diagram can be found on the following webpage:
http://guampowerauthority.com/gpa_authority/engineering/gpa_engineering_system_diagrams.php

1.2.3. Guam Weather

Guam's climate is pleasantly warm year-round. The mean annual temperature is 81 degrees; generally, the range is from the low 70s to the middle 80s. The coolest and least humid months, marked by prevailing westerly tradewinds, are in December through February. Although the warmest months are from March through August, the refreshing trade winds blow steadily. The annual rainfall totals 80 to 110 inches. There are two seasons, the dry and the rainy. The dry season begins in December through June. The rainy season falls within the remaining months.

Weather	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Avg Fahrenheit	76	77	78	79	79	80	80	80	79	80	80	79
Avg Centigrade	24	25	26	26	26	27	27	27	26	27	27	26
rainfall inches	5.16	4.26	2.97	4.03	4.49	5.19	9.59	12.16	14.08	14.40	8.51	5.85
rel humidity %	77	76	75	74	73	76	76	81	81	80	80	78
sunshine hrs/day	11.15	11.30	11.51	12.16	12.40	12.58	13.00	12.47	12.24	12.00	11.35	11.18

1.2.4. Historical Renewable Data

Historical 1 second recorded at the Talofofo Substation of renewable energy delivered from NRG's 26MW Solar PV facility is available on the GPA renewable website for download at: http://guampowerauthority.com/special/renew1.php

Data is from March 2016 thru March 2017 and is the total output of the solar facility delivered to GPA.

1.3. IFB Document Media

The five-volume set of IFB documents and all Amendments to this IFB may be made available to Bidders in electronic format including:

- CD-ROM (inclusive of electronic spreadsheets);
- Downloadable files posted on the Internet (webpage or FTP site); or
- Transmittal through email.

2. Instructions to Bidders

These instructions to bidders are intended to provide guidance in the preparation of bids and do not constitute part of the bid or of the contract document.

This is a multi-step bid procurement consisting of two steps. Bidders must submit both parts of their bids: the Technical Qualification Proposal and the Priced Proposal by the Bid Submittal Closing Date indicated in Table 1: Bid Schedule. During Step One, only the submitted Technical Qualification Proposals will be evaluated. GPA will select a short-list of qualified bidders who will be eligible to submit their priced proposals.

In Step Two, the Priced Proposals based upon Technical Qualification Proposals will be considered for award. Only the Technical Qualification Proposals that are deemed acceptable, either initially or as a result of further discussions with prospective Bidders, will be considered for award during Step 2.

2.1. Correspondence

2.1.1. Language

English is the official language of Guam. As such, Bidders should submit all of their bid documents, and any accompanying documents, in English. Any bids not submitted in English will be designated as "Unacceptable" and will not qualify for the QBL.

2.1.2. Commercial and Technical Correspondence

Any prospective Bidder desiring an explanation or interpretation of the IFB, commercial terms, Technical Specifications, etc., must make a request in writing to the GPA Procurement Office at the mailing address or the email address listed below, referencing the Invitation for Multi-Step Bid No. GPA-XXX-17.

ATTENTION: JOHN M. BENAVENTE
GENERAL MANAGER
GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977
ATTENTION: SUPPLY MANAGEMENT ADMINISTRATOR

PHONE: (671) 646-3054/55
FAX: (671) 648-3165

In addition, Bidders may also make this request by writing to the GPA PMC Procurement Officer at: gpa_renew1@guampowerauthority.com.

All inquiries must be received by GPA Procurement no later than the Cut-Off Date for Receipt of Proposals indicated in Table 1: Bid Schedule. Any oral explanations or instructions given by GPA to prospective Bidders will not be binding. GPA will promptly furnish any information given to a prospective Bidder concerning this IFB to all parties recorded by the Procurement Officer as having received the IFB. This information may be provided as an amendment to the IFB if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective Bidders.

2.2. Examination of Technical and Functional Requirements and IFB Documents

Before submitting their bid, Bidders must familiarize themselves with the nature and extent of the work, duly noting any local conditions that may affect the work to be done and the labor, materials, and equipment required.

Bidders are also required to carefully examine all IFB documents inclusive of all technical and functional requirements and to inform themselves of all conditions and requirements for the execution of the proposed work in accordance with the laws and regulations of the Territory of Guam. Ignorance on the part of Bidders of any part of the IFB documents and Technical Requirements will in no way relieve them of the obligations and responsibilities assumed under the contract.

2.3. IFB Amendment

Any amendment, modification or addendum issued by the Guam Power Authority, prior to the opening of the bids, for the purpose of changing the intent of the Technical Requirements, clarifying the meaning or changing any of the provisions of this IFB, shall be binding to the same extent as if written in the originally-issued IFB documents.

Any addendum issued will be made available to all Bidders via mail, fax, e-mail or posting to the GPA Website or FTP site. The Bidders shall acknowledge receipt of the amendment by a signature on one copy, which is to be returned to GPA at the mailing address, email address, or FAX number listed under Section 2.1.2: Commercial and Technical Correspondence.

2.4. Familiarity with Laws

Bidders shall be familiar with all U.S. Federal and local laws, ordinances, rules and regulations of Guam that in any manner affect the work. Ignorance of law on the part of the Bidders will not relieve the Bidder from responsibility.

2.5. Cost of Bidding

Bidders shall bear all costs associated with the preparation and submission of their bids. GPA will not be responsible or liable for those costs, regardless of the outcome of the IFB process.

2.6. Priced Proposals Furnished Separately without Technical Qualification Proposals

Bidders are required to submit their Priced Proposals as found in the MS EXCEL Workbook, **Priced Proposal Workbook.xls** separately from their Technical Qualification Proposals and completed **Qualitative Scoring Workbook.xls** by the Cut-Off Date for Receipt of Priced Proposals. Bidders must package Priced Proposals in a separate sealed envelope marked “Priced Proposal” and indicating the date and time of bid package submittal.

As part of the data requirements for Priced Proposals, Bidders must furnish a price for energy delivered for each year of the contract. These pricing requirements are described in more detail in Volume II: Technical Requirements

2.7. Price/Cost Data

Bidders shall provide prices/costs in U.S. Dollars

2.8. Documents Executed Outside Guam

The Power of Attorney, performance bond guarantee, and documents defining the constitution of the joint venture, consortium, company or firm, if executed outside Guam, whether required to be submitted with the bids or after the award of the contract, must be authenticated by a Notary Public or other official authorized to witness sworn statements.

2.9. Step One Procedures

The following outlines the requirements for technical (non-price) bid submittals.

2.9.1. Submission of Bids

2.9.1.1. Bid Contents

Each bid shall contain a complete and clear description of the proposed Solar PV project with energy storage, construction timelines and permitting experience, anticipated location, proposed interconnection with GPA system, operation and maintenance experience with proposed technology (as more fully discussed in Volume II: Technical Requirements). Each bid shall include the following:

- Cover and bid checklist forms defined in Appendix A;
- Responses and supporting information to the questions raised in the Qualitative Scoring Workbook;
- Completed electronic copy of the **Technical Bid Form Workbook**; and,
- Supplementary information described below.

Each bid shall be submitted in the format and quantities discussed in Section 2.9.2: Bid Submittal.

2.9.1.2. Responses and Supporting Information to Qualitative Questions

As part of their bid package, Bidders shall provide written responses and supporting information to answer each of the questions raised in the Qualitative Scoring Workbook on the tab marked Part 1- Qual Support References. The Bidders will then reference in the Qualitative Scoring Workbook, using the appropriate Section and/or page numbers, precisely where in their bid packages answers to each of the questions listed may be found.

2.9.1.3. Electronic Copies of the Bid Scoring Workbook

Bidders shall complete both the Qualitative Scoring Workbook and the Priced Proposal Workbook, **and must submit electronic copies of these two Workbooks separately from each other in clearly marked envelopes. Electronic copies should be provided on compact disk or USB device. Files shall not be additionally electronically secured. Any security changes may delay evaluation.**

2.9.1.4. Supplementary Information

Bidders shall submit all the supplementary information required by the IFB documents. The supplementary information must be provided in sufficient detail and clarity to permit a complete comparison of the bids with the Technical Specifications. Volume II provides more detail on information

required for the Technical Qualification Proposals and Priced Proposals. The supplementary information included with each bid shall include the following:

1. Information requested in the Qualitative Scoring Workbook and in Volume II: Technical Qualification Requirements.

Submittal of the following supplementary information is mandatory and must be provided by the Bid Submittal Closing Date. **GPA shall automatically disqualify any bid submitted without the supplementary information listed below:**

2. A copy of the Bidder's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;

3. Affidavit of Disclosure of Major Shareholder (Appendix C);

4. Audited financial information for the last five years on Bidder's firm and all subcontractors that will be used in this contract. If they have one, Bidders must include their Dunn and Bradstreet Number or Other Major Credit Rating Agency rating, or comparable, independent verification of their credit standing.

5. Certificate of Good Standing to conduct business from the jurisdiction of their company's residence;

6. Non-collusion Affidavit (Appendix D);

7. Information regarding outstanding claims against the Bidder, if any;

8. Bid Bond (Appendix B);

9. A current Guam Business License is not required in order to provide a Bid for this engagement, but is a pre-condition for entering into a contract with the Authority. *NOTE: The successful bidder must furnish a current Guam Business License prior to contract execution*;

10. No Gratuities or Kickbacks Affidavit (Appendix J);

11. Ethical Standards Affidavit (Appendix K);

12. Declaration Re Compliance with U.S. DOL Wage Determination (Appendix L);

13. Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property (Appendix M);

2.9.2. Bid Submittal

2.9.2.1. Manual Options for Bid Submittal

Bidders may submit their bids via mail services (such as U.S. Postal Service, Federal Express or DHL) to the address provided in section 2.1.2. Bidders may also deliver bids at the GPA Procurement Office located at:

Guam Power Authority
Gloria B. Nelson Public Service Building
Procurement Office, Room No.(**insert Office Room No**.)
688 Route 15, Mangilao, Guam 96913

2.9.2.2. Non-repudiation Issues

GPA has structured its Manual IFB submittal procedures to ensure non-repudiation of the submitted bids. In this IFB, "non-repudiation" means strong and substantial evidence of the identity of the sender and owner of the bid and of bid's integrity in so far as it being unaltered from its original sent state, sufficient to prevent a party from successfully denying the origin, submission or delivery of the bid and the integrity of its contents. Non-repudiation applies to both parties to this IFB transaction. It binds the sender as well as precludes the recipient from denying the exchange of information and material upon the receipt of secure acknowledgement from the recipient.

GPA and the Bidder shall manage the Manual IFB Submittal Process to address non-repudiation, security and confidentiality inclusive but not limited to the following:

- Manually executed signatures and printed media documents;
- Chain of custody receipts;
- Manual time-stamps for receipt of IFB materials;
- Machine generated Fax confirmation reports;
- Secure notification e-mail;
- Electronic Postings on the guampowerauthority.com domain;
- Physical delivery of printed material bids;
- Physically secured area storage of IFB materials.

2.9.2.3. Signature of Bidder

A duly authorized person must sign the Bidder's bids. All names shall be typed or printed below the signature. A bid submitted by a corporation must bear the seal of the corporation, be attested to by its Secretary, and be accompanied by necessary Power-of-Attorney documentation.

Associated companies or joint ventures shall jointly designate one Power-of-Attorney person authorized to obligate all the companies of the association or joint venture. A bid submitted by a joint venture must be accompanied by the document of formation of the joint venture, duly registered and authenticated by a Notary Public, in which is defined precisely the conditions under which it will function, its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, the principal member of the joint venture, and address for correspondence for the joint venture. Bidders are advised that the joint venture agreement must include a clause stating that the members of the joint venture are severally and jointly bound.

All required bid documents must be submitted and received by the Procurement Office by the Bid Submittal Closing deadline.

2.9.2.4. Manual Bid Submittal Package Format and Handling

This section describes the bid package format and content required by GPA that is specific to manual submittal of bids. The Manual IFB Bid Submittal Process is characterized by a preponderance of the submitted material in tangible printed media form that is hand-delivered by an authorized agent of the Bidder to the Procurement Officer of the Guam Power Authority. Both the Bidders' agents and the GPA Procurement Officer are live human beings. In addition, both parties perform non-repudiation of the bid through the execution of manually executed signatures, seals and time stamps.

Bidders are required to submit one original and six (6) bound copies of their bid including one completed electronic copy on one disk of the Qualitative Scoring Workbook and one completed electronic copy on another disk of the Priced Proposal Workbook. The Bidders are advised to keep a copy of the completed Workbooks and test the electronic copies on disks prior to submitting them to GPA.

2.9.2.5. Marking and Packaging of Bids

As a general rule, the manually submitted Bids shall be packaged in separate sealed boxes with the following information clearly marked on the outside of the two largest sides:

1) "TECHNICAL QUALIFICATION PROPOSAL" OR "PRICED PROPOSAL"
2) "RENEWABLE RESOURCE ACQUISITION";
3) BIDDER'S NAME;
4) INVITATION FOR BID NUMBER;
5) CLOSING DATE and TIME (Guam Standard Time).
6) Addressed As follows:

ATTENTION: JOHN M. BENAVENTE
GENERAL MANAGER, INTERIM
GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

If the Bidder's submittal cannot fit within one box or if the Bidder chooses to submit more than one box, each box must be labeled as described above and with the following additional information:

7) Box Number Within the Set of Submitted Boxes
8) The Total Number of Boxes Submitted.

2.9.2.6. Receipt and Handling of Manually Submitted Bids

Upon receipt, each Bid submittal package will be time-stamped. The only acceptable evidence to establish the date and time of receipt at the GPA is the date/time stamp of the Guam Power Authority's procurement office on the wrapper or other documentary evidence of receipt maintained by GPA. Bids will be stored in a secure place until the date and time set for proposal opening.

GPA procurement personnel will stamp the outside of each package using the GPA Procurement time stamp and will officially log the date and time that each Bidder's sealed bid package is received.

2.9.3. Submittal Closing Date

The Technical Qualification Proposal Submittal Closing Date is **(insert date & time) o'clock PM, Guam Standard Time**. Submitted proposals, excluding the Priced Proposals, will be opened at this time which

will initiate the proposal evaluation process. No proposals shall be accepted after the Bid Submittal Closing Date and Time.

2.9.4. Bid Changes During Bid Process

Changes may be made to the Technical Qualification Proposals(s) prior to the Bid Submittal Closing Date.

2.9.5. Evaluation of Technical Qualification Proposals

After the Bid Submittal Closing Date, GPA will evaluate the Technical Qualification Proposals and develop the QBL.

GPA will use the score from the Qualitative Scoring Workbook to evaluate the contents of bids and categorize each of the bids using one of the following designations:

a. Acceptable—the Bidder will qualify for the QBL and its Priced Proposal may be considered

b. Potentially Acceptable—the Bidder's submittal has a reasonable possibility of being made acceptable; or

c. Unacceptable—the Bidder's submittal does not meet the requirements and will not be considered further.

The Procurement Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The Procurement Officer may initiate Step Two if there are sufficient acceptable Technical Qualification Proposals to assure effective price competition in the second step without technical discussions. If the Procurement Officer finds that such is not the case, the Procurement Officer shall issue an amendment to this IFB or engage in technical discussions with Bidders as set forth below.

The Procurement Officer may conduct discussions with any Bidder who submits an acceptable or potentially acceptable technical Offer. During the course of such discussions, the Procurement officer shall not disclose any information derived from the Technical Qualification Proposals to any other Bidder. Once discussions are begun, any Bidder, who has not been notified that its Technical Qualification Proposal has been finally found acceptable, may submit supplemental information amending its Technical Qualification Proposal at any time. Such submission may be made at the request of the Procurement Officer or upon the Bidder's own initiative.

2.9.5.1. Notice of Unacceptable Bid

A notice of unacceptability will be forwarded to the Bidder upon completion of the Technical Qualification Proposal evaluation and final determination of unacceptability. When the Procurement Officer determines a Bidder's Technical Qualification Proposal to be unacceptable, such Bidder shall not be afforded an additional opportunity to supplement its offer.

2.10. Step Two Procedures.

Upon completion of Step One and the selection of qualified bidders, qualified bidders must submit their priced proposals. GPA will proceed with Step Two of the multi-step bid, which includes evaluation of the Priced Proposals and award of the contract(s).

2.10.1. Request for Priced Proposals and Performance Guarantees

Each Bidder from the QBL will be notified and GPA will open their Priced Proposals, which were submitted on compact disk in the MS EXCEL workbook titled Priced Proposal Workbook.xls. GPA will select a winning Bidder based on a comprehensive evaluation of the Priced Proposals, guarantees, and the resulting net present value of utility cost integrating each bid's Priced Proposal and generation profile as described in Volume IV: Bid Scoring Mechanism.

2.10.1.1. Bid Changes During Bid Process

Changes may be made to the Priced Proposals only prior to the Bid Submittal Closing Date.

2.10.1.2. Bid Validity

All price/cost data submitted with the Bidders' bids shall remain firm and open for acceptance for a period of **not less than eight (8) months after the Bid Submittal Closing Date**; thereafter, the Priced Proposal shall be subject to renewal by mutual agreement between the Bidder and GPA. The Bidder shall state the actual date of expiration in their Priced Proposal with their bid submittal.

2.10.2. Preliminary Examination of Priced Proposal

GPA will examine the Priced Proposal on the opening date to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Priced Proposals are generally in order.

Arithmetical errors will be rectified on the following basis. If there is discrepancy between the unit price and the total price, including any discounts, that is obtained by multiplying the unit priced and quantity, the unit price shall prevail and the total price shall be corrected. If the Bidder does not accept the correction of the error, its bid will be rejected. If there is a discrepancy between words and figures, the amount in words will prevail.

2.10.3. Evaluation Criteria and Comparison of Priced Proposals

GPA will only evaluate and compare the Priced Proposals for Bidder's whose Technical Qualification Proposals were determined to be responsive to the IFB document requirements during Step One. GPA's evaluation of Priced Proposals shall compare the $ per MWh Priced Proposals (as they apply to the expected energy production levels and Annual Minimum Quantity described in the Volume II: Technical Requirement) to GPA's cost to produce the same energy from its existing non-renewable resources. This evaluation method is explained in more detail in Volume IV: Bid Scoring Mechanism.

2.11. General Bid Guidelines and Requirements

2.11.1. Amendments to the IFB Document

GPA may elect to change the IFB documents in whole or in part. GPA shall send all Amendments to the IFB document recipients via fax and/or e-mail. In addition, GPA will make all Amendments available on the GPA Procurement Available Bids and RFPs website at http://guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php

2.11.2. Proprietary Data

For the purposes of this IFB and submitted bids, the laws, rules and regulations of Territory of Guam concerning confidentiality shall govern. Bidders may designate those portions of the Bid that contain trade secrets or other proprietary data that are to remain confidential.

The Procurement Officer shall examine the bids to determine the validity of any request for nondisclosure of trade secrets and other proprietary data identified in writing. If the Bidder and GPA do not agree as to the disclosure of data, the Procurement Officer shall inform the Bidder in writing and in e-mail within five working days of the closing date for Bid submittal what portions of the Bid will be disclosed and that, unless the Bidder protests under the Conditions of Contract Disputes clause the information will be so disclosed. The bid shall be opened to public inspection subject to any continuing prohibition of the disclosure of confidential data.

2.11.3. Acceptance of Bids

GPA reserves the right to reject any or all bids and to waive minor errors, informalities, and discrepancies made by the Bidders if it appears in GPA's best interest to do so.

Any effort by a Bidder to influence GPA in the bid evaluation, bid comparison or contract award decisions may result in the rejection of the bid. Once GPA has arrived at a decision regarding the award of the contract, it will notify promptly the winning Bidder in writing.

2.11.4. IFB Cancellation or Delay

The Guam Power Authority reserves the right to delay award or to cancel the IFB, or to reject all bids or any individual bid in whole or in part, at any time prior to the final award. When the IFB is canceled or rejected prior to final award, notice of cancellation or rejection shall be sent to all Bidders and all bid materials will be promptly returned. The reasons for cancellation or rejection shall be made a part of the procurement file that is available for public inspection. After the Bid Submittal Closing Date, but prior to award, all bids may be rejected in whole or in part when the Procurement Officer determines that such action is in the Territory's best interest for reasons including but not limited to:

a) The supplies and services being provided are no longer required;

b) The IFB did not provide consideration of other factors of significance to the Territory;

c) All otherwise acceptable bids received have clearly unreasonable price/cost data;

d) There is reason to believe that the bids may not have been independently arrived at in open competition, may have been collusive and may have been submitted in bad faith;

Again, any individual bid may be rejected in whole or in part when in the best interest of the Territory.

2.11.5. Disqualification of Bidder

When, for any reason, collusion or other anticompetitive practices are suspected among Bidders or offerors, a notice of the relevant facts shall be transmitted to the Guam Attorney General. Bidders suspected of collusion or other anticompetitive practices may be suspended or debarred from participating in future procurement opportunities for a specified period.

2.11.6. False Statements In Bid

Bidders must provide full, accurate, and complete information as required by this IFB and its attachments. The penalty for making false statements in any bid or bid is prescribed in 18 U.S.C. 1001 and Title 9, Guam Code Annotated. Note, by use of a digital signature to sign the bid, the Bidder agrees that this act legally binds the Bidder to his bid.

2.12. Award of Contract

The contract will be awarded to the Bidder evaluated as being qualified and with the best-priced bid.

The successful Bidder will be notified in writing (letter or e-mail or fax) of the intent to award the contract, and will be required to send to GPA's offices, within ten (10) days of the date of receipt of such notice, a representative or representatives with proper Power-of-Attorney for the purpose of executing a contract with such alterations or additions thereto as may be required to adopt such contract to the circumstances of the bid.

The successful Bidder shall provide the required Performance Bond within **fourteen (14) days** of receipt of the GPA Notice of Intent to Award.

Failure on the part of the successful Bidder to provide a Performance Bond and/or to enter into a contract with GPA shall be sufficient grounds for the annulment of the award. The negotiations may then be resumed with the next most qualified Bidder.

2.13. Bid and Performance Bond Requirements

2.13.1. Bid Bond Form and Amount

A bid bond for an amount of $ 150,000 (USD) for each submitted proposal is required and may be in the following form:

a. Cash, Bank Draft or Certified Check made payable to the Guam Power Authority;
b. By wire transfer to Guam Power Authority, Account No. 601-026246, Routing No. 121405115, Bank of Guam, P. O. Box BW, Hagatna, Guam 96910
c. Letter of Credit;
d. Surety Bond – valid if accompanied by:

(1) Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation;
(2) Power of Attorney issued by the Surety to the Resident General Agent

(3) Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bid Bonds, submitted as Bid Guarantee, without signatures and supporting documents are invalid and associated bids will be rejected.

If a Bidder desires to submit a bid bond with an acceptable bonding company, the Bidder must submit original copies of Appendix B.

For those Bidders not selected for award of contract, bid bonds will be refunded. For those Bidders selected for award of contract, bid bonds will be refunded once GPA has received their performance bond (see next Section 2.13.2). Any Bidder who is selected for award of contract but who is unable to fulfill the obligations of its respective bid(s) will permanently forfeit its bond(s) to GPA.

2.13.2. Performance Bond Form, Amount, and Duration

A performance bond shall be required from winning Bidders in the form as prescribed in Appendix F. For the period during construction and prior to the Commercial Operation Date of the project, the selected Bidder(s) shall provide a Development Security Bond which shall be in effect upon contract execution and until the Commercial Operation Date of the project and submission of the Contract Performance Bond. The amount of the Development security bond shall be 50% of the total projected payment for the 1st contract year based on the contractor's 1st Contract Year energy rate and the guaranteed energy production and shall be posted as a Letter of Credit or Cash.

At the beginning of the contract term, after the Commercial Operation Date, and at the beginning of each GPA Fiscal Year during which the contract is in effect, the Bidder shall provide and maintain a Contract Performance Bond performance bond in the amount equal to Cost for Minimum Annual Energy as described in the Draft Renewable Energy Purchase Agreement for that full or partial fiscal year within the term of the contract.

Upon submission of the Contract Performance Bond, the Development Security Bond can be returned. The selected bidder(s) may forfeit a portion or all of its Development Security if the selected bidder(s) fails to meet requirements as described in the Draft Renewable Energy Purchase Agreement (see Volume III).

If the Bidder is declared by GPA to be in default under the CONTRACT, GPA may exercise any or all rights and remedies it possesses under the provisions of the performance bond.

The GPA Fiscal Year begins on October 1 and ends on September 30 of the following calendar year.

2.13.3. Requirement for Performance Bond Execution by a Guam Licensed Surety Company

The Bidder shall provide a Performance Bond executed by a surety company licensed to do business on Guam.

3. Site Visits

This bid will require site visits to be conducted over two consecutive days. Site Visit #1 will be for the four (4) sites located on Naval Base Guam in Agat. Site Visit #1 requires security screening for the site visit. Bidders will be also required to be transported via bus from the GPA Main Office in Mangilao to the Naval Base sites. Only bidders that have have met the security clearance requirements from Navy and has a valid visitors pass will be allowed to board the bus for the site visit of these sites. Participants for the site visit are required and responsible to obtain security clearance. Note that there are restrictions to base visitor access. This includes restrictions on photography. Bidders must formally request for pictures or clarifications of the properties prior to the "Cut-Off Date for Receipt of Questions" deadline Section 1 Table 1: Bid Schedule of this document or as amended. GPA will be required to obtain these responses from Navy. Bidders must register and pay $___ for Site Visit #1 by (insert date) to determine and secure transportation requirements.

Site Visit #2 of the South Finegayan site located on Route 3 in Dededo does not require security screening or coordinated transportation to the site. Participants to this Site Visit will meet GPA at the site as specified on the Bid Schedule. Additional information on the site visits will be provided during the Pre-Bid Conference.

4. Required Bid Forms

This Section describes the forms required for submission of the Bid.

The following forms in Appendices A, B, C, D, E, J, K, L and M and MS EXCEL Workbooks must be completed:

a) Appendix A, Bid Checklists

b) Appendix B, Bid Bond Form and Instructions Performance Bond

c) Appendix C, Major Shareholders Disclosure Affidavit

d) Appendix D, Non-collusion Affidavit

e) Appendix E, Local Procurement Preference Application

f) Appendix F, Performance Bond

g) Appendix J, No Gratuities or Kickbacks Affidavit

h) Appendix K, Ethical Standards Affidavit

i) Appendix L, Declaration Re Compliance With U.S. DOL Wage Determination

j) Appendix M, Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property

k) Qualitative Scoring Workbook.xls

l) Priced Proposal Workbook.xls

These Forms and Workbooks will be available in electronic format in the CD-ROM provided to Bidders and at the ftp site. Access information for the ftp site shall be provided upon registration and payment of the non-refundable fee.

In addition, Appendix Q, Site Access Security Application, is necessary to obtain required access for the Site #1 (Naval Base Guam) site visit. Each site visit participant is responsible to obtain necessary clearance prior to the scheduled Site #1 Visit. This process will not be handled by GPA.

4.1. Technical Bid Forms

The following referenced forms are contained in Appendices A, C, D, E, J, K, L and M, and shall be completed and submitted with the Bid.

4.1.1. Document Receipt Checklist

The Bidder shall complete Form A-1 by initialing the Invitation For Bid Documents received from Guam Power Authority, including the latest IFB Amendment received. This Form is an acknowledgement of receipt, review and understanding of the IFB documents.

4.1.2. Bid Submittal Checklist

The Bidder shall complete Form A-2. This Form provides an inventory of documents submitted by the Bidder in response to the Bid requirements.

4.1.3. Major Shareholders Disclosure Affidavit

Bidders shall fill out the Major Shareholders Disclosure Affidavit form in Appendix C and submit it with their bids.

4.1.4. Non-collusion Affidavit

Bidders shall fill out the Non-collusion Affidavit form in Appendix D and submit it with their bids.

4.1.5. Local Procurement Preference Application

Bidders shall fill out and sign the Local Procurement Preference Application in Appendix E and submit it with their bids.

4.1.6. No Gratuities or Kickbacks Affidavit

Bidders shall fill out and sign the No Gratuities or Kickbacks Affidavit in Appendix J and submit it with their bids.

4.1.7. Ethical Standards Affidavit

Bidders shall fill out and sign the Ethical Standards Affidavit in Appendix K and submit it with their bids.

4.1.8. Declaration Re Compliance with U.S. DOL Wage Determination

Bidders shall fill out and sign the Declaration Re Compliance with U.S. DOL Wage Determination in Appendix L and submit it with their bids.

4.1.9. Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property

Bidders shall fill out and sign the Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property Affidavit and submit it with their bids.

4.1.10. Local Procurement Preference Application

Bidders shall fill out and sign the Local Procurement Preference Application in Appendix E and submit it with their bids.

4.2. Price Bid Form

4.2.1. Fee & Evaluation Data

Bidders shall complete the Priced Proposal worksheet contained in the MS EXCEL Workbook Priced Proposal Workbook.xls and submit it in a sealed envelope which will only be opened when the Bidder has been deemed qualified through Step One of the multi-step bid process. This workbook outlines the Bidder's rate for energy delivered and the proposed plant's operating characteristics which will be used to determine total system costs.

5. Conditions of Contract

5.1. Definitions

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof.

5.1.1. Approved

The word "Approved," when applied by ENGINEER to CONTRACTOR's drawings or documents, shall mean that the drawings or documents are satisfactory from the standpoint of interfacing with GPA-furnished components, and/or that ENGINEER has not observed any statement or feature that appears to deviate from the Specification requirements.

5.1.2. Approved As Revised

The words "Approved As Revised," when applied by ENGINEER to CONTRACTOR's drawings or documents shall mean that the drawings or documents are approved as defined above, except that the corrections shown are required for the proper interfacing with GPA-furnished components or are necessary to be in conformance with the Specification's requirements.

5.1.3. Change Order

A written instrument to CONTRACTOR signed by GPA authorizing an addition, deletion, or revision in the goods or special services, or an adjustment in the purchase order price or the delivery time, issued after the effective date of the Contract Agreement (Agreement).

5.1.4. Seller

The CONTRACTOR.

5.1.5. Day

A calendar day of twenty-four (24) hours measured from midnight to the next midnight

5.1.6. Delivery Time

The total number of days or the dates stated in the Agreement for furnishing the Goods and/or Special Services

5.1.7. Defective

An adjective which when modifying the words Goods or Special Services refers to Goods or Special Services which are unsatisfactory, faulty, deficient, do not conform to the Contract Documents, or do not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents.

5.1.8. Drawings

Drawings are all official drawings approved by the ENGINEER and showing the character and scope of the Goods to be furnished.

5.1.9. Effective Date of the Contract Agreement

The date indicated in the Purchase Agreement on which it becomes effective, or if no such date is indicated, the date by which the Purchase Contract is signed by both parties.

5.1.10. ENGINEER

Wherever the words "ENGINEER" or "ENGINEERS" appear in the CONTRACT Documents, it shall mean GPA's engineer duly appointed as “ENGINEER”. GPA shall assign several ENGINEERS as required to cover specialized areas of expertise.

5.1.11. ENGINEER's Instructions

Written instructions issued by ENGINEER which clarify or interpret the CONTRACT Documents or order minor changes or alterations in the Goods or Special Services to be furnished but which do not involve a change in the Purchase Price or the Delivery Time.

5.1.12. General Manager

The General Manager is the Chief Executive Officer of the Guam Power Authority. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of the Guam Power Authority.

5.1.13. Goods

Shall refer to all energy production to be furnished by CONTRACTOR under the procurement documents.

5.1.14. Modification

A written amendment of the Purchase Agreement signed by both parties, or Change Order, or ENGINEER's Instructions.

5.1.15. OWNER

The Guam Power Authority (An autonomous instrumentality of the Government of Guam).

5.1.16. Point of Delivery

The place at which property in the goods shall pass to GPA.

5.1.17. Project

The plant, or facilities, that will generate energy required in contract

5.1.18. PURCHASER

The Guam Power Authority with whom CONTRACTOR has entered into the Contract Agreement.

5.1.19. Contract Agreement (Agreement)

The written agreement between GPA and CONTRACTOR covering the furnishing of the Goods, Special Services, and other services in connection therewith evidencing what is contemplated and agreed to between the parties including any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

5.1.20. Contract Documents

The Contract Agreement, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, the Drawings and any other documents specifically identified in the Contract Agreement, together with all Modifications issued after execution of the Contract Agreement.

5.1.21. Procurement Officer

The General Manager of the Guam Power Authority or the General Manager's designee.

5.1.22. CONTRACTOR

The Bidder with whom GPA has entered into the Contract Agreement.

5.1.23. SITE or Site

The SITE is the area where the Project is to be constructed or executed.

5.1.24. Territory

The Territory of Guam.

5.2. Agreement

Prior to entering into a formal agreement, GPA and CONTRACTOR shall resolve and document any differences between the CONTRACTOR's bid and the IFB documents. The Agreement between GPA and CONTRACTOR shall consist of the IFB documents, as resolved by the CONTRACTOR's final negotiated Bid and by GPA amendments, and the CONTRACTOR's bid, as adjusted by a prioritized list of documents generated during the evaluation and negotiation processes and agreed to and acknowledged in writing by both parties. These documents may consist of, but are not limited to, written answers to questions, letters, and written clarifications to the bid.

Any formal contract document shall reference GPA IFB documents and the CONTRACTOR's bid. No oral understanding or statement shall modify the Agreement. Changes to the above documents can only be made in accordance with the procedure for modifications as defined in **Section 4.14 Changes**.

The resolved IFB documents shall take priority over and shall govern in all cases of conflict with the adjusted bid. The CONTRACTOR's contractual obligation shall be to fulfill all requirements of the IFB documents, as resolved, and to provide all features of the CONTRACTOR's bid, as adjusted.

The IFB documents are intended to be complementary, what is called for by one shall be as binding as if called for by all. If not otherwise specified in the IFB documents, these General Conditions shall apply. If, during performance of the Agreement CONTRACTOR detects a discrepancy in the IFB documents, CONTRACTOR shall so report to ENGINEER in writing at once and shall obtain a written interpretation or clarification from ENGINEER before proceeding further; however, CONTRACTOR shall not be liable to GPA for failure to report any conflict, error, or discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

All materials, equipment, and services that may reasonably be inferred from the IFB documents, as being required to produce the intended result will be supplied whether or not specifically called for. When words that have a well-known technical or trade meaning are used to describe materials, equipment, or services, such words will be interpreted in accordance with such meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the code of any Governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, or code in effect on the effective date of the Agreement except as may be otherwise specifically stated in the Specification or Agreement. ENGINEER as provided in **Section 4.1.11 ENGINEER's Instructions** shall issue clarifications and interpretations of the IFB documents.

5.3. Indemnity

CONTRACTOR shall indemnify and hold GPA and ENGINEER harmless from any claim, liability or product liability, loss, damage, demand, cause of action or suit, expense, or fee of legal counsel arising out of or in connection with the Goods or Special Services provided by the CONTRACTOR.

5.4. Shipment, Delivery, and Acceptance of Goods

Shipment and delivery of the Goods shall be in accordance with this Paragraph except as otherwise provided or specified in the CONTRACT Documents.

All goods will be delivered at the point of delivery set forth in the Purchase Contract. CONTRACTOR shall select the means and methods of transportation. All charges necessary to effect shipment to the point of delivery, including but not limited to export packing, switching, trucking, lighter age, and special handling will be paid by CONTRACTOR.

GPA and/or ENGINEER reserve the right to inspect the Goods upon delivery for the purpose of identifying the Goods and general verification of quantities.

5.5. Accounting

For accounting purposes and for use in establishing property records, GPA may require CONTRACTOR to provide a reasonable price breakdown of the total price into separate prices applying to the individual items supplied under the Agreement.

Where the Agreement covers the reimbursement of the traveling or living expenses of the CONTRACTOR's employees or agents, the CONTRACTOR agrees to furnish complete itemization and breakdowns of such expenses when requested by GPA.

In the event of any changes to or termination of the Agreement, or the furnishing of goods or services on a labor hour or a cost reimbursable basis, CONTRACTOR shall supply information in such detail as may be reasonably required by GPA to support all applicable charges. GPA, or an independent auditor

designated by GPA, shall have the right to audit, during normal working hours, CONTRACTOR's accounts and records relating to such charges. The expense of such audit will be borne by GPA.

5.6. Waiver of Claims

The making and acceptance of final payment will constitute:

A waiver of all claims by GPA against CONTRACTOR, except claims arising from unsettled liens, claims relative to defective Goods appearing after final payment, or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; nor will final payment constitute a waiver by GPA of any rights in respect of CONTRACTOR's continuing obligations 'under the Procurement Documents; and

A waiver of all claims by CONTRACTOR against GPA other than those previously made in writing and still unsettled.

5.7. Supervision and Coordination by CONTRACTOR

CONTRACTOR shall competently and efficiently manage, supervise, and direct production of the Goods and furnishing of Special Services and coordinate all operations required to deliver the Goods and furnish any required Special Services.

CONTRACTOR shall designate, in writing to GPA, a person with authority to act on behalf of CONTRACTOR with respect to CONTRACTOR's obligations under the CONTRACT Documents, and all communications given to or received from that person will be binding on CONTRACTOR.

CONTRACTOR shall perform all such activities as an independent contractor and not as an agent of GPA. When others furnish materials and equipment for assembly by the CONTRACTOR, CONTRACTOR shall receive, unload, store, and handle it and become responsible therefore as though CONTRACTOR was furnishing such materials and/or equipment under the Agreement.

5.8. Substitutions

If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to ENGINEER for acceptance thereof certifying that the proposed substitute will perform adequately the function as called for by the general design, be similar and of equal substance to that specified, and be suited to the same use and capable of performing the same function as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice the CONTRACTOR's warranty or timely delivery of the Goods, whether or not acceptance of the substitute will require a change in any of the Contract Documents to adapt the design to the substitute and whether or not incorporation or use of the substitute in connection with the production of the Goods is subject to payment of any license fee or royalty.

All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair, and replacement service will be indicated. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR's expense such additional data about the proposed substitute as is required by ENGINEER. GPA may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.

5.9. Documentation and Drawings

The Agreement will not be deemed satisfactorily completed until all requirements have been complied with including, but not limited to, proper material documentation, final drawings and reproductions, and other requirements stated in the Contract Documents. GPA may withhold final payment hereunder, pending completion of all such requirements by the CONTRACTOR.

At the time of each submission, CONTRACTOR shall in writing call ENGINEER's attention to any deviations that the drawings or documents may have from the requirements of the Specification or Contract Documents. CONTRACTOR shall also direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals. CONTRACTOR's submission of any drawing or document bearing CONTRACTOR's approval shall constitute a representation to GPA and ENGINEER that CONTRACTOR assumes full responsibility for having determined and verified the design criteria, quantities, dimensions, installation requirements, materials, catalog numbers, and similar data and that CONTRACTOR has reviewed or coordinated each drawing or document with the requirements of the Contract Documents.

ENGINEER's review and approval of CONTRACTOR's drawings or documents will be only for conformance with the design concept of the Goods and for compliance with the information given in the Contract Documents. Such review and approval will not extend to design data reflected in drawings or documents that is peculiarly within the special expertise of CONTRACTOR or any party dealing directly with CONTRACTOR. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER when drawings or documents are marked "Approved As Revised" and shall return the required number of corrected copies.

GPA and/or ENGINEER shall have the right to reproduce any and all drawing, prints, or other data or documents received from CONTRACTOR that are considered necessary for engineering, construction, or other purposes, despite any notice to the contrary appearing on the item. When a drawing or document approval is required by the Specifications, CONTRACTOR shall not commence production of any part of the Goods affected thereby until such drawing or document has been reviewed and approved by ENGINEER.

ENGINEER's review and approval of CONTRACTOR's drawings or documents will not relieve CONTRACTOR from responsibility for any deviations from the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to such deviation at the time of submission and ENGINEER has given written concurrence and approval to the specific deviation, nor will any concurrence or approval by ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the drawings or documents submitted.

5.10. Continuing Performance

CONTRACTOR shall continue its performance under the Agreement during all claims, disputes, or disagreements with GPA. Production of Goods will not be delayed or the timely delivery of Goods or furnishing of Special Services be prejudiced, delayed, or postponed pending resolution of any claims, disputes, or disagreements, except as CONTRACTOR and GPA may otherwise agree in writing.

5.11. Expediting

CONTRACTOR shall expedite delivery of the Goods and any related work of subcontractors. When requested or required by the Contract Documents, CONTRACTOR shall also provide GPA with an itemized schedule for engineering, outsourcing, fabrication, and shipping, which shall be followed by expediting reports including status of deliveries of materials and/or equipment purchased from subcontractors, if any, each month during its performance under the Agreement. If CONTRACTOR encounters delay in obtaining materials, or foresees any delay in its own manufacturing works, CONTRACTOR shall immediately inform GPA of such situation.

GPA and/or its designee shall be allowed reasonable access to CONTRACTOR's and its subcontractor's works for the purpose of expediting project progress. Any expediting done by GPA shall not relieve CONTRACTOR from its obligations as to the Delivery Time specified in the Agreement.

5.12. Compliance with Law

CONTRACTOR shall comply, and secure compliance by its subcontractors, with all applicable laws or regulations in connection with the Goods and services furnished hereunder. This includes the securing of any business or other licensing, certifications, or permits required.

If CONTRACTOR discovers any variance between the provisions of applicable laws and regulations and the drawings, Specifications, and other technical data furnished by the GPA, CONTRACTOR shall promptly notify GPA in writing thereof and obtain necessary changes from GPA before proceeding with the work affected thereby.

5.13. Price Adjustment

5.13.1. Price Adjustment Methods

Any adjustment in contract price within the parameters of this contract shall be made in one or more of the following ways:

a) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

b) By unit prices specified in the contract or subsequently agreed upon;

c) By the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;

d) In such other manner as the parties may mutually agree; or

e) In the absence of agreement between the parties, by a unilateral determination by the 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 Procurement

5.13.2. Submission of Cost or Pricing Data

The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations in Appendix N.

5.14. Changes

5.14.1. Change Order

By a written order, at any time, and without notice to surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

a) Drawings, designs, or Specifications, if the supplies to be furnished are to be specially manufactured for the Territory in accordance therewith;
b) Method of shipment or packing; or
c) Place of delivery.

5.14.2. Time Period for Claim

Within 30 days after receipt of a written change order under **Paragraph 4.14.1 Change Order**, unless the Procurement Officer extends such period in writing or e-mail, 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 Territory is prejudiced by the delay in notification.

5.14.3. Claims Barred After Final Payment

No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

5.14.4. Other Claims Not Barred

In the 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 the General Officer's Actions or Omissions, - Notice of Claim", or for breach of contract.

5.15. Contract Price

The Contract Price constitutes the total consideration to be paid by GPA to the CONTRACTOR for the complete delivery of the Goods, Special Services, and for performing other services in connection therewith in accordance with the Contract Documents as amended by the parties pursuant to the Agreement. Unless expressly provided otherwise in the Contract Documents, the Contract Price is not subject to escalation in respect of materials and/or labor cost or any other factor or variation in rates of exchange, and all duties, responsibilities, and obligations assigned to or undertaken by the CONTRACTOR shall be at its expense without change in the Contract Price. Charges, fees, CONTRACTOR's profit, and all other expense shall be deemed to be included in the Contract Price.

5.16. Payment Milestones and Schedule

Payment milestones have been selected to clearly identify the actual status of the portion of the Work completed rather than anticipated project progress schedules. Payments will be based on actual completion of each milestone event, where applicable, and not on the scheduled completion date. When a change in the Agreement is approved, the total contract price will be altered to the new total, and the remaining milestone payments will be adjusted.

Milestones shall not be scheduled more frequently than once every month. GPA will not approve a milestone payment until all preceding milestones have been approved. GPA will make payments within thirty days from receipt and approval of the invoice for the completed milestone.

The payment milestones for monies due to the CONTRACTOR from GPA are as follows:

- Monthly invoice for Energy delivered at the contract price

The payment milestones for monies due to GPA from the CONTRACTOR are as follows:

- Penalty Payments due to liquidated damages from CONTRACTOR's failure to meet its original Commission Date.
- Penalty Payments due to CONTRACTOR's failure to meet its Guaranteed Minimum Annual Energy Production.

5.17. Force Majeure

Force Majeure referred to herein shall mean an occurrence beyond the control and without the fault or negligence of the party affected including, but not limited to, acts of God or the public enemy, expropriation or confiscation; changes in law procedures, war, rebellion, or riots; floods, unusually severe weather that could not reasonably have been anticipated; fires, explosions, epidemics, catastrophes, or other similar occurrences which are not within the control of the party affected. However, the following shall not be considered as Force Majeure:

a) Delay caused by lack or inability to obtain raw materials, congestion at CONTRACTOR's or its subcontractor's facilities, or elsewhere; market shortages, or similar occurrences, or

b) Delay, either on the part of the CONTRACTOR or its subcontractors, caused by shortages of supervisors or labor, inefficiency, or similar occurrences, or

c) Sabotage, strikes, or any other concerted acts of workmen, which occur only in the facilities of the CONTRACTOR or its subcontractors.

Should the circumstances of Force Majeure continue over a period of ninety (90) days, GPA has the right, if no other understanding is reached, to terminate the whole Agreement or any part thereof in accordance with Paragraph 4.21. Any delay or failure in performing the obligations under the Contract Documents of the parties hereto shall not constitute default under the Purchase Contract or give rise to any claim for damages or loss or anticipated profits if, and to the extent, such delay or failure is caused by Force Majeure, and if a claim is made therefore.

5.17.1. Invocation of Force Majeure

The party invoking Force Majeure shall perform the following:

a) Notify the other party as soon as reasonably possible by facsimile, e-mail, telex, cable or Messenger/courier of the nature of Force Majeure, anticipated exposure time under Force Majeure, and the extent to which the Force Majeure suspends the affected party's obligations under the CONTRACT;

b) Consult with the other party and take all reasonable, prudent steps to minimize the losses of either party resulting from the Force Majeure;

c) Resume the performance of its obligations as soon as possible after the Force Majeure condition ceases.

5.17.2. Delivery Time and Force Majeure

Only a Change Order may change contractual Delivery Times. The CONTRACTOR as provided in Paragraph 4.14 Changes and its sub-paragraphs shall file all claims for an extension in the Delivery Time.

The Delivery Time will be extended in an amount equal to time lost due to delays caused by Force Majeure if a claim is made therefore as provided in this Paragraph. No amendment to the Contract Price, however, shall be allowable because of Force Majeure occurrences.

Notwithstanding the foregoing, all time limits stated in the Purchase Order documents are of the essence in the agreement. The provisions of this Paragraph shall not exclude recovery for damages (including compensation for additional professional services) for delays not caused by Force Majeure.

5.18. Warranty

The CONTRACTOR'S obligation to furnish the Goods and Special Services and to perform other services in connection therewith in accordance with the Agreement is absolute, and the CONTRACTOR warrants and guarantees to GPA that all Goods will be in accordance with the Contract Documents and will be new, fit for the purpose for which they are intended, and free from any defects, including faulty design, materials, or workmanship.

The CONTRACTOR shall provide GPA with all warranties and guarantees in writing. GPA and the Bidder shall negotiate the manner in which claims against these warranties are addressed including any remedies for non-responsiveness. This may include retention of contract amounts, performance bonds, etc.

The CONTRACTOR shall be responsible for remedying all defects, without limitation, in design, materials, workmanship, operating characteristics, or performance of the Goods developing within twelve (12) months from the date on which GPA has placed the Goods in continuous service, or within twenty-four (24) months from the date of final payment, whichever date shall first occur, or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee or by any specific provisions of the Contract Documents.

Any part(s) supplied in replacement of the defective part(s) of the Goods or any Goods repaired pursuant to the provisions of this Paragraph shall be supplied or repaired on the same terms and conditions as provided for herein for the supply of the Goods and in particular a new warranty period shall apply. Such new warranty period shall expire on the date twelve (12) months from the date of such replacement or repair or on the expiration date of the warranty for the original Goods that were replaced or repaired, whichever is later.

In the event the CONTRACTOR furnishes special services for installation and startup, such services shall be rendered in a competent and diligent manner and in accordance with the Contract Documents, accepted industry practice and any applicable professional standards.

5.19. Tests and Inspections

GPA or its designee shall have the right to inspect or observe the production, inspection, or testing of the Goods at any time and place including the CONTRACTOR's facilities and those of its subcontractors where the Goods are being produced.

The CONTRACTOR shall conduct, at its responsibility and expense, all tests and inspections called for by the Contract Documents. In the event that witness inspection by GPA is required under the Contract Documents, the costs and expense arising therefrom shall be borne by the CONTRACTOR, including inspector's fees, transportation, hotel, and general flying expenses. In the event that CONTRACTOR's inspection is required at the site, CONTRACTOR's transportation, hotel, and general living expenses shall be borne by The CONTRACTOR.

Any inspection made by the inspector of GPA and/or its designee will be final. Such inspections or the witnessing of CONTRACTOR's test and inspection by GPA and/or its designee shall not relieve The CONTRACTOR of any of its responsibilities or liabilities under the Contract Documents, nor be interpreted in any way as implying acceptance of the Goods.

The CONTRACTOR shall repair and replace, without cost or delay, anything found defective by tests and inspections, and also to bear all costs of re-inspection.

The CONTRACTOR must carry out at its authority and expense any inspection required by statutory Authority, governmental regulation, or other similar Authority on the codes or standards.

5.20. Stop Work Order

5.20.1. Order to Stop Work

The 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-days (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 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.

5.20.2. 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 or contract price shall be modified in writing accordingly, if:

a) The stop work order results in an increase in the time required for, or in the CONTRACTOR's cost properly allocable to, the performance of any part of this contract; and

b) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

5.20.3. Termination of Stopped Work

If a stop work order is not canceled and the work covered by such order is terminated for default or Convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

5.21. Termination for Convenience

5.21.1. 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.]** Please see APPENDIX N for a copy of GSA Procurement Regulations 6-101.10.

5.21.2. CONTRACTOR's Obligations

The CONTRACTOR shall incur no further obligations in connection with the terminated work and on the date set in-the notice of termination the CONTRACTOR will stop work to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the CONTRACTOR to assign the CONTRACTOR’s right, title, and interest under terminated orders or subcontracts to the GPA. The CONTRACTOR must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

5.21.3. Right to Supplies

The Procurement Officer may require the CONTRACTOR to transfer title and deliver to GPA in the manner and to the extent directed by the Procurement Officer:

a) Training material;

b) Any completed supplies; and,

c) Such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this contract.

The CONTRACTOR shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the CONTRACTOR in which the Territory has an interest. If the Procurement Officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of **Uniform Commercial Code of Guam (UCCG), Section 2706.** Utilization of this Section in no way implies that the Territory has breached the contract by exercise of the Termination for Convenience Clause.

5.21.4. Compensation Under Termination for Convenience

The CONTRACTOR shall perform the following for compensation under termination for convenience.

a) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for Convenience together with cost or pricing data to the extent required by **Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations** bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph (c) of this Paragraph. Please see APPENDIX N for a copy of **Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations.**

b) The 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 by **Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations** and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by GPA, the proceeds of any sales of supplies and manufacturing materials, and the contract price of the work not terminated.

c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this subparagraph:

   i. Contract prices for supplies or services accepted under the contract;

   ii. 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 the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

   iii. Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to **Paragraph 4.21.2 Contractor's Obligations** of this clause. These costs must not include costs paid in accordance with other subparagraphs of this Paragraph;

   iv. 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 subcontracts there under, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of

property allocable to the terminated portion of this contract. The total sum to be paid to the CONTRACTOR under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph (b) of this Paragraph, and the contract price of work not terminated.

d) Cost claimed, agreed to, or established under subparagraph (b) and (c) of this Paragraph shall be in accordance with **Chapter 7 (Cost Principles) of the Guam Procurement Regulations. 13 GCA 2796 (UCCG)** states:

2706. SELLER's Resale Including contract for Resale

(1) Under the conditions stated in **Section 2703** on CONTRACTOR's remedies, the CONTRACTOR may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the CONTRACTOR may recover the difference between the resale price and the contract price together with an incidental damages allowed under the provisions of this division (Section 2710), but less expenses saved in consequence of the buyer's breach.

(2) Except as otherwise provided in Subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the CONTRACTOR. Sale may be as a unit or in parcels and at any time and place and on any terms, but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale the CONTRACTOR must give the buyer [i.e., GPA] reasonable notification of his intention to resell.

(4) Where the resale is at public sale:

(01) Only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(02) It must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the CONTRACTOR must give the buyer [i.e., GPA] reasonable notice of the time and place of the resale; and,

(03) If the goods are not to be within the view of those attending the sale, the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective Bidder s; and

(04) The CONTRACTOR may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer [i.e., GPA] even though the CONTRACTOR fails to comply with one or more of this section's requirements.

(6) The CONTRACTOR is not accountable to the buyer [i.e., GPA] for any profit made on any resale. A person in the position of a CONTRACTOR **(Section 2707)** or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (Subsection 3) of Section 2711."

5.22. Termination for Defaults

5.22.1. Default

If the CONTRACTOR refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Procurement Officer may notify the CONTRACTOR in writing of the delay or non-performance and if not corrected in ten days or any longer time specified in writing by the 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 a failure to properly perform. In the event of termination in whole or in part the Procurement Officer may procure similar supplies or services in a manner and upon terms deemed appropriate by the Procurement Officer. The CONTRACTOR shall continue performance of the contract to the extent it is not terminated and shall be liable for excess cost incurred on procuring similar goods or services.

5.22.2. CONTRACTOR's Duties

Notwithstanding termination of the contract and subject to any directions from the Procurement Officer, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which GPA has an interest.

5.22.3. Compensation

Payment for completed supplies delivered and accepted by the GPA 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 Procurement Officer; if the parties fail to agree, the Procurement Officer shall set an amount subject to the CONTRACTOR's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations. The GPA may withhold from amounts due the CONTRACTOR such sums as the Procurement Officer deems to be necessary to protect the GPA against loss because of outstanding liens or claims of former lien holders and to reimburse the PURCHASER for the excess costs incurred in procuring similar goods and services.

5.22.4. Excuse for Nonperformance or Delayed Performance

Except with respect to defaults of subcontractors, the CONTRACTOR shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the CONTRACTOR to make progress in the prosecution of the work hereunder which endangers such performance) if the CONTRACTOR has notified the 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 the public enemy;

act of the Territory and any other governmental entity in its sovereign 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 request of the CONTRACTOR, the 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 GPA under the clause entitled "Termination For Convenience", Paragraph 5.214~~.21~~1. (As used in the Paragraph of this clause the term "subcontractor" means subcontractor at any tier.)

5.22.5. 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 provisions of Paragraph 5.22.4~~4.22.4~~ (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for Convenience of GPA, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for Convenience of GPA, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the CONTRACTOR's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

5.22.6. 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.

5.23. Disputes

All controversies between GPA and the CONTRACTOR, 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.

5.24. Consequential Damages

Unless expressly provided for otherwise in this Agreement, neither party, including their agents and employees, shall be liable to the other party for consequential damages, including, but not limited to, loss of use, loss of profit and interest due to breach of contract, breach of warranty, negligence, or any other cause whatsoever, provided nothing herein shall relieve CONTRACTOR from its liability for injury to persons or property, including property of GPA, whether such liability arises in contract, including breach of warranty, or tort, including negligence.

5.25. Notices

Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to

an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

5.26. Computation of Time

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the time computation.

5.27. Language and Trade Terms

All communications, documents, and execution of services hereunder, unless otherwise designated, shall be in the English language. INCOTERMS (International Rules for the Interpretation of Trade Terms) published by the International Chamber of Commerce in 1980 and any subsequent revisions thereto shall govern interpretation of trade terms in the Contract Documents

5.28. Governing Law

The laws of Guam shall govern the validity and interpretation of these conditions, the Agreement and legal relations of the parties.

CONTRACTOR shall not transfer or assign without the prior written consent of GPA. The Draft Power Purchase Agreement in Volume III of this bid, Article Eleven, outlines requirements for assignment.
CONTRACTOR shall not sublet the Agreement in whole or in part without the prior written consent of GPA. Written consent of GPA for subletting shall not relieve CONTRACTOR of any of his obligations under the Agreement.

5.29. Non-waiver

GPA shall not consider any provisions of this Agreement waived unless GPA gives notice of such waiver in writing. Even if such notice has been given, such waiver shall not be construed as being a waiver of any other past or future right of GPA under the provisions of this Agreement, unless otherwise expressly stipulated therein. Failure of GPA to insist upon strict performance of any of the terms and conditions hereof, or failure or delay of GPA to insist upon strict performance of any of the terms and conditions hereof, or failure or delay of GPA to exercise any acts, rights, or remedies provided herein or by law shall not relieve CONTRACTOR of liability under any guarantees or of obligations under the Agreement and shall not be deemed a waiver of any right of GPA to insist upon strict fulfillment of the Agreement or of any of GPA's rights or remedies as to the Goods furnished.

5.30. Severability

If any work, phrase, clause, article, or other provision of this Agreement is or is deemed or adjudicated or otherwise found to be against public policy, void, or otherwise unenforceable, then said work, phrase, clause, article, or other provision shall be deleted or modified, in keeping with the express intent of the parties hereto as necessary to render all the remainder of this Agreement valid and enforceable. All such deletions or modifications shall be the minimum necessary to effect the foregoing.

5.31. Rights and Remedies

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, will be in addition to, and shall not be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by law or contract, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply. All representations, warranties, and guarantees made in the Contract Documents will survive final payment and termination or completion of this Agreement.

5.32. Claims based on the General Manager's Action or Omissions

If any action or omission on the part of the General Manager, or his/her designee, 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 performance of the contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(1) The CONTRACTOR shall have given written notice to the General Manager, or his/her designee:

i. Prior to the commencement of the work involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

ii. Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the work; or

iii. Within such further time as may be allowed by the Procurement Officer in writing. This notice shall state that the CONTRACTOR regards the act or omission as a reason that may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Procurement Officer or designee of such officer.

(2) The notice required by subparagraph (1) 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

(3) The CONTRACTOR maintains and, upon request, makes available to the 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.

5.32.1. Limitations of Clause

Nothing herein contained shall excuse the CONTRACTOR from compliance with any rules of law precluding GPA and its officers and any CONTRACTORS from acting in collusion or bad faith in issuing or performing change orders that are clearly not within the scope of the contract.

5.33. Standard Work Schedule

Work scheduled and performed by the CONTRACTOR on GPA's premises shall conform to published GPA working hours and shall account for GPA's observed holidays.

5.34. Interference with Operation

Interference with normal operation of GPA's facilities or equipment, or that of any CONTRACTORs or subcontractors on GPA's premises, shall be avoided. The GPA's representative will determine in advance whether such interference is unavoidable and will establish the necessary procedures under which the interferences will be allowed.

5.35. Release of Information

The CONTRACTOR 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 of GPA.

5.36. Liens

In the event that a lien of any nature shall at any time be filed against the hardware, firmware, or software or the CONTRACTOR's facility by any person, firm, or corporation which has supplied material or services at the request of the CONTRACTOR, and for the cost of which the CONTRACTOR is liable under the terms of the Agreement, the CONTRACTOR agrees, promptly on demand of GPA and at the CONTRACTOR's expense, to take any and all action necessary to cause any such lien to be released or discharged therefrom. The CONTRACTOR agrees to hold GPA harmless from all liens, claims, or demands in connection with the Work.

5.37. Insurance

Contractor shall not commence work under this contract until he has obtained all insurance required under this section and GPA has approved such insurance, nor shall the Contractor allow any Subcontractor to commence work on this subcontract until all similar insurance required of the Subcontractor has been so obtained and approved. He shall maintain all insurance required during the course of the work.

5.38. Contractors and Subcontractors Insurance

Prior to commencing the work, which includes construction and operation activities, contractor shall obtain and thereafter maintain during the course of the work Insurance with companies acceptable to GPA. The contractor shall not allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. The limits of insurance shall be as follows unless a higher limit is required by statute:

1. General Liability including products, completed operations and contractual coverage for this Agreement in the amount of $1,000,000 combined limit. Owner shall be an additional insured. Grant Waiver of Subrogation in favor of GPA.

2. Auto Liability covering bodily injury and property damage in the amount of $1,000,000 combined single limit. Owner shall be an additional insured. Grant Waiver of Subrogation in favor of GPA.

3. Excess Liability with limits of $5,000,000 or higher. Owner shall be an additional insured. Grant Waiver of Subrogation in favor of GPA.

4. Worker's Compensation and Employer's Liability – Statutory limits. Add Waiver of Subrogation endorsement in favor of GPA

5. Builder's Risk or Installation Floater, when applicable, is to be furnished by Contractor.

6. Pollution Liability, when applicable, with limits of $5,000,000. GPA is to be an additional insured. Grant Waiver of Subrogation in favor of GPA.

7. Property insurance with replacement cost limits for the premises, property, improvements, structures, and machinery and equipment on the Premises

8. Business Income and Extra Expense with a $3,000,000 limit or whatever is deemed appropriate by GPA upon award.

5.38.1. Indemnification

The Contractor shall indemnify, defend and hold harmless GPA against all loss, damage, or expense (including reasonable attorney's fees incurred by GPA) arising out of the performance of the work, including injury or death to any person or persons resulting from the acts or omission of the Contractor or the Contractor's employees, servants, agents or subcontractors and from mechanics and materialism liens

5.38.2. Certificate of Insurance

Contractor shall furnish certificates of insurance and waiver of subrogation endorsement to GPA prior to commencement of work showing evidence of such coverage, including the statement to the effect that cancellation or termination of the insurance shall not be effective until at least (30) days after receipt of written notice to GPA. At all times Contractor's insurance shall be primary to any other insurance that may be carried by GPA. The statement of limits of insurance coverage shall be construed as in any way limiting the Contractor's liability under this agreement. GPA hall be an additional insured on all liability coverage and certificates of insurance shall clearly indicate such.

5.38.3. Insurance Company and Agent

All insurance policies herein required of the Contractor shall be written by a company duly authorized and licensed to do business in the State or Territory where work under this contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

5.38.4. Waiver of Subrogation

Contractor hereby releases GPA and their respective officers, employees, and agents from all loss or damage to the Premises and to the fixtures, personal property, equipment and improvements of Contractor in or on the Premises, notwithstanding that any such loss or damage may be due to or result from the negligence of GPA or their respective officers, employees or agents.

INVITATION FOR MULTI-STEP BID

NO.: GPA-XXX-17

RENEWABLE ENERGY RESOURCE

PHASE III

Volume II

Technical Qualification Proposal Requirements

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1. OVERVIEW

In this Invitation for Multi-Step Bid ("IFB"), GPA is seeking competitive bids for renewable energy resources to meet a portion of its overall resource needs. For selected Bidder(s), GPA will execute purchase power agreements for delivery of renewable to the 34.5 kV GPA transmission system. GPA intends to procure a total of 40 MW (AC) of renewable capacity in this Phase II acquisition that can meet the following established requirements:

1. The Bidder's renewable resource project must within a minimum nameplate capacity of 5 MW and a maximum nameplate capacity 30 MW (AC) at the interconnection point; this may be the combination of several generation units at one site.
2. The renewable energy project must provide a dispatchable reactive capability requirement up to 0.95 lag to lead at the point of interconnection as required by GPA Power System Operators or SCADA Control Point. For example, in the course of normal operations, the renewable energy resource may be called to provide electric power range from 28.5 MW and - 9.4 MVARS through 30 MW at Unity Power Factor to 28.5 MW and 9.4 MVARS.
3. The renewable generation ramp limit shall be 1% of the project nameplate capacity per minute. This shall be the net ramp rate including the benefit of an energy storage system if needed.
4. The renewable energy project shall incorporate an energy storage system (ESS) that will meet GPA's requirements as described in section 2.2.
5. The ESS must provide the following functions:
    a. The primary purpose of the ESS shall be for energy shifting which is to deliver the solar produced energy at another time or period of the day.
    b. The alternate function of the ESS shall be Renewable integration (RI-ESS). If and when required, i.e. GPA allows delivery directly to the grid, the RI-ESS must provide the following functions:
        i. Significantly reduce the impact of intermittent ("non-firm") renewable energy generation power fluctuations on GPA's power system frequency and voltage at the point of interconnection
        ii. Achieve this by providing a supporting energy storage system to quickly respond to the variable renewable generation output and ameliorate the power imbalance within GPA's power grid or an assigned local micro grid.
        iii. Providing highly reliable fault recovery and optimizing power distribution
        iv. Provide a dispatchable reactive capability as required by GPA Power System Control Center Dispatchers.

Persons or entities responding to this IFB are referred to herein as "Bidder(s)."

2. PRODUCT DESCRIPTION

The bids for renewable resources shall be developed based on the requirements described below and outlined in the Qualitative Scoring Workbook provided with the bid documents.

2.1. Product and Term

GPA seeks to acquire energy from renewable resource projects based on an 'annual minimum quantity' of energy under the terms of the Renewable Energy Purchase Agreement (See Volume III).

Projects in this acquisition phase are required to be operational and delivering renewable energy on or before 36 months from the contract award date. The term of the Renewable Energy Purchase Agreement will be 25 years.

2.2. Technology

2.2.1. Acceptable Renewable Technologies

Only Solar Photovoltaic systems shall be proposed for this bid. Under no circumstances will energy from non-renewable resources be acceptable for delivery under the proposed agreement.

2.2.2. Acceptable ESS Technologies

Acceptable ESS technologies in this IFB include batteries, flywheels, pumped hydroelectric storages, thermal and compressed air energy storages.

2.2.2.1 ESS Technical Requirements

ESS shall have 1% ramp rate control within one minute of the project nameplate renewable capacity with the guaranteed success rate for the contract period.

a. Real Power and Energy Requirements

The fully functional operating range of the ESS, with respect to energy, is defined in this specification as 0-100% State of Charge (SOC). This means that if the Bidder's proposed system is recommended or required to operate within the ESS manufacturer's stated specifications with a minimum SOC greater than 0% or a maximum charge less than 100%, then the Bidder must adjust the manufacturer's stated specifications to the fully functioning operating range of the ESS. For instance, if the manufacturer's specifications recommend operating the ESS within the range of 10-90% SOC, the total amount of available energy must be reduced by 20% to correspond to the 0-100% SOC range as defined for this IFB.

b. Reactive Power Requirements

The ESS shall have the capability to output up to the nominal real power capacity magnitude on a continuous basis. The real power order of the ESS shall take priority over the reactive power order. If the nominal real power capacity rating cannot be met, Bidders are encouraged to describe the reactive power capabilities of their proposed system. The RI-ESS must provide a dispatchable reactive capability as required by GPA Power System Control Center Dispatchers. The Reactive and Real Power Capability must be communicated to the GPA SCADA Master every two (2) seconds.

c. Response Times

The ESS shall have the ability to change its output power from 0-100% of its maximum overload rating within 200 ms. This includes positive and negative real and reactive power.

d. Ride-through and Synchronization Capabilities

The ESS shall have the ability to remain online and functional during severe disturbances. The ESS shall not lose synchronism or trip offline for disturbances that the ESS is intended to mitigate. This

includes the requirement to ride through rapid rate of change of frequency events and to ride through zero or near zero voltage events with recovery as the voltage recovers. All limitations related to the ride-through and synchronism capabilities of the ESS shall be stated.

Preliminary frequency and control requirements are illustrated in Figure 1 below. The provided ride-through requirements are preliminary in nature. The ESS voltage and frequency trip settings should have configurable settings. If ESS is capable of riding through system disturbances beyond the limits specified in the voltage and frequency ride-through requirements, please provide an explanation of the ride-through capabilities of the ESS.

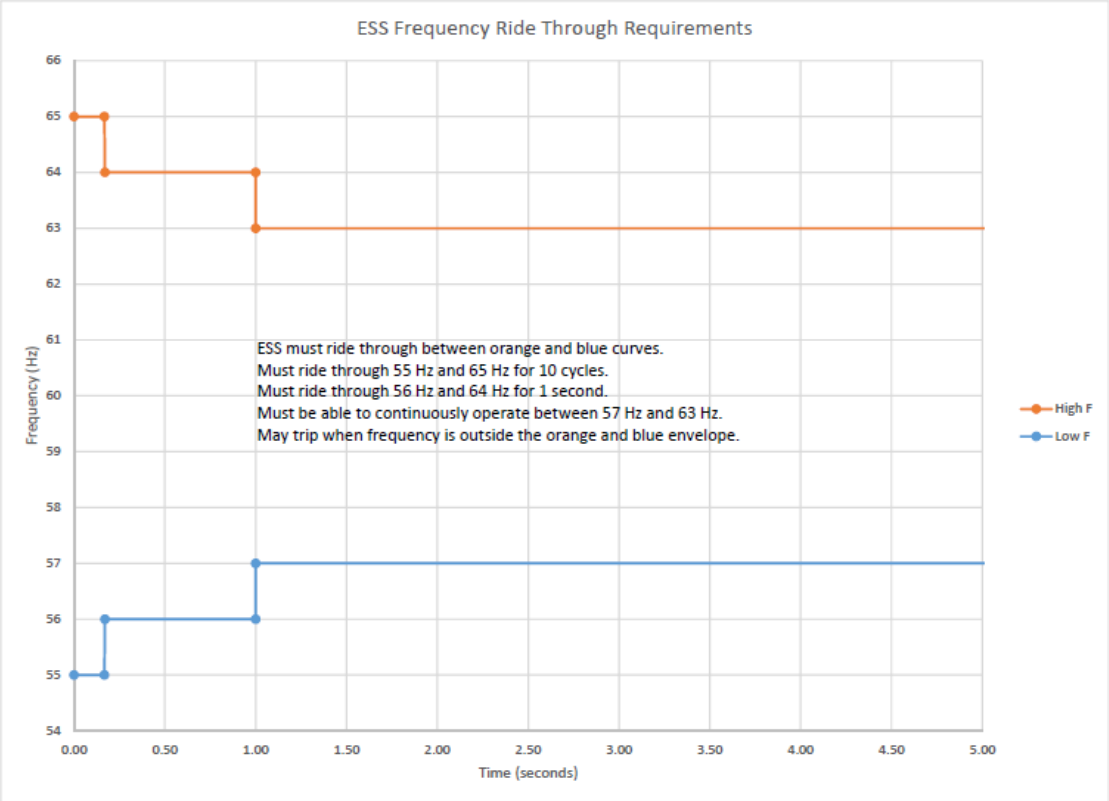


Figure 1 – Voltage-Frequency Ride Through

e. Control Functions

It is important for Bidders to describe and illustrate the control modes and methods of operation proposed. The flexibility of the ESS controls shall also be discussed and provide indication of the ease of control system changes such as adding new control modes and methods of operation.

f. SCADA/EMS/SA/AGC Communications Protocol

The ESS shall have the capability to interface with GPA's SCADA, EMS, Substation Automation (SA) and AGC systems over the latest stable release of serial and IP based DNP 3-Secure Authentication communications protocol.

The technology proposed for the ESS will have at least 1 year of commercial operations history in a utility environment.

Bidder shall provide Bidder's guaranteed success rate according to the size of ESS in the Qualitative Scoring Workbook. The bidder shall also describe the method of calculating and monitoring the success rate in his/her technical proposal.

2.2.3. Proven Technology

The proposed resource technology and key components must have a minimum of one (1) year of operating experience in commercial utility application. If the proposed technology is a "scale up" of an existing facility, the operational performance data for the smaller plant must be at least 1/10 the proposed plant size or larger.

2.2.4. Use of GPA Facilities

GPA has secured six sites for Solar PV development from the U.S. Department of Navy which shall be the sites for proposed renewable resource projects. The sites are listed in Table 1 below.

Table 1 - GPA-Navy Leased Sites

No	Site Reference	Location	Acres	Est. MW *
1	PV (Existing 250 KW PV Site)	Naval Base Guam	31	8
2	CDF		21	5
3	WWTP (Waste Water Treatment Plant)		16	4
4	Commissary		25	6
5	S. Finegayan	Rt. 3	71	18
		Total :	164	41

The draft legal descriptions and sketches which have been referenced in the GPA-Navy lease are provided in Volume III Appendix L. GPA intends to finalize these documents prior to contract award.

The use of other GPA sites or facilities (with the exception of interconnection facilities) will **NOT** be permitted in this IFB.

2.2.5. Limits on Renewable Energy Purchases

Due to the nature of the generation control system and related response characteristics of the generators on the GPA system, GPA may limit the amount of energy purchased from renewable resources to no more than 30MW (AC) at the interconnection point.

The Bidder shall complete the Energy Projection table in the Technical Bid Form providing its estimated schedule of hourly deliveries of energy for a representative period of time period sufficient for GPA to understand the variability of the expected renewable resource and the impact of total generation costs as part of the Priced Offer evaluations. These estimates must match the annual Minimum Energy Production guarantees discussed further in Section 2.3.

2.3. Project Capacity & Production

2.3.1. Minimum and Maximum Project Capacity

The minimum nameplate project capacity that a Bidder may offer will be 5 MW and 30 MW for Maximum. This may be the combination of several generation units at one site.

2.3.2. Annual Minimum Guaranteed Production Quantity

The Bidder will provide a guarantee for an Annual Minimum Quantity, in MWh, to be delivered to GPA's system. Subsequent failure to provide this guaranteed Annual Minimum Quantity will subject the Bidder to penalties as described in Renewable Energy Purchase Agreement. The Bidder will also provide the *expected* minimum (also in MWh) to be delivered each year of the contract period, at a 95% confidence level.

2.4. Delivery

2.4.1. Interconnection

The Bidder will deliver renewable energy to a GPA-determined interconnection point on GPA's 34.5 kV transmission system. GPA will determine the exact location after completion of a detailed interconnection study. The GPA transmission system and primary delivery points are identified in the attached map (See Appendix G). We request that the Bidders identify potential interconnection sites within their submittal.

GPA is recommending the following interconnection requirements. Note final interconnection agreement will be based on System Impact Study recommendations.

1. An underground loop system in and out of a new substation at the renewable generation facility at transmission level (34.5kV and up) connecting to an existing GPA transmission line. The rerouted transmission line, its associated breakers, and control and protection devices, etc. may require upgrade.
2. An underground transmission line connecting directly to the nearest GPA substation at transmission level (34.5kV and up) from a new substation at the renewable generation facility. The connected GPA substation will require upgrades including a new breaker, control and protection devices, and additional bus structure, etc.
3. A Fiber optic communication line between the renewable generation facility and the connected GPA substations.
4. A communication assisted protection scheme with primary and backup protection devices via a dedicated fiber optic line for the transmission line protection between the renewable generation facility and the connected GPA substations. Current differential protection is recommended.
5. GPA will need to set limits for the high/low voltage ride through, hi/low frequency ride through, VAR/power factor support and ramping rate limits based to various system studies done by our consultants and our existing system condition.

The cost of facilities to bring the Bidder's energy to GPA's point of interconnection is the responsibility of the Bidder. Bidders shall be responsible for the design, engineering and construction cost as well as construction and commissioning. All design shall require GPA review and approval and construction shall be coordinated with GPA for inspections during construction.

Bidders must include the cost for interconnection in their priced proposals as this may be negotiated with GPA during contract negotiations. Total costs, however, must still fall below GPA's avoided cost: the marginal cost for fuel as approved by the CCU and PUC.

The cost estimates in the table below are for evaluation purposes:

Transmission Cost Per Mile	
Overhead (Poles, Hardware, #927 Al Primary Lines	$1.24 M
Underground (Manholes, Conduits, and 1000 kcmil Al. Primary Lines)	$2.20 M

Bidder shall provide bidder's methodology of how to measure the power and energy output at the point of interconnection including output of renewable generation plant. This is for GPA to inspect and verify bidder's energy storage system performance.

2.4.1.1 Site Interconnection Discussions

Final interconnection requirements will be based on a completed System Study for selected proposed projects. As an initial evaluation of the sites, GPA has evaluated the potential interconnection options for sites located on Naval Base Guam, Piti and on Route 3, Dededo.

The Naval Base Guam sites include the Commissary Site, Waste Water Treatment Site, Existing PV Site, and CDF site

GPA proposes all sites to be combined to a new central substation located on the CDF site as shown in Figure 2. This will be the meter point(s). One of the existing transmission lines should be intercepted and routed via the new CDF site. Thus, there will be two connection points at the CDF site. The CDF substation shall be designed using a sectionalized bus scheme. .



Figure 2 – Naval Base Guam Sites Interconnection

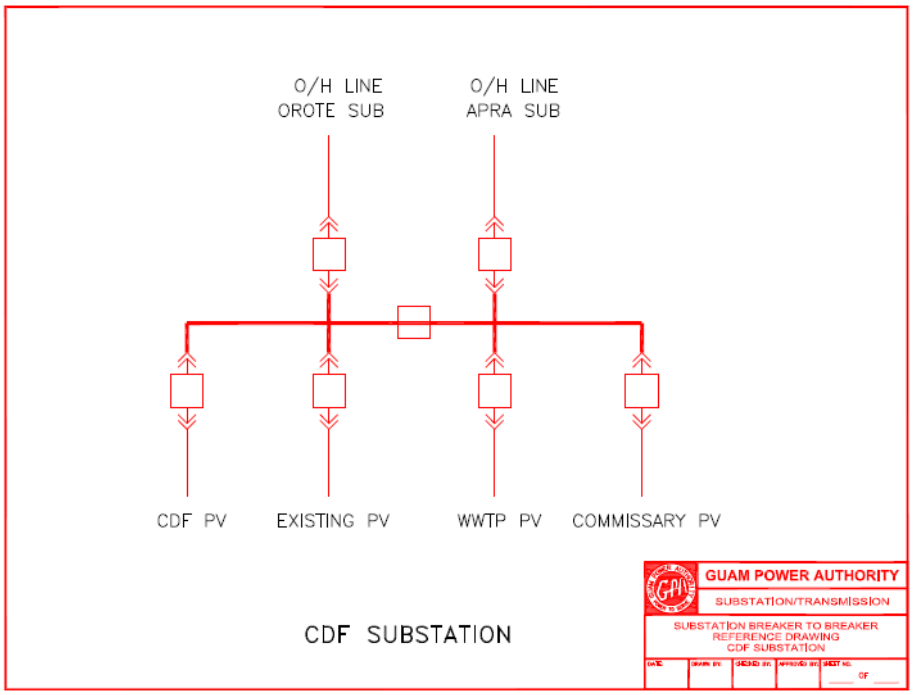


Figure 3 – Naval Base Guam New Substation

The South Finegayan Site would be considered a single project site. An existing 34.5kV overhead line runs adjacent to the property along Route 3. The Harmon Substation is the closest substation however Navy intends to build a new substation along Route 3. In addition, there is a plan to build a new underground transmission line along the existing transmission path.

Due to the construction timeline for the new North Finegayan substation, GPA proposes that a substation be built on PV site and intercept the existing overhead transmission line. The new solar substation shall utilize a sectionalized bus scheme to allow for isolating the solar site while maintaining service to Harmon and Andersen substations. Site would require a future project to transition to the new underground system once completed.



Figure 4 – South Finegayan Site Interconnection

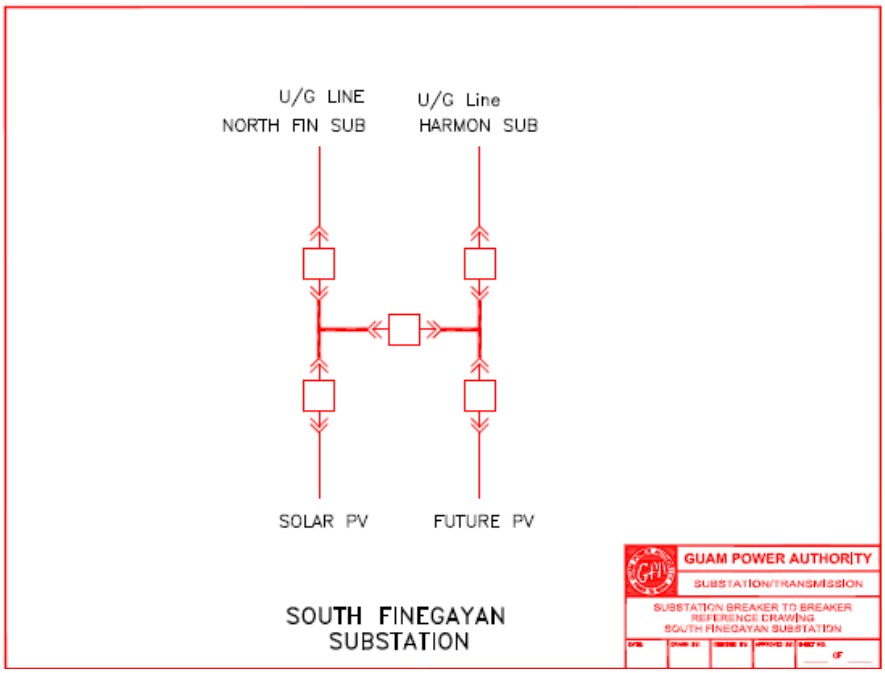


Figure 5 – South Finegayan Site Interconnection

2.4.2. GPA Interconnection Standard Specifications

GPA maintains standard specifications for interconnection equipment and communication protocols.

2.4.2.1 Transmission Line

Interconnection shall be to the 34.5 KV transmission. The following are specifications for 34.5 KV transmission lines:

Item	Specification
Overhead Lines	927 kcmil AAAC bare aluminum conductor.
Underground Lines	2 sets 1000 kcmil 133% aluminum XLPE underground cable with T-splice modular cable connectors.

In addition, Bidders are to provide 15% spare underground cable 1000 kcmil and associated modular T-splice cable connectors as GPA non-stock item materials.

2.4.2.2 Substation Hardware

The following are specifications for 34.5 kV breaker, switchgear, relays, instruments and controls, P & CT, instrument and cable.

Item	Specification
34.5 kV Breakers	Outdoor: SF6 breakers.
	Indoor: Matching existing GPA breakers.
Relays	SEL relays and meters.
PT	Dual ratio
CT	Class 400, multi-ratio.
Cable	#10 AWG for CT connection, #12 AWG for control and power, #18 AWG for SCADA communication

2.4.2.3 Substation Buildings

All new substations shall be concrete structure which meet Guam building codes.

2.4.2.3 Communication Protocol

Standard Communication Protocol with the existing and future SCADA/EMS is DNP3/DNPi. DNP3-SA version 5 serial and over TCP/IP or latest stable release implemented in concordance with the technical bulletins from www.dnp.org.

2.4.3. Substation Short Circuit Capacity Values

The following are the short circuit currents (base and maximum) for Orote and Harmon Substations.

Substation	Base Generation				Max Generation			
	3Ph Fault		LG Fault		3Ph Fault		LG Fault	
	SC MVA	X/R Ratio	SC MVA	X/R Ratio	SC MVA	X/R Ratio	SC MVA	X/R Ratio
Orote	470.7	7.70494	460.3	8.3632	568.6	6.38708	514.7	7.42385
Harmon	681.5	11.1796	868.7	9.44163	934.4	9.58519	1130.9	8.03686

2.4.4. System Integration Study

At the completion of the Priced Proposals evaluation and subject to the size and location of a Bidder(s) project, GPA will undertake a “System Integration Study”. The purpose of this study is to determine the system impacts and upgrade requirements for integration of the selected project or projects into the GPA system. The Bidder or Bidder(s), in the event GPA selects more than one bid, will be responsible for the cost of such study. Presently the estimated cost for a single project evaluation is about $83,000. If

additional modeling is required for evaluating multiple projects concurrently, additional costs may be imposed per model.

The Bidder(s) will be responsible for the costs of system upgrades, if any. If required, a separate System Integration Cost Agreement will be executed by the parties. Selected Bidders will have the opportunity to withdraw their bids upon review integration costs resulting from the GPA study.

Upon request the selected bidders will provide following information for the study:

1. Size and scope of the various types of renewable projects. This should also include any additional details that may be known about individual proposed projects, including the electrical model for the proposed interconnection, such as the distribution line description and impedances at the point of the interconnection.

2. Solar irradiance data in 2-second intervals for each solar project – time synchronized if possible.

3. Expected control characteristics of the projects – It will be critical that each project must be capable of being controlled in real time. Voltage control characteristics and frequency characteristics must be provided.

2.5. Pricing

2.5.1. Fixed Pricing for Guaranteed Energy

Bidders are required to submit fixed pricing for the guaranteed renewable energy delivered for the entire contract period.

2.5.2. Pricing for Energy Above Guaranteed Amount

All renewable energy available from the Bidder's project(s) above and beyond the guaranteed amount will be offered to GPA at the lesser of the two following prices: 1) the Bidder's guaranteed price applicable to the then current time period or 2) the effective Levelized Energy Adjustment Clause (LEAC) fuel recovery cost incurred by GPA's ratepayers. The LEAC fuel recovery cost is recalculated approximately every six months and is approved by the Guam Public Utilities Commission.

Data on the current LEAC fuel recovery costs can be found on GPA's website at:
http://www.guampowerauthority.com/gpa_authority/rates/gpa_rate_schedules.php

Details about historical filings and LEAC fuel recovery charges can be found on the PUC's website at:
http://www.guampuc.com/main/?pg=docs&category=Guam%20Power%20Authority&subcat=LEAC

Details of the calculation of the LEAC can be found under GPA's Rate Schedule "Z" at:
http://www.guampowerauthority.com/gpa_authority/rates/documents/ScheduleZ-61kb.pdf

For the evaluation, GPA shall use the most recent LEAC Rate approved by the PUC. An amendment shall be forwarded to all prospective bidders for the final rate.

2.5.3. Energy Purchase Price Units

The Bidder shall provide a fixed price bid in $/MWH for the term of the proposed delivery of renewable energy for each ESS proposal options. The price bid shall include the capital and O&M components which shall be referred to should GPA exercise the capital buy-out option. All columns in the bid price worksheet must be filled. GPA will not accept bids with year-over-year (YOY) escalation rates greater than 1.0% per year.

2.5.4. Bid Expiration

All Bid terms, conditions, and pricing are binding for 8 months following the due date of the IFB.

2.6. Renewable Energy Credits and Environmental Credits:

GPA retains all environmental attributes associated with the winning Bidder's energy, including but not limited to renewable energy credits, greenhouse gas, green tags, or carbon credits, and any other emissions attributes, all as set forth in the form of Renewable Energy Purchase Agreement.

3. TECHNICAL INFORMATION

This section discusses the technical information required for the qualification process in Step One of this multi-step bid. Bidders are required to answer all questions raised in the Qualitative Scoring Workbook for Part 1 - Qualitative Scoring References and Part 2 – Technical Data provided with the bid documents.

3.1. Project Development

This category scores the likelihood that a Bidder's renewable resource project will be placed in commercial service. The evaluation criteria for this category generally address construction and development risks associated with the completion of projects that are not yet in commercial operation, and which are necessary to support bids. Plants that are already operating or are sufficiently advanced in construction may be deemed to earn the maximum possible score from this category. GPA requires bids for projects that will achieve commercial operation within 36 months after contract award.

For projects that are less advanced in construction, we will consider the following criteria for scoring:

1. Method and status of project financing
2. Level of site control by developer (full ownership, long-term lease, short-term least, negotiating a site, searching for a site, or non-of-the above).
3. Project management/experience
4. Status of required permits, licenses and studies
5. Status of equipment supply and EPC agreements

3.2. Status of Project Financing

Bidders are required to provide responses to all questions below to demonstrate the financial viability of their project.

1. Identification of equity participants.
    a. Who are the equity participants in the project?
2. Evidence that the project will be financed.
    a. How will the project be financed?
    b. Is there a written commitment from the equity participants? If so, please provide a copy with confidential information redacted if necessary.
    c. Discuss and/or provide supporting information on any project financing guarantees.
    d. Does the developer envision any conditions precedent to project financing other than execution of the power purchase agreement and Guam Public Utilities Commission approval of the power purchase agreement? If so, what do you expect them to be?
3. Description of the Bidder's organizational structure from a financial and legal perspective, including any general and limited partners, involvement of subsidiaries, providers of capital, and percentage interest of each party.
4. Provide a description of the financing plan for the project, including construction and term financing. The financing plan should address information contained in the pro forma, such as:
    a. The project's projected financial structure;
    b. Expected sources of debt and equity financing;
    c. Estimated capital cost.
    d. Evidence the project is financeable

In addition, the financing plan should address the financing of development costs. All bidders are required to provide this information.

5. Provide documentation illustrating the experience of the project sponsor in securing financing for projects of similar size and technology. For each project provide the following information:
   Project name and location
   Project type and size
   a. Date of construction and permanent financing
6. Provide evidence that the Bidder has the financial resources and financial strength to complete and operate the project as planned.
7. Provide copies of the most recent audited financial statement for each Bidder, its parent or subsidiary company to be used in this contract. Also, list the current credit rating from Standard & Poor's and Moody's for the sponsor, affiliates, partners, and credit support provider. Unaudited financials certified by the company's chief financial officer and any Dun & Bradstreet rating are acceptable.
8. The Bidder should demonstrate its ability (and/or the ability of its credit support provider) to provide the required security, including its plan for doing so (including type of security, sources of security and a description of its credit support provider).
9. Provide a description of any current credit issues regarding the Bidder or affiliate entities raised by rating agencies, banks, or accounting firms. Credit issues includes and loan defaults or legal suits or potential suits likely to materially affect the company's finances or ability to obtain loans or other instruments in the financial markets. Bidders should address how they intend complete project acknowledging
10. Describe the implication of the federal Production Tax Credits or Investment Tax Credits (or similar incentives) on the viability of the project.
11. Provide a memorandum with supporting information demonstrating that the bid will not be subject to Variable Interest Entity treatment[1] and that GPA will not have to carry this entity on its financial statements.
12. Pro forma income and cash flow statement conforming to Generally Accepted Accounting Principles for the project for the term of the proposed Power Purchase Agreement (include revenue and cost data by major categories, debt service, depreciation expenses and other relevant information). Bidders may propose to submit their financial pro forma to a mutually agreed upon independent third party rather than to GPA. Bidders should note that this information will be required of short-listed bidders only and will be requested by GPA upon shortlist notification or after. Should GPA request pro forma financial information from the bidder, the information will only be used for project viability assessment only.
13. Bidders must disclose any litigation related to projects owned or managed by them or any of their affiliates in the United States.

3.2.1. Site Control

GPA provides the sites for this bid. GPA has entered into a lease with the Navy for use of specific properties for solar photovoltaic development. Bidders should provide GPA with some confidence in plant siting using these sites. Maps and property descriptions are provided in Volume III Appendix L. Unpriced Technical Offers shall address the following:

1. Map of the site(s), the total acreage, the interconnection point, and the relationship of the site to other local infrastructure. In addition to providing the required map, provide a site layout plan which illustrates the location of all equipment and facilities on the site.

[1] GPA is not willing to be subject to accounting treatment that results from variable interest entity ("VIE") treatment as set forth in Financial Accounting Standards Board Interpretation No. 46 (revised December 2003) ("FIN46R").

2. Identify any rights-of-way or easements that are required for access to the project or for interconnection. Describe the status of rights-of-way and easement acquisition, and describe the plan for securing the necessary rights-of-way, including the proposed timeline.
3. Describe whether the project has the capability for expansion at the proposed site. If so, describe the expansion capability possible.

3.2.2. Project Management/Experience

Bidders are required to demonstrate project experience and management capability to successfully develop and operate the project proposed. GPA is interested in a project team which has demonstrated success in projects of similar type, size and technology and can demonstrate an ability to effectively work together to bring the project to commercial operation in a timely fashion. GPA requests the following information:

1. An organizational chart for the project that lists the project participants and identifies the management structure and responsibilities.
2. Statements that list the specific experience of the firm in developing, financing, owning, and operating generating facilities, other projects of similar type, size and technology, and any evidence that the project participants have worked jointly on other projects for each of the project participants (including the Bidder, partners, and proposed contractors). (If a bidder is relying on the experience of a consultant or contractor to meet the Experience Threshold Requirement, the bidder should describe any contractual relationships between the bidder and the consultant or contractor.)
3. A management chart which lists the key personnel dedicated to this project and provides biographies of the key personnel.
4. Listing of all projects the project sponsor has successfully developed or that are currently under construction. The following information shall be included for each project:
    a. Name of the project
    b. Location of the project
    c. Project type, size and technology
    d. Commercial operation date
    e. Capacity factor of the unit for the past three years
    f. Availability factor of the unit for the past three years
    g. References, including the names and current addresses and telephone numbers of individuals to contact for each reference.
5. With regard to the Seller's project team, identify and describe the entity responsible for the following:
    a. Construction Period Lender
    b. Operating Period Lender
    c. Financial Advisor
    d. Environmental Consultant
    e. Owner's Engineer
    f. Construction Contractor
    g. Transmission Consultant
    h. Legal Counsel

3.2.3. Project Schedule and Commercial Operation Date

Bidders are required to provide a complete critical path schedule for the project from the notice of selection of the project for contract negotiation to the start of commercial operations. For each project

element, list the start and end date. Bidders should ensure that the schedule provided in this section is not inconsistent with the milestone events contained in the Purchase Power Agreement.

Identify the elements on the critical path. The schedule should include, as a minimum, facility contracts, construction, siting, environmental permitting (anticipated submittal and approval), fuel supply, financing, engineering, procurement, local permits and any other requirements that could influence the project schedule, and the Commercial Operation Date. Bidders shall identify any status of permits, licenses and studies required. The project schedule should include dates for all construction and applicable reporting milestone events specified in the Purchase Power Agreement.

3.2.4. Engineering and Technology (Status of equipment supply and EPC agreements)

Bidders should provide information about the specific technology or equipment including the track record of the technology and equipment. The following information is required for these evaluation criteria:

1. A reasonable but preliminary engineering plan which includes the following information:
    a. Name of principal engineering firm responsible for facility design
    b. Type of generation technology
    c. Major equipment considered or expected to be used
    d. Equipment vendors selected/considered
    e. History of equipment operations
    f. Equipment procurement strategy
2. Identification of expected key equipment suppliers and information that illustrates and discusses the proposed equipment and technology, lead times for delivery to GPA, and suppliers prior experience with equipment operation in tropical island environments.
3. Identification of similar equipment by the same manufacturer that are presently in commercial operations including the number installed, installed capacity and estimated generation.
4. Evidence that the technology to be employed for energy production is ready for transfer to the design and construction phases.
    a. Describe the technology to be employed for energy production.
    b. To the developer's best knowledge, are there, or have there been any similar plants in commercial operation? If not, i) are there, or have there been, any pilot projects, and ii) please provide evidence that the technology to be employed for energy production has been proven. Such evidence may include copies of studies confirming technical feasibility.
5. Indication if the Bidder has secured its equipment for the project. If not, identify the long-lead equipment options and describe the timing for securing equipment.
6. Bidders are encouraged to provide any additional information that will further describe the proposed projects technical feasibility and applicability to development on Guam.

3.3. Physical Project Characteristics

This category captures the physical characteristic risks of the bid products. The evaluation criteria for this category generally address physical and operational risks associated with the production and delivery of power to GPA. Bidders are required to complete **Part 2 – Technical Data** in the Qualitative Scoring Workbook file (excluding any price references). The characteristics that will be considered in scoring are:

3.3.1. Operating Profile

The evaluation of operating profile shall be based on the following:

1. Conformance with Performance Standards
2. Impacts on System Operations/Stability
3. Generation Profile (see Renewable Energy Project Generation Profile data table in Part – 2 Technical Data worksheet in the Qualitative Scoring workbook)
4. Quality of Forecasting and Dispatchability
5. O&M Plan and Coordination of Maintenance- GPA is interested in projects that can demonstrate that the maintenance plan, level of funding, and mechanism for funding will ensure reliable operations during the term of the contract. Bidders shall:
    a. Provide an operation and maintenance plan for the project that demonstrates the long term operational viability of the proposed project. The plan should include a discussion of the staffing levels proposed for the project, the expected role of the project sponsor or outside contractor, scheduling of major maintenance activity, maintenance funding levels, and the plan for testing equipment.
    b. Indicate whether or not the project sponsor is willing to coordinate the maintenance schedule for the project with the annual maintenance schedule of GPA.
    c. Describe the status of the project sponsor in securing any operation and maintenance agreements or contracts. Include a discussion of the sponsors plan for securing a long-term O&M contract.
    d. Provide examples of the Bidder's experience with O&M services for other similar projects.

3.3.2. Point of delivery

Bidders must discuss interconnection with GPA system. Information required to evaluate this criteria includes the following:

1. Preliminary Single-Line Diagram(s) for the generation and interconnection facilities (see Appendix H for Unpriced Technical Offer submittal requirement details)
2. A plan map of the facilities, indicating the interconnection point to the GPA system.
3. Technical specifications and other information available for the generators included in the bid.

3.3.3. Risk

All bidders must submit a 1-2 page Risk-Assessment Plan which addresses the following items:

1. Identify project risks. (Include issues that may impact project schedule, budget, output or performance).
2. Explanation of how the risks will be avoided / minimized.
3. Propose any options that could increase the value of the project.
4. Explain the benefits of the proposed options.

3.4. Power Product Characteristics

This category scores how well the bid product matches GPA's operational needs. The evaluation criteria for this category generally address performance and supply portfolio concentration risks, along with the benefits of flexibility and optionality. The characteristics that will be considered in scoring are:

1. Guaranteed Annual Minimum Energy Production (MWH)
2. Dispatchability. This bid requires ESS for the purpose of shifting energy to a period other than when the energy is produced. Proposals with no ESS or not capable of shifting its energy to another period (i.e. during evening hours) shall be disqualified.
3. Describe unit electrical control features available such as automatic generator control, VAR control or such other control related features.
4. Flexibility
    a. In-service date (GPA prefers projects that reasonably propose a commercial operation within 36 months after contract award)
    b. Willingness to accept contract provisions for flexibility to accommodate future changes to performance standards; and
    c. Bid size
5. Contract Term.

3.5. Credit Evaluation

GPA will evaluate the creditworthiness of the Bidder. Bidders shall discuss the following that will be considered in this evaluation criteria scoring:

1. Debt and equity ratings
2. Performance assurance
3. Financial ratio analysis
4. Default risk
5. Credit concentration and liquidity effect
6. Enforceability of contractual credit terms
7. Bidder revisions to contract templates that may affect credit requirements

3.6. Environmental Permits and Impacts

The Bidder should identify environmental impacts associated with the proposed project and its plan to mitigate such impacts. Included in this section are technical environmental issues associated with air, water, solid waste, land use, noise, and other environmental issues. The following addresses specific environmental permitting considerations.

3.6.1. Permits

Bidders are shall identify all permits, licenses, and environmental assessments and/or environmental impact statements required. Specifically, the Unpriced Technical Offer should discuss the following:

1. All Federal and GUAM permits, licenses, and environmental assessments and/or environmental impact statements required to construct and operate the project and governmental agencies for issuing permits and licenses.
2. Experience with governmental agencies which will issue or approve the required permits, licenses, and environmental assessments and/or environmental impact statements. Prepare timeline to complete acquisition of permits, licenses, and environmental assessments and/or environmental impact statements.

3. Provide the anticipated timeline for seeking and receiving the required permits, licenses, and environmental assessments and/or environmental impact statements, using the execution date of the power purchase agreement as the starting point. Please include a narrative on the basis for the assumed timeline.

3.6.2. Site Environmental Assessment

This bid document contains an Environmental Assessment of the proposed sites in Appendix P. Note that the Harmon Annex, Harmon Booster, and the Tumon Tank Farm sites included in the study are not available for use or lease in this bid. Bidders shall also note the environmental restrictions in the drafted sublease provided in Volume III.

Bidders shall address each of the major environmental areas and sub-areas as presented below;

1. Site development
2. Air quality
3. Water resources
4. Ecology
5. Land use
6. Cultural resources
7. Previous site use
8. Noise level
9. Aesthetic/visual

In addition to the above, GPA requests for the following:

10. The location of the nearest residence and the nature of any buildings within 500 feet of the site.
11. Documentation identifying any potential environmental impediments to project development and the plan to mitigate the impediment

4. CONTRACT

GPA has created a draft of the Renewable Energy Purchase Agreement in Volume III of this IFB. This document includes the Interconnection Agreement and the Sublease Agreement for use of proposed properties. Bidders are required to review the document and provide comments, note any exceptions, and provide recommendations during the proposal development period as a basis for discussions during contract negotiations. This process is also a factor in the Qualitative evaluation in this multi-step bid.

The final, executable Renewable Energy Purchase Agreement shall be negotiated in good faith between the parties. Each Respondent is responsible for acquiring and/or verifying that it is in compliance with all licenses, permits, certifications, studies, reporting requirements and approvals required by federal, and Guam government laws, regulations and policies in order for it to contract for and perform in accordance with its bid.

The following highlights the contract document between GPA and the selected Bidder(s) or in this section referred to as CONTRACTOR(S).

4.1. CONTRACTOR'S Responsibilities

This section highlights the CONTRACTOR'S responsibilities.

4.1.1. System Impact Study

The CONTRACTOR is responsible for the costs of the system impact study.

4.1.2. System Upgrades for Interconnection

The CONTRACTOR is responsible for the all system impact costs, including new or upgraded facilities that are required for the project interconnection with the GPA system.

4.1.3. Interconnection Agreement

The CONTRACTOR shall complete and adhere to interconnection agreement.

4.1.4. Development Security and Post Development Security

The CONTRACTOR is required to post Credit Support only in the form of a Letter of Credit or cash referred to as "Development Security", to secure the CONTRACTOR'S obligations prior to Commercial Operation of the Facility. The CONTRACTOR will forfeit this security if failed to meet project milestones, claims force majeure, or other conditions identified in the draft contract provided in Volume III.

Upon commissioning of the new facility, the Development Security will be returned to the CONTRACTOR and the CONTRACTOR will be required to submit a Post Development Security as security for Seller's obligations following the Commercial Operation Date.

4.1.5. Performance Guarantees

The CONTRACTOR is required to meet Annual Minimum Quantities for energy delivered

4.1.6. Project Milestones

The CONTRACTOR shall submit a construction and commissioning schedule for the proposed project. The CONTRACTOR shall meet deadline for commissioning or is subject to penalties as described in the purchase power agreement.

4.1.7. Government Charges

The CONTRACTOR is responsible for all government taxes, fines or fees necessary for operation of proposed facility.

4.2. GPA Responsibilities

4.2.1. Renewable Energy Purchase

GPA shall purchase all renewable energy produced by the CONTRACTOR.

4.2.2. Transmission

GPA is responsible for the maintenance and associated maintenance costs of all equipment and transmission lines after the CONTRACTOR delivery point.

5. PENALTIES / DAMAGE FEES

Contract performance will be evaluated annually, within 60 days of the contract anniversary, for any penalty evaluations for the pre-commissioning period and the post-commissioning period. Volume III discusses Development Security (Section 4.2), Production Default (Section 4.8), and Ramp Performance Penalty (Section ___).

6. REGULATORY APPROVAL

Any final negotiated term sheet or contract will be conditioned upon actions and/or approvals by Guam Public Utility Commission, satisfactory to GPA in its sole discretion.

INVITATION FOR MULTI-STEP BID

NO.: GPA-XXX-17

RENEWABLE ENERGY RESOURCE

PHASE III

Volume III

Draft Renewable Energy Purchase Agreement

GPA Contract No. _____

RENEWABLE ENERGY
PURCHASE AGREEMENT

BETWEEN
GUAM POWER AUTHORITY
AND

_ _ _ _

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PURCHASE AGREEMENT
BETWEEN
GUAM POWER AUTHORITY
AND
[ ]

THIS RENEWABLE ENERGY PURCHASE AGREEMENT (the "Agreement"), effective as of last date set forth on the signature page hereto (the "Effective Date"), is entered into by and between and Guam Power Authority, ("GPA" or "Buyer") and _____, a _____ "_____" or "Seller"). The purpose of this Agreement is to establish the terms and conditions under which Seller shall sell and GPA shall purchase Renewable Energy and associated Renewable Energy Credits ("RECs") and Environmental Attributes, as defined herein. In this Agreement, Seller and GPA may be individually referred to as a "Party" or collectively as the "Parties."

Recitals

WHEREAS, Seller desires to sell to GPA at the Delivery Point all of the Renewable Energy and associated RECs and Environmental Attributes from the Facility and GPA desires to buy the same from the Seller at the Delivery Point.

Therefore, for good and valuable consideration, including, without limitation, the covenants and agreements of the Parties contained in this Agreement, the receipt and sufficiency of which consideration is acknowledged, the Parties agree as follows:

ARTICLE ONE: DEFINITIONS

The following definitions apply to this Agreement:

1.1 "Actual Renewable Energy" means the actual energy output of the Facility (expressed in MWhs), measured at the Delivery Point, over any Production Measurement Period. Actual Renewable Energy shall be measured by the Seller Metering Equipment, and adjusted as applicable in accordance with Section 7.4.

1.2 "Affiliate" means, with respect to any party, any other party (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such party. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.3 "Agreement" has the meaning set forth in the initial paragraph above.

1.4 "Appraisal Price" means the average of three (3) appraisals of the market value of the Facility at the end of the Delivery Period, delivered by three (3) independent appraisers qualified by experience and expertise to determine the arms length market value of the Facility and assuming that energy and Environmental Attributes produced by the Facility will be sold at fair market value prices over the remaining economic useful life of the Facility. If the Parties do not agree on the independent appraisers then they shall be determined by arbitration in accordance with Section 12.9.

1.5 "Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, including but not limited to, under Chapter 11 or Chapter 9 of the United States Bankruptcy Code and Title III of Puerto Rico Oversight, Management and Economic Stability Act, or has any such valid petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.6 "Bid Security" or "Bid Bond" means the $_____, which is the amount of the security provided by Seller in connection with its initial bid to GPA for the Project prior to entering into the PPA.

1.7 "Business Day" means any day except a Saturday, Sunday, a Federal Reserve Bank holiday or an official Guam holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party by whom the Notice or payment or delivery is to be received.

1.8 "Buyer" has the meaning set forth in the initial paragraph above.

1.9 "Buyout Payment" means, with respect to Seller's election not to re-build the Facility pursuant to Section 12.2, an amount equal to: Minimum Production x the number of Contract Years (or portion thereof) remaining in the Delivery Period x the Incremental Price~~,~~.

1.10 "Change Event" has the meaning set forth in Section 4.16(c).

1.11 "Claiming Party" has the meaning set forth in Section 4.11.

1.12 "Claims" means all claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise.

1.13 "COD Extension" has the meaning set forth in Section 4.2(a).

1.14 "COD Extension Payment" has the meaning set forth in Section 4.2(a).

1.15 "Commercially Reasonable" or "Commercially Reasonable Efforts" means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with Good Utility Practices, including, without limitation, electric system reliability and stability or other regulatory mandates relating to renewable energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. "Commercially Reasonable" or "Commercially Reasonable Efforts" shall be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable efforts, at the time that a sale, purchase, or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

1.16 "Commercial Operation" has the meaning set forth in Section 4.1.

1.17 "Commercial Operation Date" or "COD" means the date that Commercial Operation of the Project has been achieved in accordance with Section 4.1.

1.18 "Confidential Information" means all information, whether written or oral, that is disclosed or otherwise available in connection with this Agreement or the performance by either Party of any of its duties hereunder, except any information which: (i) at the time of disclosure or thereafter is generally available to the public (other than as a result of a disclosure by any Party in violation of this Agreement); (ii) was available to any Party on a non-confidential basis from a source other than the Party hereto providing the Confidential Information, provided that such source is not bound by a confidentiality agreement that protected the Confidential Information and the Party receiving such Confidential Information is aware of such confidentiality agreement; or (iii) has been independently acquired or developed by any Party without violating any of its obligations under this Agreement.

1.19 "Contract Price" means the price in U.S. Dollars (unless otherwise provided for) rounded to the nearest $0.01, to be paid by GPA to Seller for the purchase of the Renewable Energy, as described in Appendix A.

1.20 "Contract Year" means the annual period, beginning on the Commercial Operation Date, and each annual period thereafter commencing on each anniversary of the Commercial Operation Date.

1.21 "Conventional Energy Resource" is an energy resource that is non-renewable in nature, such as natural gas, coal, oil, and uranium, or electricity that is produced with energy resources that are not Renewable Energy Resources.

1.22 "Credit Rating" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements), or if such entity does not have a rating for its unsecured senior long-term debt obligations, then the rating then assigned to such entity as an issuer rating by S&P, Moody's or any other rating agency agreed by the Parties.

1.23 "Daily Delay Liquidated Damages" has the meaning set forth in Section 4.2(b).

1.24 "Defaulting Party" has the meaning set forth in Section 6.1.

1.25 "Deficiency Amount" has the meaning set forth in Section 4.8

1.26 "Delivery Period" means the period of delivery under this Agreement, commencing on the Commercial Operation Date and continuing for a Term of twenty-five (25) years.

1.27 "Delivery Point" means the point at which the Renewable Energy will be delivered and received, as specified in Section 2.1 herein, or such other delivery point as may be agreed to by the Parties.

1.28 "Development Security" means the security required to be posted by Seller during construction of the Facility prior to Commercial Operation Date, pursuant to Section 9.1. The Development Security shall be 50% of the total projected payment for the 1st Contract Year based on the Seller's 1st Contract Year Contract Price and the Guaranteed Output for the first Contract Year. The amount of the Development Security is set out in Section 2.1.

1.29 "Early Termination Date" has the meaning set forth in Section 6.2.

1.30 "Effective Date" means the date first set forth above.

1.31 "Eligible Renewable Energy Resources" are applications of the following defined technologies that displace Conventional Energy Resources that could otherwise be used to provide electricity to GPA's customers: biogas electricity generator, biomass electricity generator, fuel cells that use only renewable fuels, geothermal generator, hybrid wind and solar electric generator, landfill gas generator, solar electricity resources, wind generator and such other generally accepted Renewable Energy Resources.

1.32 "Emergency" means any abnormal interconnection or system condition (including, without limitation, equipment or transmission limitations and constraints caused by thermal limits, stability, voltage, or loop flows) that Buyer determines in accordance with Good Utility Practices: (a) requires automatic or immediate manual operation to prevent or limit loss of Buyer's system or generation supply; (b) could adversely affect the reliability of the Buyer system or generation supply; (c) could adversely affect the reliability of any interconnected electric system; or (d) could otherwise pose a threat to public safety.

1.33 "Energy Storage System" shall mean the energy storage system described in Appendix C that is intergrated with the Project as part of the Facility.

1.34 "Environmental Attributes" means environmental characteristics that are attributable to Renewable Energy or the Project, including credits; credits towards achieving local, national or international renewable portfolio standards; green tags; Renewable Energy Credits; greenhouse gas or emissions reductions, credits, offsets, allowances or benefits; actual SO2, NOx, CO2, CO, Carbon, VOC, PM_{10}, mercury, and other emissions avoided; and any and all other green energy or other environmental benefits associated with the generation of Renewable

Energy (regardless of how any present or future law or regulation attributes or allocates such characteristics). Such Environmental Attributes shall be expressed in kWh or, as applicable in the case of emissions credits, in tonne equivalent or other allowance measurement. Environmental Attributes do not include Tax Benefits, or any energy, capacity, reliability, or other power attributes used by Seller to provide electricity services.

1.35 "EPC Contractor" means the contractor(s) under the engineering, procurement and construction contract for the Project.

1.36 "Event of Default" has the meaning set forth in Section 6.1.

1.37 "Excused Hours" means the hours in the applicable Production Measurement Period in which (i) Seller or Buyer has declared Force Majeure, (ii) Seller has initiated a Dispatch Down (as defined in Appendix K), or (iii) Seller's delivery to GPA of Renewable Energy is adversely affected as a result of failure by GPA to perform its obligations under this Agreement or the Interconnection Agreement, provided, however, if the Project is not able to generate Renewable Energy during any hour of a Production Measurement Period due solely to Seller's failure to establish and maintain the "Voltage and Frequency Ride-Through Settings' set forth in Appendix C ("Voltage and Frequency Ride-Through Settings), such hours shall not constitute Excused Hours.

1.38 "Facility" means all of the following: the Project, as defined in Section 2.1 of this Agreement, the purpose of which is to produce Renewable Energy including Seller's Interconnection Facilities and Energy Storage System and all equipment and other tangible assets, land rights and contract rights owned by Seller and reasonably necessary for the construction, operation, and maintenance of the Project.

1.39 "Facility Capacity" has the meaning set forth in Section 2.1.

1.40 "Facility Test" has the meaning set forth in Section 4.1(e).

1.41 "Facility Debt" means the obligations of Seller or its Affiliates to any direct or indirect Facility lender pursuant to the Financing Documents, including without limitation, principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any claims or interest due with respect to any of the foregoing. Facility Debt does not include trade debt or obligations incurred in the ordinary course of business.

1.42 "FERC" means the Federal Energy Regulatory Commission or any successor government agency.

1.43 "Financing Arrangement Deadline" has the meaning set forth in Section 4.3.

1.44 "Financing Arrangement Provision Date" has the meaning set forth in Section 4.3.

1.45 "Financing Documents" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements and other documents relating to the development, bridge, construction and/or permanent debt financing for the Facility (including any portfolio debt financing of which the Facility is included), including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of Seller and/or its Affiliates in connection with development, construction, ownership, leasing, operation or maintenance of the Facility.

1.46 "Forced Outage" means the shutdown or unavailability of the Facility, or a portion thereof other than as a Planned Outage, for reasons including, but not limited to, unanticipated equipment breakdown, human error, or Emergency conditions. A Forced Outage shall not include any Outage that may be deferred consistent with Good Utility Practices and without causing safety risk damage to equipment or additional costs.

1.47 "Forced Outage Notice" has the meaning set forth in Section 4.12(b).

1.48 "Force Majeure" means an event or circumstance which prevents one Party from performing its obligations under this Transaction, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. So long as the requirements of the preceding sentence are met, a "Force Majeure" event may include, but shall not be limited to, flood, drought, military ordinances or archaeological discoveries at the Project site, change in applicable law or interpretation or application thereof, failure or delay by any Governmental Authority in issuing any required permit, earthquake, storm, fire, lightning, epidemic, war, terrorism or riot. Notwithstanding the foregoing, Force Majeure shall not be based on (i) the loss of Buyer's markets; (ii) Buyer's inability economically to use or resell the Renewable Energy purchased hereunder; (iii) the loss or failure of Seller's supply, including materials or equipment, unless such loss or failure is caused by a Force Majeure event; (iv) the delay in or inability of Seller to obtain financing or economic hardship of any kind unless such delay or inability is caused by a Force Majeure Event; or (v) Seller's ability to sell the Renewable Energy at a price greater than the Contract Price or Buyer's ability to purchase the Renewable Energy at a price less than the Contract Price; or (vi) strike or other labor dispute (other than strikes at a national, Guam or regional level). Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a transmission provider unless such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the transmission provider's tariff.

1.49 "Force Majeure Extension" has the meaning set forth in Section 4.2(c).

1.50 "Good Utility Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with good business practices, economy, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be generally accepted and consistently adhered to acceptable practices, methods, or acts.

1.51 "Governmental Authority" means any federal, territorial or local government body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal.

1.52 "Governmental Charges" has the meaning set forth in Section 10.2.

1.53 "GPA" has the meaning set forth in the initial paragraph above.

1.54 "GPA Delay" means any delay by GPA in performing an obligation under this Agreement or under the Interconnection Agreement which results in a delay to Seller achieving COD.

1.55 "Guaranteed Output" has the meaning given in Section 4.8.

1.56 "Incremental Price" means, at the time of its calculation, the LEAC Rate minus the Contract Price, provided, however, if the LEAC Rate is less than the Contract Price then the Incremental Price shall be deemed to be zero. Sample calculations of the Incremental Price are shown in Schedule III to Appendix K.

1.57 "Independent Engineer" shall mean one of the engineering firms set forth in Appendix D hereto, and any other independent engineer or engineering firm, nationally recognized in the United States and having knowledge and expertise in the United States generation industry (including specifically the design and construction of utility scale solar photovoltaic power projects), and which is mutually agreed to by the Parties.

1.58 "Interconnection Agreement" means the agreement for interconnection service relating to the Facility between GPA and Seller, executed and delivered as of the Effective Date in the form attached hereto as Appendix J.

1.59 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.60 "kWh" means kilowatt hour.

1.61 "LEAC Rate" means the "Fuel Recovery Charge" (expressed in US$/MWh) as set forth in GPA's most recent approved tariff in effect as of any date of determination of the LEAC Rate under this Agreement.

1.62 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- from S&P or A3 from Moody's, in substantially the form set forth in Appendix F hereto; provided, however that such form may be modified by the issuing bank as long as such modifications are acceptable to the beneficiary in its reasonable discretion. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.63 "Merger Event" means, with respect to a Party, that such Party consolidates or amalgamates with, or merges into or with, or transfers substantially all of its assets to another entity and (i) the resulting entity fails to assume all of the obligations of such Party hereunder or (ii) the benefits of any credit support provided pursuant to this Agreement fail to extend to the performance by such resulting, surviving or transferee entity of its obligations hereunder and such benefits are not replaced with equivalent credit support or (iii) the resulting entity's Credit Rating upon the occurrence of the Merger Event is lower than that of such Party immediately prior to such action and is not supplemented by credit support such that the resulting entity's credit is equal to or better than the predecessor enity.

1.64 "Minimum Production" has the meaning set forth in Section 4.8.

1.65 "Month" means a calendar Month. The term "Monthly" shall have a meaning correlative to a Month.

1.66 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.67 "MW" or "MWh" means megawatt or megawatt hour, in each case rounded to the nearest whole MW or MWh.

1.68 "NAR" means the North American Renewables Registry.

1.69 "NAR Operating Procedures" means any and all guidelines, procedures, requirements and obligations established by the NAR, including the terms of use, operating procedures, and fee schedules, as such may be amended from time to time.

1.70 "Non-Defaulting Party" has the meaning set forth in Section 6.

1.71 "Notice" has the meaning set forth in Section 12.7.

1.72 "Notice to Proceed" means the written notice provided by Seller to the EPC Contractor to begin full (and not limited) procurement and construction activity at the Project site.

1.73 "Outage" means the period during which the Facility or a portion thereof is out of service.

1.74 "Outside Commercial Operation Date" has the meaning set forth in Section 4.2(b).

1.75 "Party" and "Parties" has the meaning set forth in the initial paragraph above.

1.76 "Planned Outage" means any Outage that is not a Forced Outage, and refers to the shutdown or unavailability of the Facility or a portion thereof for inspection or maintenance in accordance with an advance schedule.

1.77 "Production Measurement Period" has the meaning set forth in Section 4.8.

1.78 "Project" has the meaning set forth in Section 2.1.

1.79 "QRE" means the Qualified Reporting Entity as such term is defined in the NAR Operating Procedures.

1.80 "Quantity" means the actual quantity of Renewable Energy sold by Seller and purchased by and delivered to GPA pursuant to this Agreement. The Quantity shall be measured based on the metered data from the Seller Metering Equipment at the Delivery Point.

1.81 "Renewable Energy" means energy derived from a Renewable Energy Resource.

1.82 "Renewable Energy Credit" ("REC") means the unit created to track kWh derived from an Eligible Renewable Energy Resources or kWh equivalent of Conventional Energy Resources displaced by Renewable Energy Resources.

1.83 "Renewable Energy Resource" means an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.

1.84 "Replacement Price" means the price at which GPA, acting in a commercially reasonable manner, purchases electricity in place of Renewable Energy.

1.85 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.86 "SCADA" means "supervisory control and data acquisition" and shall refer to that category of software application program that can be used to gather data from the Facility remotely in real time in order to monitor Facility equipment and conditions.

1.87 "Schedule," "Scheduled" or "Scheduling" means the actions of Seller, Buyer and/or their designated representatives, of notifying, requesting and confirming to each other the quantity and type of Renewable Energy to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.88 "Scheduled Commercial Operation Date" has the meaning set forth in Section 4.2(a).

1.89 "Seller" has the meaning set forth in the initial paragraph above.

1.90 "Seller Failure" has the meaning set forth in Section 5.1.

1.91 "Seller Failure Damages" has the meaning set forth in Section 5.1.

1.92 "Seller's Interconnection Facilities" means Seller's equipment as specified in the Interconnection Agreement.

1.93 "Seller Metering Equipment" means all metering equipment and data processing equipment used to measure the Quantity delivered to the Delivery Point.

1.94 "Shortfall Damages" has the meaning set forth in Section 4.8.

1.95 "Study" means the Renewable IFB System Impact Study (insert date & study contractor).

1.96 "Tax Benefits" means Renewable Energy related tax credits or other benefits, including those established under Section 45 and Section 48 of the Internal Revenue Code, as amended, or any similar or successor provision of the Internal Revenue Code.

1.97 "Term" has the meaning set forth in Section 12.1.

1.98 "Termination Damages" has the meaning set forth in Section 4.4.

1.99 "Test Energy" means non-firm Renewable Energy generated by the Facility prior to the Commercial Operation Date, subject to immediate interruption, fluctuations or reduction/increase with no prior Notice, due to unit performance.

1.100 "Transaction" means the transaction relating to the purchase or sale of Renewable Energy and Environmental Attributes as contemplated in this Agreement.

1.101 "Unit Contingent" means that the Renewable Energy is intended to be supplied from the Facility as it is produced.

1.102 "Weather Hours" means the total hours in any Production Measurement Period, as applicable, in which the Facility is derated as a result of cumulative weather conditions which are outside historical average conditions for any applicable Month during the Production Measurement Period in which the deration occurs, calculated in accordance with Appendix K.

ARTICLE TWO: COMMERCIAL TERMS

2.1 Commercial Terms.

The following commercial terms apply to the Transaction that is the subject of this Agreement, each as more fully described herein:

Buyer: GPA	**Seller:** ____
Project: _____	
Delivery Point:	
Guaranteed Annual Production (MWhs): **As set forth in the fifth column of Appendix A**	**Estimated Annual Production (Minimum Production): (MWhs):** **As Set forth in the third column of Appendix A**
	Facility Capacity (MWs):
Delivery Period: **25 Contract Years**	**Contract Price ($/MWh):** See Appendix A
Renewable Energy Type: Unit Contingent (solar) and associated RECs	**Development Security:** $ _____
Day(s) of week: Monday through Sunday, including holidays	**Hours:** Hour Ending 0100 – Hour Ending 2400, Monday through Sunday Chamorro Standard Time (CHST), Guam time
Commercial Operation Date:	
Test Energy: Seller agrees to sell and Buyer agrees to purchase all Test Energy from the Facility. The price of such Test Energy shall be the current LEAC Rate. Test Energy shall be delivered in accordance with the Scheduling provisions contained herein. Both Parties agree that Seller will use Commercially Reasonable Efforts to pre-schedule the Test Energy, but Buyer shall nonetheless be obligated to accept all Test Energy up to_____ MW per hour of Test Energy. Seller shall provide to Buyer all RECs and other Environmental Attributes associated with the Test Energy produced by the Facility in accordance with Section 4.16.	

ARTICLE THREE: REPRESENTATIONS AND WARRANTIES

3.1 Mutual Representations and Warranties.

On the Effective Date of this Agreement, each Party represents and warrants to the other Party that:

(a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) It has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement (other than permits or regulatory authorizations to be obtained by Seller for the construction, operation or maintenance of the Facility, which Seller reasonably anticipates it will be able to obtain in due course);

(c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, and the Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses.

(d) It is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(e) There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(f) No Event of Default or potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and

(g) It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

3.2 Seller Representations and Warranties.

Seller affirmatively represents and warrants to GPA that:

(a) On the Effective Date of this Agreement, or in due course as required in accordance with the Scheduled Commercial Operation Date, Seller has (or reasonably expects to have in due course), good defensible title, or valid and effective leasehold rights in the case of leased property, to the Facility, free and clear of all liens, charges, claims, pledges, security interests, equities and encumbrances of any nature whatsoever other than the lien of current taxes not delinquent, liens, charges, claims, pledges, security, interests, equities and encumbrances relating to Facility Debt as provided for herein, or that are permitted by the Facility Debt, or that in the aggregate do not materially detract from or interfere with the ability of Seller to deliver the Quantity of the Renewable Energy;

(b) All acts necessary to the valid execution, delivery and performance of this Agreement by Seller have or will be taken and performed as required under Seller's ordinances, operating agreement, or other regulations including, but not limited to (i) the valid authority of the person executing this Agreement to bind Seller and (ii) the Term of this

Agreement does not extend beyond any limitation applicable to Seller imposed by relevant governing documents and applicable law; and

(c) Seller will have at the time of sale, title to and ownership of the RECs and Environmental Attributes sold hereunder.

3.3 GPA Representations and Warranties.

GPA represents and warrants that the board of directors of GPA has made all certifications required by the Guam Public Utilities Commission and the Guam legislature in order for GPA to execute this Agreement.

ARTICLE FOUR: PERFORMANCE REQUIREMENTS

4.1 Commercial Operation.

Seller shall achieve Commercial Operation of the Project no later than the Scheduled Commercial Operation Date, except to the extent such date is extended pursuant to Section 4.2, in which case Commercial Operation shall occur on or prior to the Outside Commercial Operation Date. Commercial Operation shall be achieved as of the date on which Seller certifies to Buyer in writing that each of the following conditions precedent has been satisfied or waived in writing by the Parties, as applicable ("Commercial Operation"):

(a) Seller shall have obtained all governmental and regulatory authorizations, including any applicable permits, required for the construction, ownership, operation and maintenance of the Project and for the sale of the Renewable Energy therefrom (except for any permits or authorizations typically obtained after Commercial Operation and that Seller reasonably believes will be obtained in due course);

(b) Seller and Buyer shall have entered into the Interconnection Agreement;

(c) Seller shall have established SCADA information and real time data feed to enable GPA to view parameters or data points that relate to Facility availability, Renewable Energy data and other actual resource data for the Facility;

(d) Seller shall be capable of delivering the Renewable Energy from the Facility to GPA at the Delivery Point.

(e) Seller shall perform at its cost a capacity test in accordance with the protocol outlined in Appendix I to determine the capacity of the Facility ("Facility Test"). GPA shall receive the entire Renewable Energy from the Facility during such test as contemplated in Section 2.1. Renewable Energy deliveries during testing shall be measured at the Delivery Point.

GPA shall use all available Commercially Reasonable Efforts to assist Seller in achieving the Scheduled Commercial Operation Date. Seller shall present to GPA a certificate executed by its duly executed officer, and by an Independent Engineer as to items (d) and (e), verifying that each of the foregoing conditions has been satisfied or waived in writing by the Parties and Commercial Operation shall be deemed to have occurred upon the delivery of such certificate to GPA unless GPA objects to such certificate on the grounds that the condition has not been satisfied within ten (10) Business Days of delivery thereof and such objections are either agreed by Seller or resolved in favor of GPA pursuant to Section 12.9 hereof. Upon any acceptance or deemed acceptance of Seller's certificate by GPA, all conditions, set forth above shall no longer be a condition precedent to Commercial Operation of the Project. If the Commercial Operation Date does not occur on or before the Outside Commercial Operation Date, as such date may be extended in accordance with Section 4.2 herein; either Party shall have the right to terminate the Agreement upon written Notice to the other Party. In the event of such termination by either Party, GPA shall be entitled to Termination Damages set forth in Section 4.4; provided, however, that in accordance with Section 4.2(c), GPA shall not be entitled to such Termination Damages if the Outside Commercial Operation Date is not achieved due to a Force Majeure event or a GPA Delay.

4.2 Extension of Commercial Operation Date.

(a) Planned Extension. The Parties agree that the Commercial Operation Date is expected to occur on or before [ ] ("Scheduled Commercial Operation Date"). Seller may elect to extend the Commercial Operation Date beyond the Scheduled Commercial Operation Date (the "COD Extension") by paying GPA for such extension (the "COD Extension Payment"). The COD Extension Payment shall be in the amount of fifty percent (50%) of the daily Shortfall Damages (based on ninety percent (90%) of the Minimum Production for the first Contract Year) per day for each day (or portion thereof) after but not including the date of the COD Extension until, but not including, the date on

which the Project actually achieves Commercial Operation. To extend the Commercial Operation Date, Seller must, as early as reasonably possible, but in no event later than fourteen (14) days prior to the first day of the proposed extension, provide GPA with Notice of its election to extend the Commercial Operation Date along with an estimate of the duration of the extension. The COD Extension Payment is in addition to and not to be considered part of the Development Security, and shall be paid to GPA in arrears on a monthly basis after delivery of the Notice hereunder. Seller's request to extend the Commercial Operation Date shall not be valid unless proper Notice and payment are timely received by GPA. No Event of Default shall be deemed to have occurred with respect to Seller's extension as provided herein, and GPA shall not have the right to terminate the Agreement or to receive Termination Damages with respect to such extension so long as Seller has provided the Notice, estimation and payment as provided in this Section 4.2(a). Seller may further extend the Commercial Operation Date beyond the original COD Extension, subject to the foregoing Notice, estimation and payment terms applicable to the original COD Extension.

Seller shall be entitled to a prompt refund, without interest, of any portion of the COD Extension Payment held by GPA which exceeds the amount required to cover the number of days by which the Commercial Operation Date was actually extended. In no event may Seller extend the Commercial Operation Date by more than six (6) months through the payment of the COD Extension Payment, except as provided in Section 4.2(b). In the event that the Project does not achieve Commercial Operation on or before the expiration of any COD Extension period as provided herein, either Party shall have the right to terminate the Agreement upon written Notice to the other, subject to any further extension rights pursuant to Sections 4.2(b) or (c) below. In the event of such termination by either Party in accordance with this provision, GPA shall be entitled to Termination Damages as set forth in Section 4.4 as its sole and exclusive remedy, subject to Section 4.2(c).

(b) Unplanned Extension/Additional Planned Extension. In the event that (i) the Project does not achieve Commercial Operation by the Scheduled Commercial Operation Date and Seller fails to provide sufficient Notice and/or payment in order to extend the Commercial Operation Date as provided in Section 4.2(a), or (ii) the Commercial Operation Date shall not have occurred within the six (6) months extension period provided under Section 4.2(a), then Seller may still extend the Commercial Operation Date by paying GPA damages ("Daily Delay Liquidated Damages"). The Daily Delay Liquidated Damages shall be in the amount of one hundred percent (100%) of the Shortfall Damages (based on ninety percent (90%) of the Minimum Production for the first Contract Year) per day for each day (or portion thereof) after but not including the earlier of the dates set forth in sub-clauses (i) or (ii) above, or until, but not including, the date on which the Project actually achieves Commercial Operation, and shall be payable on a monthly basis in arrears within ten (10) Business Days following receipt of an invoice from GPA for any such Daily Delay Liquidated Damages. No Event of Default shall be deemed to have occurred with respect to Seller's extension as provided herein and GPA shall not have the right to terminate the Agreement with respect to such extension or to receive Termination Damages so long as Seller has extended the Commercial Operation Date and pays the Daily Delay Liquidated Damages as provided in this Section 4.2(b).

In the event that the Project does not achieve Commercial Operation on or before twelve (12) months from the Scheduled Commercial Operation Date (as extended pursuant to this Agreement, the "Outside Commercial Operation Date"), then either Party shall have the right to terminate the Agreement upon written Notice to the other, subject to any further extension rights pursuant to Section 4.2(c) below. In the event of such termination by either Party in accordance with this provision, GPA shall be entitled to Termination Damages as set forth in Section 4.4 as its sole and exclusive remedy, subject to Section 4.2(c).

(c) Force Majeure and GPA Delay Extension. The Scheduled Commercial Operation Date and the Outside Commercial Operation Date shall also be extended, without payment or other penalty, on a day-for-day basis for each day of delay caused by reason of Force Majeure (a "Force Majeure Extension") or by reason of GPA Delay. Any Force Majeure Extension or GPA Delay shall also extend the period of any planned or unplanned extensions pursuant to Sections 4.2(a) or (b) on a day-for-day basis for each day during the Force Majeure Extension or GPA Delay, and Seller shall not be required to pay any COD Extension Payments or Daily Delay Liquidated Damages, as applicable, for any days during the Force Majeure Extension or GPA Delay. Notwithstanding any other provision in this Agreement, if, due solely to a Force Majeure event, the Project does not achieve Commercial Operation on or before the Outside Commercial Operation Date, then the Parties by mutual agreement may terminate this Agreement without penalty or further obligation to either Party, and after one hundred and eighty (180) days following the Outside Commercial Operation Date, either Party may unilaterally terminate this Agreement without penalty or further obligation to either Party. For the sake of clarity, (i) in the event of any such termination, GPA shall not be entitled to Termination Damages, and (ii) Seller shall be entitled to any remedies available under Section 6.3 in the case of delays caused by GPA Delays, including reimbursement for (i) the cost of network upgrades and interconnection costs incurred by Seller, (ii) costs incurred under construction, equipment and other contracts entered into in connection with the development and construction of the Facility, and (iii) Seller's costs and expenses in connection with the Facility and its performance under this Agreement.

4.3 Financing Arrangement Deadline.

Seller shall make Commercially Reasonable Efforts to (i) secure a thirdy party financing sufficient for the successful completion of the Project as soon as practicable, and (ii) procure a binding credit agreement for such financing be executed no later than one (1) year after the Effective Date (the "Financing Arrangement Deadline") unless extended by written agreement of the Parties. Seller shall provide GPA with a copy of the executed credit agreement within three (3) Business Days after the execution of such credit agreement (the date on which GPA receives such copy is hereinafter referred to as the "Financing Arrangement Provision Date").

In the event that Seller fails to procure the execution of a binding credit agreement by the Financing Arrangement Deadline, GPA may terminate the Agreement and shall be entitled to Termination Damages set forth in Section 4.4 as its sole and exclusive remedy unless such Financing Arrangement Deadline is extended under other provisions of this Agreement, including Section 4.11.

4.4 Termination Damages.

Prior to the Commercial Operation Date, Seller may terminate this Agreement at any time for its convenience. GPA shall be entitled to termination damages, payable solely from the Bid Security or the Development Security established in Section 9.1 (as applicable) ("Termination Damages"), in the amounts set forth in the table below, if: (a) subject to the last sentence of this Section 4.4, Seller terminates the Agreement prior to the Commercial Operation Date for any reason other than: (i) a Force Majeure event (ii) a GPA Delay, or (iii) an Event of Default by GPA; and/or (b) GPA terminates the Agreement as a result of Seller failing to achieve the Commercial Operation Date on or prior to the Scheduled Commercial Operation Date, as the same may have been extended pursuant to Section 4.2, and subject to Section 4.2. The Termination Damages are designed to help compensate GPA for, among other things, transactions that it did not consummate because it relied on this Agreement with Seller, and GPA's potential failure to meet its applicable renewable energy portfolio requirements and do not constitute a penalty payment. Accordingly, Seller shall pay to GPA, in cash or from the Development Security, Termination Damages in the following amounts, based upon when the termination occurs:

Up to Financing Arrangement Provision Date	Up to Six (6) months after Financing Arragement Provision Date

100% of the Bid Security	Twelve (12) months after Financing Arragement Provision Date forward: 75% of Development Security
50% of the Development Security	
Twelve (12) months after Financing Arrangement Provision Date from Six (6) months after Financing Provision Date	100% of Development Security

No later than five (5) Business Days after the Financing Arrangement Provision Date, GPA shall return the Bid Security to Seller, to the extent GPA has not validly claimed the Bid Security in respect of Termination Damages on or prior to _____. Notwithstanding the foregoing, in the event that Seller terminates this Agreement for any reason prior to the posting date for the Development Security as set forth in Section 9.1 herein, then Seller shall owe GPA no Termination Damages and such termination shall be without penalty to Seller.

4.5 Seller's and Buyer's Obligations.

Subject to Appendix H, Seller shall sell and deliver, or cause to be delivered, and GPA shall purchase and receive, or cause to be received, all Renewable Energy generated by the Facility, at the Delivery Point, and GPA shall pay Seller the Contract Price for such Quantity of Renewable Energy as measured by the Seller Metering Equipment at the Delivery Point; provided that for quantities of Renewable Energy in excess of 105% of the Estimated Annual Production, as shown in the third column of Appendix A, which are not make-up quantities for delivery deficiencies in prior Production Measurement Periods pursuant to Section 4.8, the price payable by GPA shall be the lower of the Contract Price and the LEAC Rate. For Seller's failure to deliver Renewable Energy as required hereunder, GPA's remedies shall be as set forth in Section 4.8. For GPA's failure to purchase and receive Renewable Energy as required hereunder, if Seller's damages are less than $10,000 then Seller's remedies shall be as set forth in Appendix K. For damages in excess of that amount, Seller shall in addition have all other remedies available at law or in equity. Seller shall be responsible for any costs or charges imposed on or associated with the Renewable Energy or its delivery up to the Delivery Point. GPA shall be responsible for any costs or charges imposed on or associated with Renewable Energy or its receipt at and from the Delivery Point. Title to and risk of loss of Renewable Energy from the Facility delivered to the Delivery Point shall transfer to GPA at the Delivery Point. Seller warrants that it will deliver to Buyer Renewable Energy free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point. Notwithstanding the foregoing Seller's obligation to supply and sell, and GPA's obligation to accept and purchase, Renewable Energy shall be limited to such Renewable Energy that is actually deliverable from the Facility to the Delivery Point during such period.

4.6 Operation of Facility.

Seller shall operate and maintain the Facility in accordance with Good Utility Practices.

4.7 [Reserved].

4.8 Minimum Production.

The Facility is expected to produce a minimum number of MWhs of Renewable Energy in each one (1) Contract Year period as set forth in the third column of Appendix A (such annual MWh production is the "Minimum Production"). Seller during the Delivery Period shall (i) during each such Contract Year period, deliver to GPA at least ninety percent (90%) of the Minimum Production (which calculated amounts are set forth in the fourth column of Appendix A), and for any consecutive five (5) Contract Years during the Delivery Period, deliver to GPA at least one hundred percent (100%) of the aggregate Minimum Production (which calculated amounts are set forth in Appendix A) during such period (any such time period a "Production Measurement Period" and each such guaranteed amount of delivered Renewable Energy during any Production Measurement Period, the "Guaranteed

Output"). Any shortfall of Renewable Energy deliveries to Buyer from the applicable Guaranteed Output during a Production Measurement Period shall be deemed a "Deficiency Amount".

GPA shall be entitled to receive damages for any Deficiency Amount ("Shortfall Damages") which are not due to Excused Hours or Weather Hours (except, in the case of Weather Hours, as set forth below). GPA shall calculate such Shortfall Damages as follows (and in accordance with the example set forth in Schedule III to Appendix K.):

Shortfall Damages = Deficiency Amount x Incremental Price.

For purposes of clarity, if Actual Renewable Energy for any given Production Measurement Period is less than the Guaranteed Output for that period (even if due to Excused Hours or Weather Hours), there shall be a "shortfall", and Seller shall be entitled to deliver to GPA energy in that amount in subsequent Performance Measurement Periods, and this Agreement may be extended as necessary for a period of up to six (6) months in order to provide Seller with the opportunity to deliver Renewable Energy to Buyer up to the amount of the Deficiency Amount that would not otherwise be eligible for sale to Buyer under this Agreement. There shall be no Shortfall Damages owing to GPA for any Performance Measurement Period unless such Actual Renewable Energy is less than the Guaranteed Output amount for that Performance Measurement Period, and such shortfall is not due to Excused Hours or Weather Hours (except, in the case of Weather Hours, as set forth below).

In the event Shortfall Damages are due for a Production Measurement Period of five (5) rolling Contract Years, then such Shortfall Damages shall be reduced by the amount of any Shortfall Damages previously paid for any Contract Year during such five (5) year Production Measurement Period. Seller's payment of Shortfall Damages shall be Seller's sole liability and obligation, and GPA's sole right and remedy, with respect to Seller's failure to deliver the Guaranteed Output during any Production Measurement Period.

To the extent any Deficiency Amount is due to Weather Hours, Seller's sole liability and GPA's sole remedy shall be to deliver thereafter Renewable Energy equal to such Deficiency Amount attributable to Weather Hours, calculated in accordance with Appendix K (which includes a sample calculation for a hypothetical Production Measurement Period). If any portion of a Deficiency Amount due to Weather Hours is not made up in the five (5) Contract Years beginning in the first Contract Year following the Performance Measurement Period in which the Weather Hours Deficiency Amount occurred. The Contract Price for such Renewable Energy shall be the Contract Price in effect in the ContractYear of delivery. Deficiency Amount due to weather shall not be penalized.

Seller shall be entitled to sell, and GPA shall purchase, quantities of Renewable Energy for which Shortfall Damages are paid hereunder (the "Make-up Renewable Energy), during any remaining Production Measurement Period during the Delivery Period. The price for the Make-up Renewable Energy shall be the Contract Price in effect at time of the supply of such Make-up Renewable Energy. During any Contract Year, all Renewable Energy delivered by Seller to GPA in excess of the Guaranteed Output shall be credited against makeup of any outstanding Deficiency Amounts, with oldest Deficiency Amounts made up first.

To the extent any Deficiency Amount is due to Excused Hours, Seller shall be excused from any liability with respect thereto.

4.9 Facility Testing.

In addition to the Facility Test referenced in Section 4.1(e), the capacity of the Facility shall be tested during each Contract Year during the Delivery Period (the "Annual Facility Test"). Seller shall notify GPA of the specific date on which it intends to conduct the Annual Facility Test at least ten (10) Business Days in advance and shall permit GPA to be present at such test. GPA shall have the right to receive copies of the results of the Annual Facility Test, which shall be conducted in accordance with the protocol set forth in Appendix I. Any dispute regarding the results of the Annual Facility Test shall be resolved as set forth in Section 12.9 of this Agreement. GPA shall receive, in accordance with Section 4.5, the entire Renewable Energy from the Facility during any Annual Facility Test or re-test. Renewable Energy deliveries during testing shall be measured at the Delivery Point.

4.10 Scheduling.

Seller agrees to supply at the Delivery Point all Renewable Energy produced by the Project, net of Renewable Energy self generated and consumed at the Facility and net of any generation losses prior to the Delivery Point, up to the Facility Capacity, in accordance with the scheduling and coordination procedures set out in Appendix H. GPA agrees to take at the Delivery Point all Renewable Energy tendered by Seller in accordance with the foregoing sentence.

The Schedules and estimates provided pursuant to Appendix H shall be made by Seller in good faith and based on information available to it at such time, but in no event shall such Schedules be binding on Seller nor shall Seller be liable for any inaccuracies in such Schedules.

4.11 Force Majeure.

To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Transaction and such Party (the "Claiming Party") gives Notice and details of the Force Majeure to the other Party promptly upon the occurrence of the Force Mejeure event, then the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due hereunder). The Claiming Party shall exercise Commercially Reasonable Efforts to remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its corresponding obligations to the Claiming Party (other than the obligation to make payments then due or becoming due hereunder) until the Claiming Party resumes its performance. If the Force Majeure event extends for three hundred and sixty-five (365) days, either Party may terminate this Agreement without further obligation by either Party, except as to costs and liabilities incurred prior to the termination date and obligations under the Agreement which survive termination by nature of the obligation.

4.12 Facility Outages and Maintenance Scheduling.

(a) Planned Outages. Seller shall provide written Notice to GPA prior to conducting any Planned Outages of the Facility. Within ninety (90) days prior to the Commercial Operation Date, as the same may be extended in accordance with the provisions of Section 4.2, and on or before the first day of each subsequent Contract Year, Seller shall provide GPA with a schedule of such proposed Planned Outages in accordance with Appendix H. The proposed Planned Outages schedule shall be submitted electronically to GPA, using a reasonably acceptable format provided by GPA. Such format is subject to change from time-to-time during the Term of this Agreement by agreement of the Parties, but will generally describe the nature of the Outage, the expected duration, and any other pertinent information that will assist GPA in planning for the decreased output and/or availability of the Facility as a result of the Outage.

GPA shall promptly review Seller's proposed schedule and may request modifications within thirty (30) days of GPA's receipt of such schedule. Changes to the schedule may be requested by either Party and each Party shall make Commercially Reasonable Efforts to accommodate such changes, provided further that Seller shall have no obligation to agree to GPA's proposed modifications or revisions to any Planned Outage schedule.

(b) Forced Outages. In the event of any Forced Outage, Seller shall promptly notify GPA of the same. Seller shall as quickly as practicable notify GPA verbally and shall then, within twenty-four (24) hours thereafter, provide written Notice to GPA of the Forced Outage (the "Forced Outage Notice"). The Forced Outage Notice shall be submitted electronically to GPA, using a reasonably acceptable format provided by GPA. Such format is subject to change from time-to-time during the Term of this Agreement by agreement of the Parties, but will generally describe the nature of the Outage, the expected duration, and any other pertinent information that will assist GPA in planning for the decreased output and/or availability of the Facility as a result of the Outage. Seller shall return the Facility to service as soon as possible, consistent with Good Utility Practices, after the Forced Outage ceases to exist.

(c) GPA Parts Inventory. To the extent GPA maintains an inventory of parts or components that are used or useful in the Facility and provided it can prudently do so under its own ordinary course operating practices and restrictions, GPA shall cooperate with Seller in a Commercially Reasonable manner by making such parts or components available to Seller at its request during the period of time Seller is obtaining replacement parts or components for the Facility in order to maximize output of Renewable Energy. If Seller obtains a replacement part or component from GPA, it shall at GPA's option either replace such part or component with the new part or component ordered by Seller or return the borrowed part or component to GPA at such time as Seller obtains the replacement. Seller shall bear the installation, transportation and labor charges relating to GPA's replacement parts or components, and if the parts or components are returned to GPA then Seller shall reimburse GPA for any damage to such parts or components while in Seller's possession.

4.13 Operating Status Reports.

From the Effective Date of this Agreement, through the date of Commercial Operation, Seller shall provide GPA with Monthly reports regarding material data pertaining to the operation of the Facility. The operations data is generally identified as performance, Outage, and risk data and shall be sent electronically to GPA using a reasonably acceptable format provided by GPA. The operations data report format may be modified by agreement of the Parties from time-to-time during the Term of this Agreement.

4.14 Resource Quality Reporting: Forecasting.

Seller shall provide to GPA at its request copies of non-proprietary resource quality data in Seller's possession that could reasonably be expected to affect, in any material manner, the operation and/or productivity of the Facility, whether produced, compiled or otherwise generated by Seller or any third party in a Commercially Reasonable manner, so that GPA can evaluate the expected performance of the Facility. Seller shall provide such data as it is produced or otherwise made available to Seller. Upon Commercial Operation of the Facility, to the extent generated or procured by Seller, Seller shall also provide to GPA Monthly and day-ahead forecasting information for the Facility. Such information shall be in a format agreed to by the Parties and include, among other things: Seller's forecasts for the performance of the Facility based on Facility specifications, weather-based forecasting, and weather-related studies. Such information, which will be used by GPA solely for evaluation, Scheduling, and other purposes related to this Agreement, shall be provided as available. In no event shall the data and/or information provided to GPA pursuant to this Section 4.14 be binding upon Seller, nor shall Seller be liable for any penalties, charges or other damages based on the inaccuracy of such data or information.

4.15 Permit Violations.

Seller shall at all times during the Term of this Agreement maintain and comply in all material respects with all applicable permits for the development, ownership and maintenance of the Facility.

4.16 Delivery of RECs and Environmental Attributes.

(a) Use of North American Renewables Registry. At least ten (10) days prior to COD, Seller shall transfer to GPA the authority to create, own and transfer all Environmental Attributes associated with the Renewable Energy produced by the Facility, by executing and delivering the form entitled "Generator Owner's Designation of Responsible Party" published by NAR, wherein Seller shall designate GPA as the "responsible party" for all matters relating to the creation, ownership, and transfer of RECs and Environmental Attributes from the Facility. Thereafter, GPA shall be responsible for all obligations relating to creating and transferring RECs and Environmental Attributes from the Facility and Seller shall have no further obligations or liabilities with respect thereto, provided, however, that Seller shall reimburse to GPA its costs of creating and maintaining the NAR account and NAR's fees charged to transfer the RECs and Environmental Attributes, up to an aggregate maximum amount of $5,000 per annum. In the event this

Agreement is terminated or suspended for any reason, the Parties agree to each consent to the termination of such designation in accordance with NAR procedures.

(b) GPA Registration as a QRE. GPA shall be the QRE for the Facility as required by NAR and shall comply with any and all NAR Operating Procedures relating to the registration and operation as a QRE and the reporting of generation data from the Facility to NAR. As the QRE, each month upon receipt of an invoice and associated interval metering data from Seller in accordance with Section 7.5 herein, GPA shall report such data to NAR within three (3) Business Days following receipt of such data. The Parties shall cooperate to ensure that the Seller Metering Equipment and the resulting interval metering data meet the NAR requirements for metering equipment and generation data.

(c) Change Event. During the Term, in the event that (i) the NAR Operating Procedures are amended or changed such that it becomes impossible for the Parties to utilize NAR as the REC tracking method and/or for GPA to continue as "responsible party" for purposes of creating, owning and transferring RECs and Environmental Attributes attributable to the Facility; (ii) the fees or charges imposed by NAR on either Seller or GPA to utilize the NAR REC tracking system are materially increased such that use of the NAR REC tracking system becomes uneconomic or infeasible; or (iii) the NAR REC tracking system is eliminated (each one individually, a "Change Event"), then the Parties shall promptly negotiate in good faith to reform the terms of this Agreement in order to give effect to the original intention of the Parties to the extent reasonable under the circumstances, including utilizing an alternative method for transferring RECs to GPA, but in no case shall Seller's cost with respect thereto exceed $5,000 per annum.

4.17 Allowable GPA Curtailment Interim Period

[Subject to Final System Impact Study this section may be required]

For any day during the contract term prior to _____, GPA will be allowed to curtail the Seller's output due to low loads which may impact stable operations of the GPA electric grid system. GPA will not be required to pay for any curtailments during this period. This will be defined in the Interconnection Agreement.

4.18 Energy Shifting

Seller shall be required to use ESS for the purpose of delivering solar produced energy at a different period of time than its production period. Delivered energy shall be at a firm output with a 1% ramp minimum output. GPA shall receive all of the stored renewable before the next solar production period.

4.19 Ramp Rate Control Performance.

During the Delivery Period, Seller shall cause the Energy Storage System to comply with the performance guarantees for ramp rate control set forth on Appendix C (the "Ramp Rate Control Performance Guarantees"). If the Energy Storage System fails to meet the Ramp Rate Control Performance Guarantees over the time periods set forth in Appendix C, GPA may provide written notice to Seller of the failure to meet the Ramp Rate Control Performance Guarantees and a request for Seller to take steps needed for the Energy Storage System to meet the Ramp Rate Control Performance Guarantees. In response to such a notice, Seller shall, within two (2) weeks from the date of such notice, provide GPA with a written remedial action plan that provides a detailed description of Seller's course of action and plan to meet the Ramp Rate Control Performance Guarantees and shall take steps to implement such remedial action within six (6) months of the date of such action plan; provided, however, GPA shall not be entitled to such a remedial action plan if the failure to achieve the Ramp Rate Control Performance Guarantees is due to a Force Majeure event, GPA Delay or an Event of Default by GPA. Seller's sole obligation with respect to any deficiency in the Ramp Rate Control Performance Guarantees is to follow its remedial action plan.

If ramp rate is greater than 3 MW/minute seller shall reduce plant output until ramp rate is less than 2 MW/minute. If system issues remain, GPA reserves the right to restrict Seller's plant output until seller restores

operation with a ramp rate less than 2 MW/minute. The Interconnection Agreement shall define conditions for Seller's plant reduction and implementation of GPA's restrictions.

ARTICLE FIVE: SELLER FAILURE

5.1 Seller Failure.

In the event Seller fails to deliver to GPA any Quantity of Renewable Energy to which GPA is entitled in accordance with the terms of this Agreement and instead sells such Quantity of Renewable Energy to which GPA is entitled to a third party in violation of this Agreement ("Seller Failure"), then Seller shall pay to GPA the "Seller Failure Damages," which shall mean the positive difference, if any, between the Replacement Price and the Contract Price for the period of such Seller failure, times such Quantity of Renewable Energy. GPA shall calculate the Seller Failure Damages and shall provide to Seller an invoice for such amount, including a written statement explaining in reasonable detail the calculation of such amount. Seller shall pay the Seller Failure Damages not later than ten (10) days following its receipt of such an invoice from GPA. If the Replacement Price is less than the Contract Price, then the Seller Failure Damages are deemed to be zero. The Seller Failure Damages represent the sole and exclusive remedy for Seller's failure as described herein, except as provided in Section 6.1(h).

ARTICLE SIX: EVENTS OF DEFAULT; REMEDIES

6.1 Events of Default.

An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(a) The failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written Notice;

(b) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, if such failure is not remedied within thirty (30) Business Days after written Notice, or such longer time, not to exceed ninety (90) Business Days, as is reasonably required to remedy such failure, provided the Defaulting Party is employing Commercially Reasonable Efforts to achieve the remedy;

(c) The failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default and except for such Party's obligations to deliver or receive the Renewable Energy, the remedies for which are provided in Article Five) if such failure is not remedied within thirty (30) Business Days after written Notice, or such longer time, not to exceed ninety (90) Business Days, as is reasonably required to remedy such failure, provided the Defaulting Party is employing Commercially Reasonable Efforts to achieve the remedy;

(d) Such Party becomes Bankrupt (or if the Bankruptcy is involuntary, the failure of such Party to achieve dismissal of the Bankruptcy within ninety (90) days);

(e) A Merger Event occurs with respect to such Party;

(f) If during the Term of this Agreement there have occurred three (3) or more Seller Failures as that term is used in Section 5.1;

(g) With respect to Seller, a material permit violation occurs and such violation is not remedied within thirty (30) Business Days after Notice by either GPA or the relevant permitting authority, or such longer time, as is reasonably required to remedy such failure, provided the Defaulting Party is employing Commercially Reasonable Efforts to achieve the remedy; and

(h) With respect to Seller, failure to maintain the Development Security and failure to reinstate the same within thirty (30) Business Days after Seller's receipt of written Notice thereof from GPA.

6.2 Declaration of an Early Termination Date.

If an Event of Default with respect to a Defaulting Party shall have occurred on or after the Commercial Operation Date and be continuing, the other Party (the "Non-Defaulting Party") shall have the right but not the obligation to: (i) designate a day, no earlier than the day such Notice is effective and no later than twenty (20) days after such Notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate this Agreement between the Parties; (ii) withhold any payments due to the Defaulting Party under this Agreement as setoff against termination costs and liabilities as determined herein (and until such amounts are determined); and (iii) suspend its performance under this Agreement.

6.3 Suspension of Performance and Other Remedies.

Except as otherwise expressly provided in this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written Notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement; and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity including any specific remedies set forth in this Agreement; provided, however, that any damages shall include only the direct actual damages incurred by the Non-Defaulting Party as provided in Section 8.1, and Seller's aggregate total liability hereunder shall not exceed the amounts set forth in Section 4.4 prior to the Commercial Operation Date.

ARTICLE SEVEN: PAYMENT AND NETTING

7.1 Billing Period.

Unless otherwise specifically agreed upon by the Parties, the calendar Month shall be the standard period for all payments under this Agreement. No later than the tenth (10^{th}) day after the end of each Month, each Party will render to the other Party an invoice (in the case of Seller, such invoice being rendered in accordance with Section 7.5) for the payment obligations of the non-invoicing Party, if any, incurred hereunder during the preceding Month.

7.2 Timeliness of Payment.

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the _____ (__th) day of each Month, or if later the tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

7.3 Disputes and Adjustments of Invoices.

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) Months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Except as otherwise provided in this Agreement, payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 7.3 within twelve (12) Months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) Months after the close of the Month during which performance of a Transaction occurred, the right to payment for such performance is waived.

7.4 Metering and Other Facilities.

Seller shall be responsible, at its sole expense, for providing the Seller Metering Equipment in accordance with Good Utility Practices. In accordance with the terms of the Interconnection Agreement, the Seller may elect to have GPA provide Seller with the Seller Metering Equipment; provided, however, the cost of such meters shall be borne solely by Seller at no cost to GPA. Seller shall be solely responsible for operating, maintaining, and repairing the Seller Metering Equipment at its own expense throughout the Term of this Agreement. Seller shall inspect and test the Seller Metering Equipment upon its installation and at least once every year at Seller's expense. Seller shall give GPA reasonable advance Notice of any test, and promptly provide GPA with the results of any such test. GPA may observe the test and conduct its own tests, at GPA's expense, to verify Seller's procedures and results. GPA shall give Seller reasonable advance Notice of any such test, and may observe the tests. GPA shall provide Seller with the results of any test by GPA promptly upon receipt of the results. Access by GPA for any such testing shall be in compliance with Section 12.4.

Upon an inaccurate read of the Seller Metering Equipment or if Seller knows of any inaccuracy or material defect in Seller Metering Equipment, Seller shall notify GPA in writing within forty-eight (48) hours of such defect. Seller shall be solely responsible for adjusting, repairing, replacing or recalibrating such metering device as near as practicable to a condition of zero (-0-) error, and for paying any expenses associated with such adjustment, repair,

replacement or recalibration. If a metering device fails to register or is found upon testing to be inaccurate, an adjustment will be made correcting all measurements by the inaccurate or defective metering device in the following manner:

(a) In the event that an adjustment factor cannot be reliably calculated, the Parties shall use the measurements from GPA-owned meters if they are installed, fully operational and calibrated in accordance with Good Utility Practices. If for any reason the measurements cannot be obtained from GPA-owned meters, the Parties shall use data from Seller's computer monitoring system to determine the relevant measurements. If Seller's computer monitoring system is found to be inaccurate by more than two (2) percent, the Parties shall estimate the amount of the necessary adjustment using the site meteorological information for the period of the inaccuracy based upon deliveries of Renewable Energy delivered to GPA at the Delivery Point from the Facility during periods of similar operating conditions when the Seller Metering Equipment was registering accurately. The adjustment will be made for the period during which inaccurate measurements were made.

(b) If the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted will be the shorter of: (1) the last one-half of the period from the last previous test of the metering device to the test that found the metering device to be defective or inaccurate; or (2) the one hundred and eighty 180-day period immediately preceding the test that found the metering device to be defective or inaccurate.

(c) Upon determination of corrected measurements, the required payment adjustment shall be made according to the procedures set forth in Section 7.3.

DISCUSS SYSTEM IMPACT REQUIREMENTS HERE – Interconnection and Network Upgrades

7.5 Invoices.

Seller shall maintain and read the Seller Metering Equipment for measuring the Renewable Energy delivered hereunder. For review purposes, Seller shall furnish GPA with a written invoice reflecting the Contract Price; interval data from the Seller Metering Equipment used to calculate that invoice; and any other charges due, within ten (10) Business Days after Seller reads the Seller Metering Equipment. Such invoices may be furnished to GPA by facsimile transmission or by such other method as the Parties agree.

ARTICLE EIGHT: LIMITATIONS

8.1 Limitation of Remedies, Liability and Damages.

EXCEPT AS SET FORTH HEREIN, THERE ARE NO WARRANTIES BY EITHER PARTY UNDER THIS AGREEMENT, INCLUDING WARRANTEES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED HEREIN, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

Notwithstanding the foregoing, if GPA is the Defaulting Party, the Parties agree that the actual damages recoverable to Seller hereunder on account of an Event of Default by GPA shall include loss of Tax Benefits on a grossed up after tax basis, using the highest applicable United States marginal personal income tax rate.

Any assets transferred to GPA as required by the Interconnection Agreement shall require a one year warranty on all construction work and extension of any manufacturer warranties from the transfer of such assets.

ARTICLE NINE: CREDIT AND COLLATERAL REQUIREMENTS

9.1 Development Security.

In order to secure Seller's obligations prior to Commercial Operation of the Facility, Seller shall post a Letter of Credit or cash in the amount of $_____ (the "Development Security"). The Development Security shall be held by GPA as security for Seller's obligations prior to the Commercial Operation Date under the Agreement. To the extent permitted under Section 4.4, GPA may draw on the Development Security at any time prior to the Commercial Operation Date, but only in the amounts and according to the schedule set forth in Section 4.4. Seller shall post the Development Security in accordance with the following terms and conditions:

(a) Seller shall post the Development Security within ten (10) Business Days from the date when a binding credit agreement is executed pursuant to Section 4.3 but no later than the Finanicng Arrangement Deadline.

(b) If the Development Security is posted as a Letter of Credit, it shall be in substantially the form attached hereto as Appendix F, respectively with such changes thereto as may be approved by Buyer and Seller in their reasonable discretion.

(c) Any Development Security posted in cash shall bear simple interest at a rate equal to the Interest Rate. The calculation and payment of any such interest shall be made in accordance with the procedure specified in Section 9.3 of this Agreement.

9.2 Forfeiture of Development Security.

In the event that the Commercial Operation Date does not occur on or before the Scheduled Commercial Operation Date, as extended pursuant to the terms of this Agreement, and to the extent Seller does not remit any COD Extension Payment or Daily Delay Liquidated Damages payment when due pursuant to Section 4.2, then GPA shall be entitled to proceed against the Development Security in accordance with the terms thereof, to the extent of the amount(s) due and owing from time to time under Section 4.2. If the Development Security is exhausted up to the limits in Section 4.4 and further-payments are due, then GPA shall be entitled to terminate this Agreement as its sole and exclusive remedy if Seller otherwise refuses to pay the amount due, and Seller shall have no further liability for damages hereunder. Seller acknowledges and agrees that forfeiture of all or a portion of the Development Security, as provided herein, represents reasonable compensation to GPA for, among other things, transactions that it did not consummate because it relied on this Agreement with Seller, and GPA's potential failure to meet its applicable renewable energy portfolio requirements as a result of Seller's failure to achieve Commercial Operation by the Scheduled Commercial Operation Date. Notwithstanding the foregoing, if Seller terminates this Agreement prior to the Commercial Operation Date for the sole purpose of selling the Renewable Energy to a third party, GPA shall be entitled to both the Development Security and any other remedies available at law or in equity to the extent that GPA's actual damages exceed the value of the Development Security.

9.3 Return of Development Security.

Concurrently with the achievement of the Commercial Operation Date or the earlier termination of the Agreement pursuant to Section 4.2, GPA shall return to Seller any remaining portion of the Development Security still held by GPA and to which GPA has no claim pursuant to the terms of this Agreement. If the Development Security was posted as a Letter of Credit, GPA shall return the Letter of Credit to Seller and Seller shall be entitled to immediately cancel such Letter of Credit. If the Development Security was posted in cash, GPA shall return to Seller the balance of the Development Security, together with daily interest at the Interest Rate, from and including the date that the Development Security was posted until, but not including, the date on which the Development Security is returned by GPA.

9.4 Performance Security.

In order to secure Seller's obligations after Commercial Operation of the Facility and during the Delivery Period hereunder, Seller hereby agrees to post security in one of the forms contemplated below, each of which is deemed acceptable by GPA (the "Performance Security"):

(a) A Letter of Credit or cash in the amount of $_____; or

(b) A Payment and Performance Bond in the amount of $_____; or

(c) A subordinated lien on all real and personal property constituting the Project, to be effective as of the Commercial Operation Date (the "GPA Lien") and Seller agrees to take such action as is reasonably required in order to perfect GPA's security interest in, and lien on, such collateral and any and all proceeds resulting therefrom; provided, that concurrently with the grant of the such lien, GPA shall enter into such subordination, inter-creditor and other agreements with the senior financing parties-pursuant to which GPA shall agree that their rights and remedies pursuant to their lien shall be subordinated in all respects to the senior first lien held by or the financing parties.

The Performance Security shall be held by GPA as security for Seller's obligations after the Commercial Operation Date and during the Delivery Period, but GPA may draw on the Performance Security at any time only in full the amounts actually due and (b) payable by Seller remaining liableto GPA pursuant to this Agreement. Seller may (i) post the Performance Security by posting a combination or one or more of the above acceptable forms of credit support in an aggregate amount of $_____, and (ii) at any time elect to substitute any form of one or more of the above acceptable forms of credit support for any existing Performance Security in which case GPA shall return the replaced Performance Security and reasonably cooperate with Seller in the exchange or cancellation of such credit support.

Seller shall post the Performance Security in accordance with the following terms and conditions:

(a) Seller shall post the Development Security within ten (10) business days following the Commercial Operation Date.

(b) If the Performance Security is posted as a Letter of Credit, it shall be in substantially the form attached hereto as Appendix [F-1].

(c) If the Performance Security is posted as a Payment and Performance Bond, it shall be in substantially the form attached hereto as Appendix [F-2].

(d) Any Performance Security posted in cash shall bear simple interest at a rate equal to the Interest Rate. The calculation and payment of any such interest shall be made in accordance with the procedure specified in Section 9.5 of this Agreement.

9.5 Return of Performance Security.

At the end of the Term or upon the termination of this Agreement following the settlement and payment of any damages owed as a result of such termination, GPA shall return to Seller any remaining portion of the Performance Security still held by GPA and to which GPA has no claim pursuant to the terms of this Agreement. If the Performance Security was posted as a Letter of Credit or a Payment and Performance Bond, then GPA shall return the Letter of Credit or Payment and Performance Bond to Seller and Seller shall be entitled to immediately cancel such Letter of Credit or Payment and Performance Bond. If the Performance Security was posted in cash, GPA shall return to Seller the balance of the Performance Security, together with daily interest at the Interest Rate,

from and including the date that the Performance Security was posted until, but not including, the date on which the Performance Security is returned by GPA.

ARTICLE TEN: GOVERNMENTAL CHARGES

10.1 Cooperation.

Each Party shall use Commercially Reasonable Efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

10.2 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any Government Authority ("Governmental Charges") on or with respect to the Renewable Energy, Environmental Attributes or this Agreement arising prior to the Delivery Point. GPA shall pay or cause to be paid all Governmental Charges on or with respect to the Renewable Energy, Environmental Attributes, or this Agreement at and from the Delivery Point. All other tax or income taxes on the sale of the Renewable Energy by Seller hereunder and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges, which are GPA's responsibility hereunder, GPA shall promptly reimburse Seller for such Governmental Charges. If GPA is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, GPA may deduct the amount of any such Governmental Charges from the sums due to Seller under Article Seven of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE ELEVEN: ASSIGNMENT

11.1 Buyer Assignment.

Buyer may not assign this Agreement or assign or delegate its rights and obligations under this Agreement, in whole or in part, without Seller's consent, not to be unreasonably withheld.

11.2 Seller Assignment.

Seller may perform any of the following, without the consent of the Buyer (1) transfer, pledge, encumber, or assign this Agreement or the accounts, revenues, or proceeds hereof, in connection with any financing or other financial arrangements for the Facility, (2) transfer or assign this Agreement to any of its Affiliates in connection with a transfer of the Facility to such Affiliate, (3) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party; provided, that Seller provides Buyer prior notice of any such transfer or assignment and, with respect to any transfer to an Affiliate of Seller, (A) the creditworthiness of such Affiliate is equal to or superior to the creditworthiness of Seller as of the Effective Date and (B) such Affiliate enters into an assignment and assumption agreement, in form and substance reasonably satisfactory to Buyer, pursuant to which Affiliate assumes all of Seller's obligations hereunder and otherwise agrees to be bound by the terms of this Agreement. Seller agrees that it will provide written notice to Buyer of any assignment of this Agreement by Seller within five (5) Business Days of the date of such assignment.

Except as stated above, neither this Agreement nor any of the rights, interests and obligations hereunder shall be assigned by Seller without the prior written consent of Buyer, which consent shall not be unreasonably withheld. Any assignment of this Agreement in violation of the foregoing shall be, at the option of Buyer, void.

11.3 Liability After Assignment.

A Party's assignment or transfer of rights or obligations pursuant to this Article 11 shall relieve said Party from any liability and financial responsibility for the performance thereof arising after any such transfer or assignment.

11.4 Transfers of Ownership.

Subject to any rights of first offer or refusal under this Agreement, during the Term, Seller shall not sell, transfer, assign or otherwise dispose of its interest in the Facility to any third-party absent (1) a transfer of this Agreement to such third-party and (2) Seller entering into an assignment and assumption agreement for this Agreement, in form and substance reasonably satisfactory to Buyer, with such third-party.

11.5 Successors and Assigns.

This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

11.6 Collateral Assignment by Seller.

In the event that Seller pursuant to Section 11.2 (1) transfers, pledges, encumbers or collaterally assigns this Agreement to Seller's lenders, Seller shall provide written notice to Buyer of such transfer, pledge, encumbrance or assignment, including the address of Seller's lenders. In connection with any financing or refinancing of the Facility, including tax equity financing, Buyer at Seller's request shall negotiate in good faith with Seller and Seller's lenders and financing parties to agree upon reasonable direct agreements, estoppels, opinions and other customery documentation to support the financing(s) with respect to this Agreement, which shall be in form and substance reasonably agreed to by Buyer, Seller and Seller's financing parties. The direct agreement shall include (but not be limited to) provisions substantially as follows:

(a) The Parties shall not amend or modify this Agreement in any material respect without the prior written consent of the Seller's financing parties;

(b) Prior to exercising its right to terminate this Agreement as a result of an Event of Default by Seller, Buyer shall give notice of such Event of Default by Seller to the administrative agent of Seller's lenders of Seller's financing parties, which Buyer has been provided written notice of; and

(c) Seller's lenders or financing parties shall have the right, but not the obligation, to cure an Event of Default on behalf of Seller in accordance with the provisions of this Agreement, provided that Seller's lenders or financing parties shall be provided an additional forty-five (45) days, from the end of the cure periods provided pursuant to Section 6.1, to effect a cure of such Event of Default.

ARTICLE TWELVE: MISCELLANEOUS

12.1 Term of Agreement.

The Term of this Agreement shall commence on the Effective Date and shall remain in effect for the duration of the Delivery Period, as set forth in Section 2.1, unless earlier terminated by either Party in accordance with this Agreement herein (the "Term"); provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Agreement that by its terms survives any such termination.

12.2 Insurance.

At all times during the Term of this Agreement, Seller shall maintain at its own expense insurance policies for the Facility and its tangible assets in such amounts and against such risks and losses as are consistent with Good Utility Practices and those policies listed below. Such insurance policies shall be maintained only with insurers rated at least A- VII by MVI Best or comparable ratings agency.

- Commercial General Liability with limits of $1,000,000 including products, completed operations, and contractual for this Agreement. GPA shall be an additional insured. Seller shall grant a waiver of subrogation in favor of GPA.

- Commercial Auto Liability in the amount of $1,000,000 combined single limit for bodily injury and property damage. GPA shall be an additional insured. Seller shall grant a waiver of subrogation in favor of GPA.

- Excess Liability with limits of $5,000,000. GPA shall be an additional insured. Seller shall grant a waiver of subrogation in favor of GPA.

- Workers Compensation and Employers Liability with statutory limits and $1,000,000/$1,000,000/$1,000,000 respectively. Seller shall add a waiver of subrogation endorsement in favor of GPA.

- Pollution Liability, when applicable, with limits for $5,000,000. GPA is to be an additional insured. Seller shall grant a waiver of Subrogation in favor of GPA.

- Builder's Risk or Installation Floater, when applicable, is to be furnished by Contractor.

- Property insurance that will keep the premises, property, improvements, structures, and machinery and equipment on the premises insured, at a minimum, against with an all risk property policy for full replacement value as determined from time to time. Such insurance shall be issued by financially responsible insurers duly authorized to do business in Guam, and shall contain the standard form of waiver of subrogation. Nothing contained herein shall be construed as creating any liability or responsibility on the part of GPA for the adequacy of insurance coverage on the premises. As to any insurable risks of loss or damage to the premises not required to be insured hereunder, Seller shall bear the cost of the same. Seller shall be deemed to be self-insured as to the deductible or co-insurance amount applicable to such insurance coverage and shall pay any deductible or co-insurance amount applicable in the event of such loss or damage.

At all times after achieving COD, Seller may discontinue or otherwise cancel each of the aforementioned policies, except the following insurance policies, which shall be maintained with the limits set forth below:

- Commercial General Liability with limits of $1,000,000.00 including products, completed operations, and contractual for this Agreement. GPA shall be an additional insured. Seller shall grant a waiver of subrogation in favor of GPA.

- Excess Liability with limits of $3,000,000.00. GPA shall be an additional insured. Seller shall grant a waiver of subrogation in favor of GPA.

- Property insurance that will keep the premises, property, improvements, structures, and machinery and equipment on the premises insured, at a minimum, against with an all risk property policy for full replacement value as determined from time to time. Such insurance shall be issued by any financially responsible insurer duly authorized to do business in Guam, and shall contain the standard form of waiver of subrogation. Nothing contained herein shall be construed as creating any liability or responsibility on the part of GPA for the adequacy of insurance coverage on the premises. As to any insurable risks of loss or damage to the premises not required to be insured hereunder, Seller shall bear the cost of the same. Seller shall be deemed to be self-insured as to the deductible or co- insurance amount applicable to such insurance coverage and shall pay any deductible or co-insurance amount applicable in the event of such loss or damage.

- Seller is also required to carry Business Interruption and Extra Expense insurance in the amount of $1,000,000.00.

If the Facility is lost or damaged due to a casualty, Seller shall re-build the Facility promptly and in a commercially reasonable manner; provided, however, (i) if the time to re-build the Facility would result in less than five (5) years remaining in the Delivery Period then (A) Seller shall have the option in lieu of re-building the Facility to pay to GPA the Buyout Payment and terminate this Agreement with no further costs or penalties, or (B) if Seller nevertheless elects to re-build the Facility, then GPA shall reimburse Seller for any deductibles payable by Seller under its property insurance (not to exceed $500,000), and (ii) regardless of when the casualty event occurs, if Seller re-builds the Facility, then the Delivery Period shall be extended for the greater of one (1) year or two (2) times the length of the interruption of the sale of Renewable Energy (pro rated based on the Minimum Production for partial interruptions) after the end of the Term, and the Contract Price shall be the price in effect, without escalation, at the end of the Term.

Within ten (10) Business Days after receipt of a request for the same from GPA, Seller shall deliver to GPA a certificate of insurance for any or all policies maintained in accordance with this Section 12.2, which certificate shall include at least the following information: (i) the name of the insurance company, policy number and expiration date; and (ii) the coverage and limits on coverage, including the amount of deductibles or self-insured retentions.

Seller shall furnish certificates of insurance and waiver of subrogation endorsements to GPA prior to commencement of construction of the Facility showing evidence of such coverage, including the statement to the effect that cancellation or termination of the insurance shall not be effective until at least [thirty (30)] days after receipt of written Notice to GPA. At all times Seller's insurance shall be primary and non-contributory to any other insurance that may be carried by GPA. The statement of limits of insurance coverage shall not be construed as in any way limiting the Seller's liability under this Agreement. GPA shall be an additional insured on all liability coverage and certificates of insurance shall clearly indicate such.

12.3 Indemnity.

To the extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to the Renewable Energy and Environmental Attributes is vested in such Party, unless a Claim is due to such Party's willful misconduct or gross negligence. To the extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Ten. Notwithstanding anything to the contrary contained in this Agreement, no individual representative of either Party shall have any personal liability to the other Party as a result of the breach of any representation, warranty, covenant or agreement contained herein.

12.4 Site Access and Inspection of Records.

Seller shall provide GPA with reasonable access to the Facility site for purposes of review and inspection during regular business hours within a reasonable time after a request for the same is made by GPA to Seller. During such reviews and inspections, GPA representatives shall be permitted to review such records relating to the Facility and reasonably related to the performance of this Agreement, including Facility maintenance and operations logs. GPA shall have access to the Facility site for the limited purposes described herein, but Seller shall at all times remain responsible and liable for the control and operation of the Facility and the Facility site. GPA representatives shall follow Seller's safety procedures when accessing the Facility site and shall conduct themselves in a manner that will not interfere with the operation of the Facility. Seller will provide GPA with information about such safety procedures to enable GPA to comply with this requirement.

12.5 Audit.

Subject to Section 7.3, each Party has the right, at its sole expense and during normal working hours, to examine copies of the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement.

12.6 Confidentiality.

The Parties will make Commercially Reasonable Efforts to safeguard Confidential Information against disclosure by employing the same means to protect such Confidential Information as that Party uses to protect its own non-public, confidential or proprietary information, and otherwise in accordance with the provisions of this Section 12.6. Specifically, no receiving Party shall itself, or permit its employees, consultants and/or agents to disclose to any person, corporation or other entity the Confidential Information without the prior written consent of the Party providing the Confidential Information, except a receiving Party may distribute the Confidential Information to its and its Affiliates' board members, officers, employees, agents, consultants, actual or potential investors, actual or potential purchasers, Facility lenders, and others who have a need for such Confidential Information in connection with the Transaction.

The Parties acknowledge, however, that a Party may need to disclose the Confidential Information in connection with its regulatory filings or to otherwise satisfy its governmental and regulatory requirements. In the event that a Party intends to disclose any of the Confidential Information to its regulatory authorities including, but not limited to, the Guam Public Utilities Commission, the FERC, or any employee, staff member, consultant, and/or agent of the foregoing, it shall give the other Party prompt prior written Notice of its intention so that the other Party may seek a protective order or other appropriate remedy. In addition, each Party specifically agrees not to use the other Party's name in connection with this Agreement or the Facility in any press releases, public meetings or hearings, or other public communications, including any release to any newswire service, without the express written consent of the other Party. The Parties anticipate that at some future time it may be in the best interests of one or both of them to disclose Confidential Information to the media and the Parties anticipate entering into a subsequent agreement that will govern the terms of such disclosure. The Parties expressly agree, however, that unless and until such subsequent agreement is executed between the Parties, the terms of this Agreement shall be binding with respect to such disclosure.

In the event that any Party receiving the Confidential Information becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, the legally compelled Party shall give the other Party providing the Confidential Information prompt prior written Notice of such requirement so that the providing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, the providing Party waives compliance with the terms hereof to the extent of the required disclosure.

Each Party acknowledges that the unauthorized disclosure of any Confidential Information may cause irreparable harm and significant injury that may be difficult to ascertain. Each Party therefore agrees that specific performance or injunctive relief, in addition to other legal and equitable relief, are appropriate remedies for any actual or threatened violation or breach of this Agreement, **although neither Party shall be entitled to any special, consequential, indirect or punitive damages as a result of a breach of this Agreement, whether a claim is based in contract, tort or otherwise**. The Parties agree that the respondent in any action for an injunction, specific performance decree or similar relief shall not allege or assert that the initiating Party has an adequate remedy at law

in respect to the relief sought in the proceeding, nor shall the respondent seek the posting of a bond by the Party initiating the action. Under no circumstances will either Party's directors, management, employees, agents or consultants be individually liable for any damages resulting from the disclosure of Confidential Information in violation of the terms of this Agreement.

12.7 Notices.

All notices, requests, statements or payments ("Notices") shall be made as specified on Appendix B attached hereto and incorporated herein by reference. Notices (other than with respect to Scheduling) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. Notices relating to Facility operations and Scheduling, as required pursuant to Appendix H, may be given electronically and shall be deemed effective upon receipt; otherwise, electronic notices shall not be effective unless affirmatively acknowledged in writing (including by reply e-mail) by the receiving Party. A Party may change its addresses by providing Notice of same in accordance herewith.

12.8 Purchase Option.

(a) Transfer During the Delivery Period. In the event that Seller desires to sell the Facility during the Delivery Period, Seller shall provide prior written Notice of the same to GPA, and agrees to engage in discussions with GPA for the purchase of the Facility by GPA during the exclusivity period described in this Section with GPA if GPA desires to purchase the Facility. Within ninety (90) days following Seller's Notice to GPA of its intent to sell the Facility, GPA may deliver to Seller an indicative purchase price at which it would be willing to purchase the Facility. If GPA does not deliver the indicative purchase price within ninety (90) days of receipt of the Notice, then Seller shall be free to transfer the Facility under any terms and conditions at any time thereafter. If GPA delivers the indicative purchase price within ninety (90) days of receipt of the Notice, then the Parties shall negotiate exclusively for a period of up to sixty (60) days after GPA delivers the indicative purchase price. If no binding agreement is entered into by the Parties during such sixty (60)-day period then Seller shall be free to transfer the Facility to any person on transactions terms, including price, that are better for Seller than GPA's indicative offer, and neither Party shall have any further liability or obligation to the other Party in connection with such sale or as a result of the terminated negotiations. If Seller does not transfer the Facility on such basis within one (1) year following the end of the sixty (60)-day exclusive negotiation period, then the procedure in this paragraph shall apply to any subsequent sale of the Facility during the Term of this Agreement.

(b) Extension of Delivery Period and Facility Purchase at End of Delivery Period. GPA and Seller may agree to extend the Term of this Agreement on a year-to-year basis up to five (5) years in the aggregate, in which case the Contract Price and terms shall be mutually agreeable to GPA and the Seller. At least one hundred and eighty (180) days prior to the end of the Delivery Period, GPA may provide Notice to Seller that it elects to purchase the Facility at the end of the Delivery Period at a purchase price equal to the higher of (i) 100% of the Appraised Price of the Facility at the end of the Delivery Period and (ii) the sum of (x) the amount necessary to repay any Facility Debt (including any swap or interest rate hedging breakage costs related thereto) in full plus (y) the amount which when applied pursuant to the governing documents for the Seller or any relevant subsidiary or upstream holding company through which the tax equity invests in the Facility is sufficient to repay any Facility Debt, including back-leverage financing and including any swap or interest rate hedging breakage costs related thereto, and for the tax equity investors to recover (to the extent not previously recovered) the higher of (1) their investment balance together with their targeted return or (2) the amount necessary to avoid a loss under US GAAP. If GPA fails to send such Notice of purchase then this

Agreement shall terminate in accordance with the terms hereof. If GPA provides such a Notice of the purchase, Seller and GPA shall exercise Commercially Reasonable Efforts to consummate the purchase within thirty (30) days of the end of the Delivery Period, and at the end of such time period the purchase option shall expire. The documentation for the sale shall be mutually agreeable to the Parties. Any such sale will be on an "as is" basis, without the giving of any representations or warranties, except as to (i) each party's organization, power and authority; (ii) good standing; (iii) Seller's ownership of the Facility to be sold in such sale, and the existing liens and encumbrances thereon; (iii) the instrument(s) conveying the Facility to GPA constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller, in accordance with its terms; (iv) such conveyance will not violate any contract or legal requirement applicable to Seller; and (v) subject to applicable regulatory approvals, no consents, approvals, or filings are required to be obtained or made by Seller to convey the Facility to GPA other than those that have previously been obtained or made and are in full force and effect as of the date of the conveyance.

12.9 Alternative Dispute Resolution.

All disputes arising under this Agreement are subject to the provisions of this Section 12.9.

(c) Mediation. In the event of any dispute or Claim between the Parties arising out of or relating to this Agreement, or the breach thereof, and if the dispute or Claim cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration in accordance with Section 12.9(b) hereof; provided, however, that, during the pendency of any such mediation, (1) neither Party shall do anything to alter the status quo, and (2) either Party shall be entitled to seek interim, conservatory or provisional relief from any court or tribunal of competent jurisdiction in order to protect its rights. In the event of any dispute or Claim between the Parties arising out of or relating to this Agreement, or the breach thereof, consistent with the previous sentence, either Party may submit the matter to mediation in accordance with the Commercial Mediation Procedures of the American Arbitration Association. Within fourteen (14) days of such submission, the Parties shall attempt in good faith to mutually agree on the appointment of a mediator. If no such agreement is reached within fourteen (14) days of the submission of the dispute to mediation, then, unless otherwise agreed by the Parties, the American Arbitration Association shall appoint the mediator as promptly as possible in accordance with its Commercial Mediation Procedures or other rules it has adopted for this purpose. The Parties and the mediator shall schedule and complete the mediation within sixty (60) days from the date that the mediator is appointed. In the event that the mediation is not completed by such time, either Party shall be entitled to terminate the mediation and pursue arbitration of any outstanding dispute or Claim in accordance with subsection (b) of this Section 12.9.

(d) Arbitration. Subject to Section 12.9(a), any disputes or Claims between the Parties and/or their respective representatives arising out of or relating tothis Agreement, or the breach thereof, shall be submitted to binding arbitration, whether such disputes or Claims are in contract, tort or otherwise. The arbitration shall be conducted in accordance with the Federal Arbitration Act (9 U.S.C. Section 1, (*et seq.*)) and the then prevailing Commercial Arbitration Rules of the American Arbitration Association. The validity, construction, and interpretation of this Agreement to arbitrate and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrator(s). Submission shall be made upon the request of either Party. Within twenty (20) calendar days of the receipt by the respondent of service of the Notice of arbitration, the Parties shall select one (1) arbitrator by mutual consent. If the Parties are unable to agree upon a single arbitrator, there shall be three (3) arbitrators. Specifically, in the event the Parties cannot agree upon a single arbitrator, both the claimant and the respondent shall appoint one (1) arbitrator within ten (10) calendar days after written Notice by either Party that three (3) arbitrators shall be necessary. The two (2) arbitrators so appointed shall then select the third arbitrator within twenty (20) calendar days, who shall be the chairperson, of the tribunal. The chairperson shall be a

person who has over eight (8) years of experience in energy-related transactions, and none of the arbitrators shall have been previously employed by either Party or have any direct interest in either Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by both Parties. It is agreed that the seat of the arbitration shall be Honolulu, Hawaii and that the arbitration proceeding shall be conducted in Honolulu, Hawaii, or another neutral location mutually agreed to by the Parties, however, the seat of the arbitration shall remain Honolulu, Hawaii. It is further agreed that the arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. The compensation and any costs and expenses of the arbitrators shall be borne equally by the Parties. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction. The Parties agree that all information exchanged as a result of any proceeding as described herein shall be deemed Confidential Information.

(e) Judicial Relief. Either Party may petition a court of appropriate jurisdiction, as described in Section 12.11, for non-monetary interim or provisional relief relating to any dispute or claim of breach arising out of or relating to this Agreement in order to prevent undue hardship relating to any such claimed breach pending the appointment of an arbitration panel as described in this Section 12.9.

12.10 Governing Law.

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF GUAM**,** WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

12.11 Jurisdiction and Costs.

Subject to and without prejudice to the mandatory arbitration provision set out in Section 12.9 hereof, each Party hereby consents to the exclusive jurisdiction of the United States federal courts sitting in Guam for any action or proceeding to enforce the foregoing agreement to arbitrate, or ancillary to such arbitration proceedings, or to confirm or set aside any award rendered in such proceeding. Both Parties waive any right to trial by jury in any such action~~.~~ described in this Section 12.11. In the event such judicial proceedings are instituted by either Party, the prevailing Party shall be entitled to award of its costs and reasonable attorneys' fees incurred in connection with such proceedings.

12.12 Financial Accounting Standards.

Under the latest interpretations of the Financial Accounting Standards Board's Interpretation No. 46(R) (FIN No. 46(R)), "Consolidation of Variable Interest Entities," GPA may be required to consolidate a seller's entity for which GPA has entered into a long-term power purchase agreement. Seller agrees to provide all information needed and in Seller's possession in order for GPA to determine whether or not Seller or any special purpose entity which owns the Seller's Facility must be consolidated by GPA under FIN No. 46(R) upon request from GPA. If it is determined that GPA needs to consolidate Seller or such special purpose entity, Seller agrees to provide all information in its possession that is needed to comply with the consolidation requirements of FIN 46(R) in a timely manner every calendar quarter during the Term upon request from GPA. If GPA is required to consolidate Seller or the special purpose entity that owns the Seller's Facility in its financial statements, Seller agrees to provide access to any needed records in its possession and personnel, as requested by GPA, so GPA's independent auditor, Deloitte & Touche LLP, can conduct financial statement audits in accordance with generally accepted auditing standards, as well as internal control audits in accordance with Section 404 of the Sarbanes-Oxley Act of 2002.

12.13 Forward Contract.

The Parties intend that in any relevant proceedings, each be regarded as a forward contract merchant in respect of this Agreement and that the Transaction and this Agreement be a forwards contract for purposes of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as amended from time to time, and the Puerto Rico Oversight, Management and Economic Stability Act, including Title III thereof.

12.14 General.

No delay of a Party in the exercise of, or the failure to exercise, any rights under this Agreement shall operate as a waiver of such rights, a waiver of any other rights under this Agreement or a release of the other Party from any of its obligations under this Agreement. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if such an event occurs, the Parties shall use their Commercially Reasonable Efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. The indemnity provisions of this Agreement shall survive the termination of this Agreement for the period of the applicable statute of limitations. The audit provisions of this Agreement shall survive the termination of this Agreement for a period of twelve (12) Months. This Agreement shall be binding on each Party's successors and permitted assigns.

12.15 Entire Agreement; Amendment.

This Agreement, together with any appendices, schedules, and any written supplements hereto constitutes the entire agreement between the Parties relating to the subject matter hereof. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both Parties.

12.16 Appendices.

The following Appendices are included in this Agreement for all purposes:

Appendix A	Contract Price and Minimum Production
Appendix B	Notice Addresses
Appendix C	Energy Storage System and Performance Criteria
Appendix D	Independent Engineers
Appendix E	Permits
Appendix F	Form of Letter of Credit
Appendix G	Calculation of Curtailed Amount Due to Dispatch Down
Appendix H	Scheduling and Coordination
Appendix I	Base Conditions and Facility Test Protocol
Appendix J	Interconnection Agreement
Appendix K	Calculation of Weather Hours Deration

12.17 Special Provisions.

It is the policy of GPA not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Seller certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in GPA's contracted programs or activities, on the grounds of such person's handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Guam law; nor shall any person be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in performance of contracts with GPA or in the employment practices of GPA's contractors. Accordingly, all persons entering into contracts with GPA shall, upon request, be required to show proof of such nondiscrimination and to post notices of non-discrimination in conspicuous places that are available to all employees and applicants.

Seller hereby represents that Seller has not been retained or retained any persons to solicit or secure a contract from GPA upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this section is, in addition to a breach of this Agreement, a breach of ethical standards, which may result in civil or criminal sanction, debarment or suspension from being a contractor or subcontractor under any other contract with GPA and any Government Authority.

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 of a contract or subcontract or to any solicitation or proposal therefor. It shall be 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 a person associated therewith, as an inducement for the award of a subcontractor or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards, which may result in civil or criminal sanction, debarment or suspension from being a contractor or subcontractor under any other contract with GPA and any Governmental Authority.

Seller warrants that no person providing services on behalf of Seller or in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or convicted of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated regardless of the jurisdiction in which the conviction was obtained, shall provide services on behalf of Seller relative to this Agreement. If any person employed by Seller and providing services under this Agreement is convicted subsequent to the date of this Agreement, then Seller warrants that it will notify GPA of the conviction within twenty-four hours of being made aware of the conviction, and will immediately remove such convicted person from providing services under this Agreement. If Seller is found to be in violation of any of the provisions of this paragraph, then GPA shall give Notice to Seller to take corrective action. Seller shall take corrective action within twenty-four hours of Notice from GPA, and Seller shall notify GPA when action has been taken. If Seller fails to take corrective steps within twenty-four hours of Notice from GPA, then GPA in its sole discretion may suspend this Agreement temporarily upon prior written Notice to Seller until the individual in question is removed from service to GPA.

12.18 Waiver of Immunity.

To the extent that GPA may in any jurisdiction claim for itself or its assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process, and to the extent that in any such jurisdiction there may be attributed to GPA or its assets or revenues such immunity (whether or not claimed), GPA agrees not to claim and irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

IN WITNESS THEREOF, the Parties hereto made and executed this Agreement, signed by their duly authorized officers or individuals, as of the dates listed below.

GUAM POWER AUTHORITY **GPA or Buyer**	(abbreviation if any) **or Seller**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

[Signature Page to Renewable Energy Purchase Agreement]

ARTICLE ONE: APPENDICES

APPENDIX A

CONTRACT PRICE, MINIMUM PRODUCTION AND GUARANTEED OUTPUT

Contract Year	Annual Contract Price ($/MWh)	Estimated Annual Production (MWh) (= Minimum Production)	90 % of Minimum Production (MWh)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

APPENDIX B

NOTICE ADDRESSES

APPENDIX C

ENERGY STORAGE SYSTEM AND PERFORMANCE CRITERIA

As part of the Facility, Seller shall install the Energy Storage System for the purpose of (i) meeting GPA's ramp rate control requirements set forth in Section 4.19 and this Appendix C, and (ii) meeting GPA's energy shifting requirements set forth in Sections 4.17 and 4.18. The Energy Storage System shall meet performance criteria set out in this Appendix C.

1.1 The Energy Storage System shall be comprised of:

____MW/___ MWh Energy Storage System which will have the capability to control the Facility's ramping rate under 1% of the Facility Capacity (i.e. ___kW) per minute. The control period [for the ramping rate] will be no more than 1 second and the Energy Storage System's performance will be verified as set out in this Appendix C below (detailed ramping control algorithm will be finalized through discussions between GPA and Seller after the final design of the Energy Storage System is put in place but no later than one (1) month before the commissioning test of the Facility will start). The Energy Storage System may be dedicated to meet GPA's requirements for energy shifting as described in Sections 4.17 and 4.18.

1.2 Voltage and Frequency Ride-through

The Facility shall meet the voltage and frequency ride-through requirements shown in Table 1 below. Voltage and frequency measurements in the table are to be taken at the Delivery Point.

Table 1 – Voltage and Frequency Ride-through Settings

	Settings at Point of Interconnection (34.5 kV) (V is magnitude in per unit) (F is frequency in Hz) (T is time in seconds)	
	Setpoint	Trip Time
Under-voltage	V<0.88	T>2.00
Normal voltage	0.88<V<1.10	no trip allowed
Over-voltage	1.10<V<1.20	T>2.00
Over-voltage	1.20<V	T>0.16
Under-frequency	F<57.0	T>0.16
Normal frequency	57.0<F<63.0	no trip allowed
Over-frequency	63.0<F	T>0.16

1.3 Ramp Rate Control Performance

1.3.1 Energy Storage System will control the ramping rate under 1% of the Facility Capacity (i.e. __kW) per minute and the control period [for the ramping rate] will be no more than 1 second. Detailed ramping control algorithm will be finalized through discussions between GPA and Seller after the final design of the Energy Storage System is put in place but no later than one (1) month before the commissioning test of the Facility will start. Notwithstanding the foregoing, Seller will not be required to adhere to the ramp rate control requirement specified in this Appendix C during any day when the Energy Storage System is used for energy shifting purposes as described in Sections 4.17 and 4.18.

1.3.2 Evaluation of Performance Verification

(a) During the Delivery Period, on an annual basis, Seller shall carry out the evaluation process for the performance verification of the Energy Storage System, including power test and 1% ramp-rate control test in the presence of GPA, once every year with annual data storage in the Facility database and GPA SCADA. [Note: specify what is to be measured and equation below.]

$$\left| \frac{\sum_{t-\Delta t}^{t} PV_i(x)}{\Delta t} - \frac{\sum_{t-2\Delta t}^{t-\Delta t} PV_i(x)}{\Delta t} \right| > P_{ramp}$$

Where:

- Δt = 60 seconds
- $PV_i(x)$: PV generation at time t
- i = 1,2,3, ….., 60 seconds
- P_{ramp} : active power considering ramp rate limit per 1min window

(b) Ramp Rate Control shall be based on a plus or minus (±) 1% of rated power of 60MW plant ("Measured Value"). Ramp Rate Control Failure means a plus or minus (±) 2% of Measured Value.

1.3.3 Ramp Control Penalty

Penalty will apply to failure to meet the 1% ramp per minute rate for both under and over power. Ramp-Control must be controlled within 1 second. The failure percentage is as below:

- Failure Percentage (FP) = (E1 – E2)

Symbol	Item	Unit	Remarks
E1	Guaranteed value of Succeed Ramp-Rate	%	Proposal (offer) shown in table below
E2	Output of Ramp Rate Controlled	%	1% ramping requirement with 2% measurement error

If FP is greater than 0 (zero), then Penalty shall be calculated as follow:

- Under Power Failure Penalty = (AF_U) *(C_U)*(FP_U)
- Over Power Failure Penalty= (AF_O) *(C_O)*(FP_O)

Symbol	Item	Value	Unit
C_U	Nominal Ramp Down Cost	1.96	$/min/MW
C_O	Nominal Ramp Up Cost	0.49	$/min/MW

The penalty is calculated only for the portion exceeding the guaranteed value.

Where:

- Failure Power of Under Power (FP_U) = |Ramp Rate Required Power – CP| [MW]
- Failure Power of Over Power (FP_O) = |CP – Ramp Rate Required Power| [MW]
- Controlled Power (CP) =1 minute Average Power of 1% Ramp Rate Controlled by 1second
- Acceleration Factor of Under Power (AF_U) = 0.5
- Acceleration Factor of Over Power (AF_O) = 0.5

The penalty shall be paid to GPA in arrears at the end of each Contract Year.

Contract Year	1% Ramp Rate Guaranteed Success Rate (%)
1	94
2	95
3	95
4	94
5	94
6	94
7	93
8	93
9	93
10	93
11	93
12	93
13	93
14	93
15	93
16	92
17	93
18	92
19	92
20	93
21	93
22	92
23	92
24	92

25	92

APPENDIX D

INDEPENDENT ENGINEER

APPENDIX E

PERMITS

APPENDIX F

FORM OF LETTER OF CREDIT

(Provided is sample which may be replaced by Bank / Financial Instituion Form)

(*Bank or Financial Institution*)

_____, 201__

Irrevocable Standby Letter of Credit No. ____

Beneficiary:
Guam Power Authority
P.O. Box 2977
Guam 96932-2977
Attn:
Applicant:

Dear _____:

We hereby establish for the account of (*Company Name*) ("Applicant") our irrevocable standby letter of credit in your favor for an amount of USD $[_____] ([_____] United States Dollars). Applicant has advised us that this letter of credit is issued in connection with the Renewable Energy Purchase Agreement, dated as of _____, 2017, by and between the Applicant, and Guam Power Authority (the "Beneficiary"). This letter of credit shall become effective immediately on the date hereof and shall expire on _____ [*the date that is XX days after the* date first set forth above] (such date, or such later date(s) as determined by Applicant in accordance with the next succeeding sentence, the "Expiration Date"). The Expiration Date can be extended on one or more occasions by written notice to us from the Applicant, provided that such written notice is received at least 10 days prior to the Expiration Date. This letter of credit is subject to the following:

1. Funds under this letter of credit shall be made available to Beneficiary against its draft drawn on us in the form of Annex 1 hereto, accompanied by (a) a certificate in the form of Annex 2 hereto, appropriately completed and signed by an authorized officer of Beneficiary, dated the date of presentation, and (b) the original of the letter of credit (the "Accompanying Documents") and presented at our office located at (*Bank/Financial Institution Address*) attention _____, (or at any other office which may be designated by us by written notice delivered to you). A presentation under this letter of credit may be made only on a day, and during hours, in which such office is open for business (a "Business Day"). If we receive your draft and the Accompanying Documents at such office on any Business Day, all in strict conformity with the terms and conditions of this letter of credit, we will honor the same by making payment in accordance with your payment instructions on the third succeeding Business Day after presentation.

2. This letter of credit shall terminate upon the earliest to occur of (i) our receipt of a notice in the form of Annex 3 hereto signed by an authorized officer of Beneficiary, accompanied by this letter of credit for cancellation, or (ii) our close of business at our aforesaid office on the Expiration Date, or if the Expiration Date is not a Business Day, then on the succeeding Business Day. This letter of credit shall be surrendered to us by you upon the earlier of presentation or expiration.

3. This letter of credit is issued and subject to the International Standby Practices 1998 (ISP98) International Chamber of Commerce Publication No. 590, and as to matters not addressed by ISP98, shall be governed by and construed in accordance with the laws of the State of New York and application of U.S. Federal Law.

4. This letter of credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1, 2 and 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as otherwise provided in this paragraph 4.

5. Communications with respect to this letter of credit shall be in writing and shall be addressed to us at the address referred to in paragraph 1 above, and shall specifically refer to this letter of credit no. _____.

Very truly yours,

_____

Authorized signature
(*Bank or Financial Institution*)

ANNEX 1
TO LETTER OF CREDIT NO. _____

under LETTER OF CREDIT No. _____

To:
(*Bank or Financial Institution*)
(*Bank/Financial Institution Address*)
Attn: _____

[*Month, Day , Year*]

On Sight

Pay to Guam Power Authority U.S. $ _____ [not to exceed amount available to be drawn]

Wire to:
Bank's Name: Bank of Guam
Bank's Location: 111 Chalan Santo Papa St., Hagatna, Guam 96910
Bank's Mailing Address: P.O. Box BW, Hagatna, Guam 96932
Account Name: Guam Power Authority Revenue Fund Account
Acct. No.: (to be provided)
Routing No.: (to be provided)

For value received and charge to account of Letter of Credit No. _____ of (*Company Name*)

GUAM POWER AUTHORITY

By: _____

Name: _____

Title: _____

ANNEX 2
TO LETTER OF CREDIT NO. _____

Drawing under Letter of Credit No. _____

Date: _____

To:
(*Bank or Financial Institution*)
(*Bank/Financial Institution Address*)
Attn: _____

The undersigned, a duly authorized officer of the Guam Power Authority, ("Beneficiary"), hereby certifies on behalf of Beneficiary to (*Bank or Financial Institution*) and to (*Company Name*) (the "Applicant") with reference to irrevocable standby Letter of Credit No. _____ (the "Letter of Credit") issued for the account of (*Company Name*) ("Applicant"), that:

1) pursuant to the Renewable Energy Purchase Agreement, dated as of _____, 201__, by and between Applicant and Beneficiary and as of the date hereof, Beneficiary is entitled to draw under the Letter of Credit;

2) by presenting this certificate and the accompanying sight draft, Beneficiary is requesting that payment in the amount of $_____, as specified on said draft, be made under the Letter of Credit by wire transfer or deposit of funds into the account specified on said draft; and

3) the amount specified on the sight draft accompanying this certificate does not exceed the remaining amount to which Beneficiary is entitled to draft under said Renewable Energy Purchase Agreement.

In witness whereof, Beneficiary has caused this certificate to be duly executed and delivered by its duly authorized officer as of the date and year written below.

Date: _____

GUAM POWER AUTHORITY

By: _____
Name: _____
Title: _____

ANNEX 3
TO LETTER OF CREDIT NO. _____

Notice of surrender of Letter of Credit No. _____

Date: _____

To:
(*Bank or Financial Institution*)
(*Bank/Financial Institution Address*)
Attn: _____

Re: Letter of Credit No. _____ issued for the account of (*Company Name*)

Ladies and Gentlemen:

We refer to your above-mentioned irrevocable standby Letter of Credit (the "Letter of Credit"). The undersigned hereby surrenders the Letter of Credit to you for cancellation as of the date hereof. No payment is demanded of you under this Letter of Credit in connection with this surrender.

Very truly yours,

GUAM POWER AUTHORITY

By: _____

Name: _____

Title: _____

APPENDIX G

CALCULATION OF CURTAILED AMOUNT DUE TO GPA DISPATCH DOWN

Buyer shall pay Seller, on the date payment would otherwise be due in respect of the day in which any curtailment is initiated by GPA for reasons other than Force Majeure or Seller Event of Default ("Dispatch Down"), an amount equal to the Contract Price times the amount of Renewable Energy that Seller could reasonably have delivered to Buyer but for such Dispatch Down, pursuant to the limitations provided in Appendix H, Section 1.2, which allow GPA to curtail energy delivered from Seller 2% of the Guaranteed Output in each Contract Year. The determination of the curtailed amount associated with any Dispatch Down shall be calculated as follows:

1) Identification of weather conditions for the period of Dispatch Down

   For any period the Facility was Dispatched Down, Seller shall document the Weather Data associated therewith. ("Weather Data" means solar irradiation, wind speed, and ambient temperatures.)

2) Curtailed amount calculation

a. Seller shall use PVSyst energy simulation software or other software as agreed by the Parties to generate hypothetical generation amounts for the Dispatch Down period (curtailed amount MWh) by utilizing the Weather Data.

b. In addition to "Annual Facility Test" (as described in Section 4.9 of this Agreement), GPA shall be entitled to check the accuracy of the equipments associated with the Weather Data once in each Contract Year as agreed with Seller.

APPENDIX H

SCHEDULING AND COORDINATION PROCEDURES

The Parties acknowledge that as of the Effective Date GPA has not yet established protocols for scheduling (firm or intermittent) power to permit solar energy generating projects to participate in GPA's scheduling process. As soon as practicable, in consultation with Seller (and after taking into account and accommodating Seller's reasonable comments), GPA shall establish such protocols. As soon as practicable after such protocols have been established, become effective and been provided to Seller, but not more than ninety (90) days thereafter, Seller shall use commercially reasonable efforts to cause the Project to become certified as an available resource, including negotiating and executing documents to become an available resource in Guam. Following certification and whenever applicable, Seller shall use commercially reasonably efforts to comply with all additional reasonable protocols issued by GPA relating to available resources during the Delivery Period, and GPA shall consult with Seller (and take into account and accommodate Seller's reasonable comments) in connection with the preparation of any such additional protocols. Seller shall not be required to incur additional costs to comply with such future protocols or to become an available resource under future requirements to be established by GPA.

1.1 General

(a) Notices. Seller shall submit to GPA notices and updates required under this Agreement regarding the Project's status, including, but not limited to, outage requests, Forced Outages and Forced Outage reports. If a web based system is not available, Seller shall promptly submit such information to GPA (in order of preference) telephonically, by electronic mail, or facsimile transmission to the personnel designated to receive such information. **Need to include PSCC requirements for Hourly Reports, Daily Production Reports, etc.**

(b) GPA Settlements. GPA shall be responsible for all settlement functions within GPA related to the Project.

(c) Resource Data Template. Seller shall provide the data to the GPA that is required for GPA's resource data template (or successor data system) for the Project consistent with this Agreement. Neither Party shall change the template for such data without the other Party's prior written consent.

(d) Annual Delivery Schedules. No later than forty-five (45) days before (A) the first day of the first Contract Year and (B) the beginning of each calendar year for every subsequent Contract Year during the Delivery Period, Seller shall provide a non-binding forecast of each month's average-day expected Actual Renewable Energy for the following calendar year.

(e) Monthly Delivery Schedules. Ten (10) Business Days before the beginning of each month during the Delivery Period, Seller shall provide a non-binding forecast of each day's average expected Actual Renewable Energy for the following month ("Monthly Delivery Forecast") .

(f) Daily Delivery Schedules. By 5:30 AM Guam Prevailing Time on the Business Day immediately preceding the date of delivery, Seller shall provide GPA with a non-binding forecast of the Project's available energy (a "Day-Ahead Forecast"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include Schedules for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's estimate of the Project's available energy. Seller may not change such Schedule past the deadlines provided in this section except in the event of a Forced Outage or Schedule change imposed by GPA, in which case Seller shall promptly provide GPA

with a copy of any and all updates to such Schedule indicating changes from the then-current Schedule. These notices and changes to the Schedules shall be sent to GPA's on-duty scheduling coordinator. If Seller fails to provide GPA with a Day-Ahead Forecast as required herein, then for such unscheduled delivery period only GPA shall rely on the delivery Schedule provided in the Monthly Delivery Forecast or GPA's best estimate based on information reasonably available to GPA and Seller shall be liable for Scheduling and delivery based on such Monthly Delivery Forecast or GPA's best estimate.

(g) Hourly Delivery Schedules. Notwithstanding anything to the contrary herein, in the event Seller makes a change to its Schedule on the actual date of delivery for any reason, including Forced Outages (other than a scheduling change imposed by GPA), that results in a change to its deliveries (whether in part or in whole), Seller shall notify GPA immediately by calling GPA's on-duty scheduling coordinator. Seller shall notify GPA of Forced Outages in accordance with this Agreement. Seller shall keep GPA reasonably informed of any developments that are reasonably expected to affect either the duration of the outage or the availability of the Project during or after the end of the outage.

1.2 Dispatch Down/Curtailment.

(a) GPA shall have the right to order Seller to curtail deliveries of Renewable Energy from the Project to the Delivery Point pursuant to a Notice of a Dispatch Down (as defined in Appendix K) delivered to Seller, provided that the value attributable to any Renewable Energy in an aggregated quantity of more than 2% of the Guaranteed Output for any Contract Year which is not delivered during such curtailment periods, whether for transmission unavailability, operational dispatch or pre-set ramping parameters or otherwise, shall be reimbursed to Seller as provided below.

(b) Seller shall have the right in its discretion to make up any curtailed quantities, as calculated in accordance with Appendix G, of Renewable Energy as a result of a Dispatch Down ("Dispatch Down Makeup Production"), for which it is not reimbursed pursuant to this Appendix H, in the first and any subsequent Contract Year in which at least the Minimum Production is delivered and to extend the Term to the extent necessary, but not to exceed six (6) months, to make up any curtailed quantities. The Contract Price for the Contract Year in which the make-up occurs shall apply to Dispatch Down Makeup Production. Production in excess of Guaranteed Output for any Contract Year as set forth in the fifth column of Appendix A will first be applied to any previous years' Deficiency Amounts, then to Dispatch Down Makeup Production, then treated under this Agreement as production in excess of Guaranteed Output.

(c) GPA shall provide to Seller all technical information necessary to justify and support each Dispatch Down. Seller agrees to reduce the Project's Renewable Energy as set forth in such a Notice of Dispatch Down that meets the requirements set forth herein.

(d) For each MWh of Renewable Energy from the Facility curtailed by GPA in Contract period prior to January 1, 2022. GPA shall pay Seller, on the date payment would otherwise be due in respect of the month in which any such curtailment occurred in excess of low load curtailment requirements discussed in section 4.17 and to be defined in the Interconnection Agreement, an amount equal to the product of the Contract Price times the amount of Renewable Energy that Seller could reasonably have delivered to GPA but for such curtailment ("Lost Revenue"). For each MWh of Renewable Energy from the Facility curtailed by GPA until the end of this

Agreement, GPA shall pay Seller, on the date payment would otherwise be due in respect of the month in which any such curtailment occurred, an amount equal to the product of the Contract Price times the amount of Renewable Energy that Seller could reasonably have delivered to GPA but for such curtailment ("Lost Revenue"); provided that no Lost Revenue shall be due and payable from GPA to Seller for curtailments of up to 2% of the Guaranteed Output.

(e) For purposes of clarification, no curtailment by GPA, as a result of a warranted failure of or defect in the interconnection facilities transferred by Seller to GPA pursuant to the Interconnection Agreement, during the one-year warranty term thereof, shall count against the __% curtailment threshold set forth above. During the one-year warranty term of the interconnection facilities transferred, any curtailment by GPA which results from such failure of or defect in the interconnection facilities transferred will not be eligible for reimbursement by GPA to Seller as Lost Revenue payments, or Dispatch Down Makeup Production in future Contract Years.

1.3 Outage Notification.

(a) Planned Outages. Seller shall schedule Planned Outages in accordance with Good Utility Practices and with the prior written consent of GPA, which consent may not be unreasonably withheld, conditioned or delayed. Nonetheless, the Parties acknowledge that in all circumstances, Good Utility Practices shall dictate when Planned Outages should occur. Seller shall notify GPA of Seller's proposed Planned Outage schedule for the Project for the following calendar year by submitting a written Planned Outage schedule no later than October 1st of each year during the Delivery Period. The Planned Outage schedule is subject to GPA's concurrence, which concurrence may not be unreasonably withheld, conditioned or delayed. GPA shall promptly respond with its approval or with reasonable modifications to the Planned Outage schedule and Seller shall use its commercially reasonable efforts in accordance with Good Utility Practices to accommodate GPA's requested modifications. Notwithstanding the submission of the Planned Outage schedule described above, Seller shall also submit a completed form of outage notification to GPA no later than fourteen (14) days prior to each Planned Outage and reasonably appropriate outage information or requests to GPA. Seller shall contact GPA with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Good Utility Practices. Seller shall not change its Planned Outage schedule without GPA's concurrence, not to be unreasonably withheld, conditioned or delayed.

(b) Forced Outages. Within two hours of any Forced Outage Seller shall submit a completed form of outage notification to GPA in accordance with the instructions shown on the agreed form and shall submit outage information to GPA. Seller shall not substitute Renewable Energy from any other source for the output of the Project during a Forced Outage.

(c) Coordination with GPA. GPA shall cooperate with Seller in arranging and coordinating all Project outages.

1.4 Operations Logs and Access Rights.

(a) Operations Logs. Seller shall maintain a log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, efficiency, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, and control settings or adjustments of equipment and protective devices. Seller shall

maintain this information for at least two (2) years and shall provide this information electronically to GPA within five days of GPA's request.

(b) Access Rights. GPA, its authorized agents, employees and inspectors shall have the right of ingress to and egress from the Project during normal business hours upon reasonable advance notice and for any purposes reasonably connected with this Agreement and in accordance with Section 12.4 and the other applicable requirements of this Agreement.

APPENDIX I

BASE CONDITIONS AND FACILITY TEST PROTOCOL
[GPA and Seller shall complete a mutually agreed process for commissioning and performance testing prior to COD and to any curtailment claims]

1. Notice of Test plan to GPA
2. Test Plan
   The test equation between real PV plant output and PVSyst is below:

   PV_Output = (PV_Diff)(PVSyst_Output)

   (1) Collect the weather data

   (2) Base on collected data, generate the PVSyst

   (3) Compare the PVSyst and real plant output

   (4) Update the PV_DIff parameter

3. This PV_Diff Parameter shall be used for identification.

4. Status data of main equipment such as ESS PCS, Battery PV inverters (ex: On/Off status) shall be collected by SCADA and _____ provide those data.

5. Detail testing plan and period for all the equipment including the procedure above shall be discussed and agreed with both parties at least before a month of COD and the parties shall execute the test.

APPENDIX J
INTERCONNECTION AGREEMENT
(TO BE PROVIDED UPON ITS EXECUTION)

APPENDIX K

CALCULATION OF WEATHER HOURS

For each applicable period, Seller shall calculate (1) the expected production of the Facility using the historical Weather Data from "WeatherBank PGUM_2004-PRES_solar data" provided in bid Amendment 2 (the "Expected Historical Production") and (2) the expected production of the Facility using the actual Weather Data (the "Expected Actual Production"). Seller than then obtain the quotient, rounded to the fourth decimal place (the "Production Factor"), equal to the Expected Actual Production divided by the Expected Historical Production. If the Production Factor is greater than one (1), then no Weather Hours shall be deemed to have occurred. However, if the Production Factor is less than one (1), then Weather Hours shall be deemed to have occurred. The portion of any Deficiency Amount (as defined in the Agreement) attributable to such Weather Hours shall be the difference equal to (A) the aggregate Minimum Production amount for that period minus (B) the product of (x) the Production Factor and (y) the aggregate Minimum Production amount for that period. The Deficiency Amount due to weather shall not be penalized.

The Deficiency Amount due to weather shall be audited annualy by an independent auditor to be selected and the cost shared by both parties.

APPENDIX L

SUBLEASE

GUAM POWER AUTHORITY
SUBLEASE

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SUBLEASE AGREEMENT
BETWEEN
GUAM POWER AUTHORITY
AND

This SUBLEASE, is made and executed this ____ day of _____2017, by and between GUAM POWER AUTHORITY, (hereinafter referred to as "**GPA**"), a public corporation and autonomous instrumentality of the Government of Guam, and ***(COMPANY)*** (hereinafter referred to _____), a private corporation, duly organized and existing under the laws of _____, duly registered to do business in Guam, with its local address at _____. (GPA and _____ may sometimes jointly be referred to as the "**Parties**".)

R E C I T A L S

WHEREAS, GPA is a tenant under the Lease Agreement between The United States of America, acting by and through the Secretary of the Navy (hereinafter referred to as "Navy") under Contract No. N62742-16-RP-00009 and executed on September 12, 2012, (hereinafter referred to as the "Master Lease"), pursuant to which Navy leased to GPA certain real and personal property for the purpose of developing properties for solar photovoltaic systems to produce renewable energy for the Guam Power Authority. A copy of the Master Lease is attached hereto and incorporated herein by this reference as Exhibit "A"; and

WHEREAS, GPA, through its solicitation process **(ENTER BID NO)** has entered into a Power Purchase Agreement with ***(COMPANY)*** on (***Insert PPA Date)*** (hereinafter referred to the "PPA") for renewable energy from and installed capacity of _____ MW grid interconnected solar photovoltaics system ("Solar PV Project"); and

WHEREAS, GPA desires to sublease certain real property located at _____ to ***(COMPANY)*** and ***(COMPANY)*** desires to accept such sublease upon and subject to terms and conditions set forth herein for the purposes of implementing the PPA.

NOW THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 SUBLEASE

GPA subleases to ***(COMPANY)*** on the terms and conditions in this Sublease Agreement the premises set forth in Exhibit "B", attached hereto and incorporated herein by this reference.

As used in this Sublease Agreement, the term "premises" refers to the real property described in Exhibit "B" and to any personal property and improvements located on said real property on the effective date of this Sublease Agreement.

ARTICLE 2 TERM

The term of this Sublease Agreement (the "term") will commence on _____ (the "Commencement Date") and end (***Insert Contract Term including Construction Period***) (___) years

from said Commencement Date ("Termination Date"), unless terminated sooner in accordance with the provisions of this Sublease Agreement. The lease period shall not extend past April 30, 2054.

ARTICLE 3 DELIVERY OF POSSESSION

Possession of the premises will be delivered to ***(COMPANY)*** on the Commencement Date. If GPA, for any reason whatsoever, cannot deliver possession of the premise to ***(COMPANY)*** on the Commencement Date, this Sublease Agreement shall not be void or voidable, nor shall GPA be liable to ***(COMPANY)*** for any loss or damage resulting from any delay in delivery.

ARTICLE 4: RENT

(COMPANY) will pay to GPA as rent, with deduction, setoff, notice, or demand, the annual sum of _____ (U.S Dollars).

ARTICLE 5 USE OF PREMISES

The premises will be used and occupied by ***(COMPANY)*** only for the purpose of its planning, development, construction, testing, operation, repair, and maintenance of the Solar PV Project and all things reasonable incidental to the foregoing.

ARTICLE 6 CONDITION OF PREMISES

(COMPANY) has inspected, and accepts the condition and state of the premises. ***(COMPANY)*** acknowledges that no representations, statements, or warranties, express or implied, have been made by or on behalf of GPA in respect to the condition of the premises, including all facilities located thereon, or whether the intended use or occupation may be made of them, and that GPA shall in no event whatsoever be liable for any latent defects in or on the premises.

In the event this Sublease is terminated and the Parties have not agreed to enter into a new sublease, ***(COMPANY)*** shall return the subleased Premises to GPA in the same condition in which it was received, reasonable wear and tear, damage by insurable events, and Acts of God excepted.

An Environmental Condition of Property (ECP) is provided in Attachment C of the Master Lease. The ECP sets forth the existing environmental conditions of the Leased Premises as represented by a survey conducted by the Navy and sets forth the basis for the Navy's determination that the Leased Premises are suitable for leasing.

ARTICLE 7 OWNERSHIP OF IMPROVEMENTS

All improvements erected or placed on the premises after the Commencement Date by and on behalf of ***(COMPANY)*** are and shall be the property of ***(COMPANY)*** during the term hereof, subject to the terms and condition of this Sublease Agreement. Upon the expiration or termination of the Sublease Agreement, all such improvements shall become the property of GPA for the duration of the Master Lease.

ARTICLE 8 ALTERATIONS

(COMPANY) will not make, or cause to be made any alterations, improvements, additions and changes in or to the premises without the prior written consent of GPA and prior written consent of Navy. In particular, ***(COMPANY)*** shall comply with all requirements as provided in Section 4.2, Section 7.2 and Section 8 of the Master Lease and as specified here:

(COMPANY) shall not undertake any activity that may affect a historic or archeological property, including excavation, construction, alteration, or repairs of the Leased Premises, without the prior approval of Government and compliance with section 106 of the National Historic Preservation Act (16 U.S.C. § 470), and the Archeological Resources Protection Act of 1979 (16 U.S.C. §470aa). Buried cultural materials may be present on the Leased Premises. If those materials are encountered, ***(COMPANY)*** shall stop work immediately and notify GPA and Navy. GPA has been advised by Navy of no knowledge of any historical or archeological property on the Leased Premises; in the event that it becomes aware of any, GPA or Navy will immediately notify Sublessee.

Unexploded Ordnance and other Munitions and Explosives of Concern (UXO) may be present at this site. Unless otherwise explicitly stated in this paragraph, ***(COMPANY)*** shall not conduct or permit any contractor(s) to conduct any subsurface excavation, digging, drilling or other disturbance of the surface at any time without the prior written approval of the Navy. Any excavation, digging, drilling, or other disturbance of the surface shall be done in compliance with all applicable Federal, state, and local laws and regulations and with Department of Defense and Department of the Navy safety policies, including those pertaining to explosives safety. ***(COMPANY)*** acknowledges that land underlying and adjacent to the Leased Premises may contain UXO. If, after receipt of written approval by the Navy, ***(COMPANY)*** undertakes any subsurface excavation, digging, drilling, or other disturbance of the surface, it shall immediately halt work and notify the Navy of any buried debris, or foreign, potentially hazardous material encountered during this work.

ARTICLE 9 ENTRY / ACCESS

GPA reserves the right to enter premises to inspect the premises or the performance by ***(COMPANY)*** of the terms and conditions of this Sublease Agreement, Master Lease and the PPA.

In addition, as prescribed in the Master lease and at all reasonable times throughout the term of this Sublease, the Navy shall be allowed access to the Leased Premises for any purpose upon reasonable notice to Lessee or sublessee. The Navy normally will give Lessee or any sublessee 24-hour's prior notice of its intention to enter the Leased Premises, unless it reasonably determines the entry is an emergency required for safety, health, environmental, operations or security purposes, in which event no notice shall be required. Any claims by Lessee or sublessee against the Navy for damages arising from such entry shall be governed by the Federal Tort Claims Act. Nothing in this Lease shall be deemed to prejudice the rights of Lessee or any sublessee under any contract, other agreement or law including, but not limited to the Federal Tort Claims Act. All necessary keys to the buildings and Leased Premises occupied by Lessee or any sublessee shall be made available to the Navy upon request.

(COMPANY), their employees, vendors, and invitees will be granted reasonable access to the Leased Premises under this Sublease. As a condition, ***(COMPANY)***, and their employees, vendors, and invitees, agree to adhere to all base rules and regulations regarding installation security, ingress, egress, safety and sanitation that may be prescribed from time to time by the Commander/Commanding Officer. ***(COMPANY)*** and their employees, vendors, and business invitees, shall coordinate parking with the appropriate office of the installation. ***(COMPANY)*** and its invitees and contractors agree to absorb all costs, including time and expense, associated with gaining access to the installation under the RAPIDGATE or similar program. ***(COMPANY)*** shall also agrees to absorb the direct cost associated with gaining access under RAPIDGATE or similar program for GPA employees related to operation and maintenance of the on base Solar PV Project.

Installation Security. The Leased Premises is located on a secure Department of Navy installation and sublessee(s) are required to comply with all applicable security rules, regulations, and procedures issued by the installation Commander/Commanding Officer. All employees of ***(COMPANY)*** that are required by the installation to do so, shall obtain appropriate clearance from the installation

("Clearance") to access the Leased Premises. Failure to obtain the required Clearance shall result in denial of access to the Leased Premises of ***(COMPANY)*** employees. ***(COMPANY)*** agree(s) to hold harmless Government from any liability of any nature for financial or other losses incurred by ***(COMPANY)*** by reason of ***(COMPANY)*** employees failure to obtain Clearance for access to the Leased Premises. The prior sentence shall survive the termination of this Lease.

ARTICLE 10 ASSIGNMENT AND SUBLETTING

(COMPANY) shall neither transfer, assign, nor sublet this Sublease or any interest in it, or any property on the Leased Premises, or grant any interest, privilege, or license whatsoever in connection with this Sublease without the prior written consent of GPA and the prior written consent of Navy.

ARTICLE 11 COMPLIANCE WITH LAW - WASTE AND NUISANCE PROHIBITED

During the term of this Sublease Agreement, ***(COMPANY)*** shall, at the expense of ***(COMPANY)***, observe and comply with all present and future laws and regulations of all federal, territorial and other governmental authorities affecting the premises, the equipment and any improvements by ***(COMPANY)*** in and on the premises, or any part of the premises, and of all governmental departments, agencies, bureaus and officials.

(COMPANY) shall not commit, or suffer to be committed, any waste on the premises, or any nuisance.

ARTICLE 12 ABANDONMENT OF PREMISES

(COMPANY) shall not vacate or abandon the premises at any time during the term of this Sublease Agreement. If ***(COMPANY)*** abandon, vacates, or surrenders the premises or is dispossessed by process of law, or otherwise, any personal property belonging to ***(COMPANY)*** and left on the premises shall be deemed to be abandoned.

ARTICLE 13 SUBLEASE SUBJECT TO MASTER LEASE

(COMPANY) hereby acknowledges that GPA is now leasing the property described in Exhibit "B" from the Navy under the terms of the Master Lease. This Sublease Agreement is subject to all terms, provisions, covenants and conditions contained in the Master Lease. ***(COMPANY)*** agrees to assume and be bound by the same responsibilities, rights, privileges, and duties that GPA has to Navy with respect to the premises or its operations, and ***(COMPANY)*** shall fully indemnify GPA against any responsibility or liability that GPA may incur by virtue of ***(COMPANY)*** use or occupancy of the premises or its operation allowed under this Sublease Agreement. ***(COMPANY)*** will not directly or indirectly do any act or permit any condition or thing to occur which would violate any of the provisions or constitute a default under the Master Lease. ***(COMPANY)*** will execute and deliver any documents, papers, or other instruments that may be necessary or required to permit the due performance and compliance with all of the terms, covenants, and provisions of the Master Lease.

(COMPANY) shall have the right at any time, at the expense of GPA, to take any action required of GPA under the Master Lease that GPA fails to perform in a timely manner and that may be necessary to prevent a default under the terms of the Master Lease.

If the Master Lease terminates as a result of default or breach by GPA or ***(COMPANY)*** under this Sublease Agreement or the Master Lease, the defaulting party will be liable to the non-defaulting party for the damage suffered as a result of the termination.

In the event that a conflict exists between the applicable terms, provisions, covenants and conditions of the Master Lease and this Sublease Agreement, the applicable terms, provisions, covenants and conditions of the Master Lease will control. In the event of a conflict between the terms and conditions of this Sublease Agreement, the PPA between GPA and ***(COMPANY)***, the terms and conditions of this Sublease Agreement will control. GPA and ***(COMPANY)*** understand and agree that the Navy has not approved, consented or agreed to the terms of the PPA and is not bound thereby.

ARTICLE 14 NO MODIFICATION OF MASTER LEASE

Nothing contained in this Sublease Agreement shall be construed to modify any of the provisions of the Master Lease or to waive any rights that Navy may have or hereafter have against GPA by reason of the Master Lease.

ARTICLE 15 LIABILITY FOR LIENS ON SUBLEASED PREMISES

(COMPANY) shall not permit any lien, charge, or encumbrance to be filed against the title of Navy or GPA with respect to the premises or any buildings or improvements on the premises including, but not limited to, by reason of work, labor, services or materials supplied to ***(COMPANY)*** or anyone holding the premises or any part of the premises by, through or under ***(COMPANY)***. As to any and all alterations, additions, improvements, repairs and work installed or performed by ***(COMPANY)*** on the premises, or labor performed or material furnished in connection therewith, neither GPA nor the premises shall be under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished, but rather, all alterations, additions, improvements, and repairs, and labor and material, shall be made, furnished, and performed at the expense of ***(COMPANY)***. ***(COMPANY)*** shall be solely responsible to contractors, laborers, and material suppliers furnishing and performing the labor and material.

If any lien, charge, or order for the payment of money shall hereafter be file against the title or other estate of Navy or GPA in premises or any buildings or improvements on the premises, or against Navy or GPA, whether or not the lien, charge, or order is valid or enforceable, ***(COMPANY)*** shall, at the expense of ***(COMPANY)*** cause the lien to be cancelled and discharged of record or bonded within thirty (30) days after the notice to ***(COMPANY)*** of the filing of such item.

ARTICLE 16 REPAIRS, UTILITIES AND TAXES TO BE LIBAIBLITY OF *(COMPANY)*

(COMPANY) shall maintain, or cause to be maintained, the premises in reasonable order and condition in light of the use of the premises and the condition of the premises immediately prior to the Commencement Date.

(COMPANY), shall, at all times during the term of this Sublease Agreement, at the expense of ***(COMPANY)***, keep and maintain in thorough repair and good, safe, and substantial order and condition, having regard to normal wear and tear, all buildings and improvements, and all building service equipment, on the land portion of the premises at the commencement of the term hereof and thereafter erected on the premises, or forming part of the premises, and promptly make all necessary repairs, both inside and outside, structural and non-structural, extraordinary and ordinary, whether or not the repairs were necessitated by wear, tear, obsolescence, or defects, latent or otherwise.

(COMPANY) shall use reasonable precaution to prevent waste, damage, or injury, and shall at the expense of ***(COMPANY)***, keep, replace, and maintain in thorough repair, good order, and safe condition, and free from rubbish, and other obstructions or encumbrances, the areas in front of and adjacent to the premises.

GPA shall in no event be required to make any alterations, additions, improvements, replacements, renewals or repairs of any kind, nature, or description, whatsoever during the term of this Sublease Agreement, nor shall GPA be required to furnish ***(COMPANY)*** any utilities or services of any kind whatsoever during the term.

(COMPANY) shall be responsible for obtaining utilities and services for the Leased Premises. In the event that ***(COMPANY)*** shall request and Government shall furnish ***(COMPANY)*** with any utilities and services maintained by Government, ***(COMPANY)*** shall pay Government the agreed charges as additional rent under this Sublease. Those charges and the method of payment shall be determined by Government or the appropriate supplier of the service, in accordance with applicable laws and regulations, on the basis that Government or the appropriate supplier may establish, and may include a requirement for the installation of adequate connecting and metering equipment at the sole cost and expense of ***(COMPANY)***. It is expressly agreed and understood that Government in no way warrants the continued maintenance or adequacy of any utilities or services furnished by it to the Leased Premises. ***(COMPANY)*** shall have the right, subject to Article 8, to install utilities, or make improvements to existing utilities on the Leased Premises, including but without limitation, the installation of emergency power generators, that may be necessary for the operation of ***(COMPANY)*** equipment.

(COMPANY) shall pay to the proper authority when and as the same become due and payable all taxes, assessments, and similar charges that, at any time during the term of this Sublease may be imposed on the Leased Premises. 10 U.S.C. § 2667(f) contains the consent of Congress to the taxation of ***(COMPANY)'s*** interest in the Leased Premises, whether or not the Leased Premises are in an area of exclusive Federal jurisdiction. Should Congress consent to taxation of Government's interest in the Leased Premises, this Sublease will be renegotiated.

ARTICLE 17 LIABILITY ON DESTRUCTION OF PREMISES

If, during the term of this Sublease Agreement, buildings, improvements, or the building service equipment in and on the premises at the commencement of the term or thereafter erected on or in the premises shall be destroyed or damaged in whole or in part by fire or other cause, ***(COMPANY)*** shall give to GPA and Navy under the Master Lease, notice thereof. ***(COMPANY)*** shall, at the expense of ***(COMPANY)***, promptly repair, replace, and rebuild the destroyed premises, at least to the extent of the value and as nearly as possible to the character of the building and improvements and the building service equipment on the premises at the commencement of the term and thereafter erected on the premises. In no event shall GPA be called on to repair, replace, or rebuild any buildings, improvements, or equipment, or to pay any of the expenses thereof.

ARTICLE 18 LIABILITY FOR INJURY OR DAMAGE UNDER SUBLEASE AGREEMENT

(COMPANY) is and shall be in exclusive control and possession of the premises as provided in this Sublease Agreement, and in no event shall GPA or Navy be liable for any injury or damage to any property or to any person happening on or about the premises, or for any injury or damage to the premises, nor to any property of ***(COMPANY)***, or of any other person contained in or on the premises.

The provisions of this Sublease Agreement permitting GPA to enter and inspect the premises are made for the purpose of enabling GPA to be informed as to whether ***(COMPANY)*** is complying with the terms and conditions of this Sublease Agreement, the Master Lease and the PPA and to do the acts that ***(COMPANY)*** fails to do.

ARTICLE 19 LIABILITY FOR INSURANCE FOR SUBLEASE

During the term of this Sublease Agreement, ***(COMPANY)***, at the expense of ***(COMPANY)***, shall be responsible to ensure that there is effective insurance covering ***(COMPANY)***'s use of the premises and operations allowed under this Sublease Agreement, as provided for in Section 16 of the Master Lease.

ARTICLE 20 ENVIRONMENTAL PROTECTION

20.1. Compliance with Law. ***(COMPANY)*** shall comply, at its sole cost and expense, with the Federal, state, and local laws, regulations, and standards that are or may become applicable to ***(COMPANY)***'s activities on the Leased Premises. ***(COMPANY)*** shall be financially responsible for environmental contamination of the Leased premises which occurs during the term of this Sublease Agreement, except to the extent that ***(COMPANY)*** can prove that the Navy actually and directly caused the contamination by operations of the Navy.

20.2. Permits. ***(COMPANY)*** shall be solely responsible for obtaining at its cost and expense any environmental permits required for its operations under this Sublease, independent of any existing permits.

20.3. Indemnification. ***(COMPANY)*** shall, to the extent permitted under applicable law, indemnify and hold harmless GPA and the Navy from, and defend GPA and/or the Navy against, any damages, costs, expenses, liabilities, fines, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, disposal, or any other acts or omissions by ***(COMPANY)***, its officers, agents, employees, or contractors, or licensees, or the invitees of any of them, giving rise to GPA and/or the Navy liability, civil or criminal, or responsibility under Federal, state, or local environmental laws. This Paragraph shall survive the termination of this Sublease, and ***(COMPANY)***'s obligations under this Paragraph shall apply whenever GPA and/or the Navy incurs costs or liabilities for ***(COMPANY)***'s actions of the types described in this Paragraph 20.

20.4. Inspection. The Navy's rights under this Sublease specifically include the right for the Navy officials to inspect upon reasonable notice the Leased Premises for compliance with environmental, safety, and occupational health laws and regulations, whether or not the Navy is responsible for enforcing them. Those inspections may be made without prejudice to the right of duly constituted enforcement officials to make them. The Navy normally will give ***(COMPANY)*** twenty-four (24) hours prior notice of its intention to enter the Leased Premises unless it determines the entry is required for safety, environmental, operations, or security purposes. Any claims by ***(COMPANY)*** or sub***(COMPANY)*** against the Navy for damages arising from such entry shall be governed by the Federal Tort Claims Act.

20.5. Asbestos. Except as provided in Paragraph 20.6, the Navy is not responsible for any abatement, removal, or containment of asbestos. If ***(COMPANY)*** intends to make any Improvements that require the abatement, removal, or containment of asbestos, an appropriate asbestos management plan must be incorporated in the alterations plan to be submitted to the Commander/Commanding Officer under Paragraph 8. The asbestos management plan will identify the proposed disposal site for the asbestos.

20.6. Abatement of Asbestos. the Navy shall be responsible for the removal or containment of asbestos or asbestos-containing material (collectively, "ACM") existing in the Leased Premises on the term beginning date as identified in the ECP attached to this Sublease when that ACM is damaged or deteriorated to the extent that, through normal use, it is a source of airborne fibers in quantities that pose a threat to human health ("damaged or deteriorated ACM"). the Navy agrees to abate all that existing damaged or deteriorated ACM as stated in this Paragraph 20.6. the Navy may choose the most economical means of abating damaged or deteriorated ACM, which may include removal or containment, or a combination of removal and containment. The foregoing the Navy obligation does not apply to

ACM that is not damaged or deteriorated at the time ***(COMPANY)*** takes possession of the Leased Premises and that may become damaged or deteriorated by ***(COMPANY)***'s activities. ACM that during the period of this Sublease becomes damaged or deteriorated through the passage of time, or as a consequence of ***(COMPANY)***'s activities under this Sublease, including but not limited to any emergency, shall be abated by ***(COMPANY)*** at its sole cost and expense. Notwithstanding Paragraph 20.5, in an emergency, ***(COMPANY)*** shall notify the Navy as soon as practicable of its emergency ACM responses. ***(COMPANY)*** shall be responsible for monitoring the condition of existing ACM on the Leased Premises for deterioration or damage and accomplishing repairs pursuant to this Sublease.

20.7. Environmental Liability of ***(COMPANY)***. Notwithstanding any other provision of this Sublease, ***(COMPANY)*** does not assume any liability or responsibility for environmental impacts and damage caused by the Navy's use of toxic or hazardous wastes, substances, or materials on any portion of the installation, including the Leased Premises. ***(COMPANY)*** has no obligation under this Sublease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use or release of any toxic or hazardous wastes, substances, or materials on or from any part of the installation, including the Leased Premises, which occurred prior to the first day of ***(COMPANY)***'s occupation or use of each portion of, or any building, facility, or other improvement on, the Leased Premises under any instrument entered into between the Parties. Further, ***(COMPANY)*** has no obligation under this Sublease to undertake environmental response, remediation, or cleanup relating to that use or release.

20.7.1. For the purposes of this Paragraph, "defense" or "environmental response, remediation, or cleanup" include liability and responsibility for the costs of damage, penalties, legal, and investigative services relating to such use or release. "Occupation or use" shall mean any activity or presence (including preparation and construction) in or upon such portion of, or such building, facility, or other improvement on, the Leased Premises.

20.7.2. This Paragraph 20.7 does not relieve ***(COMPANY)*** of any obligation or liability it might have or acquire with regard to third parties or regulatory authorities by operation of law.

20.7.3. This Paragraph 20.7 shall survive the expiration or termination of this Sublease.

20.8. No Liability for Interference. ***(COMPANY)*** expressly acknowledges that it fully understands that some or all of the response actions to be undertaken with regard to the Federal Facilities Agreement (FFA), if applicable, or the ERP, may impact ***(COMPANY)***'s quiet use and enjoyment of the Leased Premises. An FFA WAS NOT signed for the Leased Premises. ***(COMPANY)*** agrees that notwithstanding any other provision of this Sublease, the Navy assumes no liability to ***(COMPANY)*** should implementation of the FFA, if applicable, or the ERP, or other hazardous waste cleanup requirements, whether imposed by law, regulatory agencies, or the Navy or the Department of Defense, interfere with ***(COMPANY)***'s use of the Leased Premises. ***(COMPANY)*** shall have no claim against The United States or any of its officers, agents, employees, or contractors on account of any interference, whether due to entry, performance of remedial or removal actions, or exercise of any right with regard to the FFA, if applicable, or the ERP, or under this Sublease or otherwise.

20.9. Response or Remedial Actions. ***(COMPANY)*** agrees to comply with the provisions of any health or safety plan in effect under the ERP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by ***(COMPANY)***. Any claims by ***(COMPANY)*** or sub***(COMPANY)*** against the Navy for damages arising from such actions shall be governed by the Federal Tort Claims Act.

20.10. Storage of Hazardous Wastes. ***(COMPANY)*** must comply with all applicable Federal, state, and local laws, regulations, and other requirements relating to occupational safety and health, the handling and storage of hazardous materials, and the proper generation, handling, accumulation, treatment, storage, disposal, and transportation of hazardous wastes. ***(COMPANY)*** shall not treat, store, transport, or dispose of hazardous waste unless ***(COMPANY)*** is in possession of any required permit issued to it under the Resource Conservation and Recovery Act, as amended (RCRA). ***(COMPANY)*** shall not treat, store, transport, or dispose of any hazardous waste under, pursuant to, or in reliance upon any permit issued to the Navy. ***(COMPANY)*** shall be liable for the cost of proper disposal of any hazardous waste generated by its approved sub***(COMPANY)***s in the event of failure of the sub***(COMPANY)***s to dispose properly of those wastes.

20.11. Environmental Records. ***(COMPANY)*** must maintain and make available to the Navy all records, inspection logs, and manifests that track the generation, handling, storage, treatment, and disposal of hazardous waste relevant to the Leased Premises, as well as all other environmental records required to be maintained by ***(COMPANY)*** in connection with its use and activities on the Leased Premises by applicable laws and requirements. the Navy reserves the right to inspect the Leased Premises and ***(COMPANY)***'s records for compliance with Federal, state, local laws, regulations, and other requirements relating to the generation, handling, storage, treatment, and disposal of hazardous waste, as well as to the discharge or release of hazardous substances. Violations will be reported by the Navy to appropriate regulatory agencies, as required by applicable law. ***(COMPANY)*** shall be liable for the payment of any fines and penalties that may accrue as a result of the actions of ***(COMPANY)***.

20.12. Spill Plans. If hazardous waste, fuel, chemicals, or other regulated hazardous substances will be present on the Leased Premises, ***(COMPANY)*** shall prepare a completed and approved plan prior to commencement of operations on the Leased Premises for responding to hazardous waste, fuel, and other chemical spills. The plan shall comply with all applicable requirements and shall be updated from time to time as may be required to comply with changes in site conditions or applicable requirements, and where required, shall be approved by all agencies having regulatory jurisdiction over the plan. The plan shall be independent of Navy spill prevention and response plans. ***(COMPANY)*** shall not rely on use of the installation's personnel or equipment in execution of its plan. ***(COMPANY)*** shall file a copy of the approved plan and approved amendments thereto with the Commander/Commanding Officer within fifteen (15) days of approval. Notwithstanding the foregoing, should the Navy provide any personnel or equipment, whether for initial fire response or spill containment or otherwise on request of ***(COMPANY)***, or because ***(COMPANY)*** was not, in the sole opinion of the Navy, conducting timely cleanup actions as required of ***(COMPANY)*** under applicable laws and regulations, ***(COMPANY)*** agrees to reimburse the Navy for its costs in accordance with all applicable laws and regulations.

20.13. RCRA Compliance. ***(COMPANY)*** shall comply with the hazardous waste permit requirements under the RCRA or its state equivalent and any other applicable hazardous waste laws, rules, and regulations pertaining to ***(COMPANY)***'s use or activities on the Leased Premises. ***(COMPANY)*** must provide at its own expense hazardous waste storage facilities that comply with all laws and regulations that it may need for storage. The Navy hazardous waste storage facilities will not be available to ***(COMPANY)***. Any violation of the requirements of this Paragraph shall be deemed a material breach of this Sublease.

20.14. Accumulation Points. Navy accumulation points for hazardous and other wastes shall not be used by ***(COMPANY)***, and ***(COMPANY)*** shall not permit its hazardous waste to be commingled with hazardous waste of the Navy.

20.15. Discharge of Fill. ***(COMPANY)*** shall not discharge, or allow the discharge of, any dredged or fill material into any waters or wetlands on the Leased Premises except in compliance with the express written consent of the Commander/Commanding Officer.

20.16. Pesticides. Prior to the storage, mixing, or application of any pesticide, as that term is defined under the Federal Insecticide, Fungicide, and Rodenticide Act, ***(COMPANY)*** shall prepare a plan for storage, mixing, and application of pesticides (Pesticide Management Plan). The Pesticide Management Plan shall be sufficient to meet all applicable Federal, state, and local pesticide requirements. ***(COMPANY)*** shall store, mix, and apply all pesticides within the Leased Premises only in strict compliance with the Pesticide Management Plan. The pesticides will only be applied by a licensed applicator.

20.17. National Pollutant Discharge Elimination System (NPDES) Permit. ***(COMPANY)*** shall comply with all requirements of the Federal Water Pollution Control Act, as amended, the NPDES, and any applicable State or local requirements. If ***(COMPANY)*** discharges wastewater to a publicly owned treatment works, ***(COMPANY)*** must submit an application for its discharge prior to the start of this Sublease. ***(COMPANY)*** shall be responsible for meeting all applicable wastewater discharge permit standards. ***(COMPANY)*** shall not discharge wastewater under the authority of any NPDES permit, pretreatment permit, or any other permit issued to the installation. ***(COMPANY)*** shall make no use of any septic tank installed on the installation without the prior written consent of the Navy.

20.18. Radioactive Materials. ***(COMPANY)*** must notify the Navy of its intent to possess, store, or use any licensed or licensable source or byproduct materials, as those terms are defined under the Atomic Energy Act, as amended, and its implementing regulations; of ***(COMPANY)***'s intent to possess, use, or store radium; and of ***(COMPANY)***'s intent to possess or use any equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulations, at least sixty (60) days prior to the entry of such materials or equipment upon the installation. Upon notification, the Navy may impose requirements, including prohibition of possession, use, or storage, that are deemed necessary to adequately protect health and the human environment. Thereafter, ***(COMPANY)*** must notify the Navy of the presence of all licensed or licensable source or byproduct materials, of the presence of all radium, and of the presence of all equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulation; provided, however, that ***(COMPANY)*** need not make either of the above notifications to the Navy with regard to source and byproduct material that is exempt from regulation under the Atomic Energy Act. ***(COMPANY)*** shall not, under any circumstances, use, own, possess, or allow the presence of special nuclear material on the Leased Premises.

20.19. Improvements and Environmental Cleanup. ***(COMPANY)*** further agrees that it shall give the Navy prior written notice accompanied by a detailed written description of all proposals for any Improvements that may impede or impair any activities under the ERP, or the FFA if applicable, or that will be undertaken in certain areas of the Leased Premises identified as "Areas of Special Notice" on **Attachment E**. These Areas of Special Notice consist of either "Operable Units" (as defined in the National Contingency Plan) or other areas of concern because of the potential for environmental contamination and include buffer areas as shown on **Attachment E**. The notice and accompanying written description of those proposals shall be delivered to the Navy sixty (60) days in advance of the commencement of any Improvements. In addition, Improvements shall not commence until ***(COMPANY)*** has complied with the provisions of Paragraph 8. The detailed written description must include the effect that planned Improvements may have on site soil and groundwater conditions and the cleanup efforts contemplated under the ERP and the FFA, if applicable. Notwithstanding the preceding three sentences, ***(COMPANY)*** shall be under no obligation to give advance written notice of any Improvements that will be undertaken totally within any structure located on the Leased Premises, provided that the work will not impede or impair any activities under the ERP or the FFA, if applicable. However, any work below the floor of any structure within any Area of Special Notice that will involve excavating in and/or disturbing concrete flooring, soil and/or groundwater, or will impede or impair any activities under the ERP or the FFA, if applicable, will be subject to the sixty (60) day notice requirement imposed by this Paragraph 20.19.

20.20. FFA A Federal Facility Agreement does not exist for this Leased Premises. The Navy acknowledges that the installation has been identified as a National Priorities List Site under CERCLA. ***(COMPANY)*** acknowledges that the Navy has delivered to it a copy of the FFA entered into by EPA, the state, and the Navy, and will deliver to ***(COMPANY)*** a copy of any amendments to it. ***(COMPANY)*** agrees that should any conflict arise between the terms of such agreement as it presently exists or may be amended ("FFA," "Interagency Agreement" or "IAG") and the provisions of this Sublease, the terms of the FFA will take precedence. ***(COMPANY)*** further agrees that notwithstanding any other provision of this Lease, the Navy assumes no liability to ***(COMPANY)*** should implementation of the FFA interfere with ***(COMPANY)***'s use of the Leased Premises. ***(COMPANY)*** shall have no claim on account of any interference against The United States or any of its officers, agents, employees, or contractors, other than for abatement of Rent.

20.21. Environmental Access. the Navy, EPA, and the state and their respective officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to ***(COMPANY)*** to enter upon the Leased Premises for the purposes enumerated in this subparagraph, and for other purposes consistent with any provision of the FFA, if applicable:

20.21.1. To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test pitting, testing soil borings, and other activities related to the ERP or the FFA, if applicable;

20.21.2. To inspect field activities of the Navy and its contractors and subcontractors in implementing the ERP or the FFA, if applicable. When the ***(COMPANY)*** has notice of an EPA or State Regulatory visit or inspection, the ***(COMPANY)*** shall notify the Navy as soon as practical;

20.21.3. To conduct any test or survey required by the EPA or the state relating to the implementation of the FFA, if applicable, or environmental conditions at the Leased Premises or to verify any data submitted to the EPA or state by the Navy relating to those conditions;

20.21.4. To conduct, operate, maintain, or undertake any other response or remedial action as required or necessary under the ERP or the FFA, if applicable, including, but not limited to, monitoring wells, pumping wells, and treatment facilities.

20.21.5. To monitor any environmental restrictive use covenants and the effectiveness of any other land use or institutional control established by the Navy on the Leased Premises, either by itself, by its contractor, by any public entity, including the state, or by a private entity registered in the state to monitor environmental covenants.

ARTICLE 21 INDEMNIFICATION

GPA and the Navy shall not be liable for any loss, injury, death, or damage to persons or property that at any time may be suffered or sustained by ***(COMPANY)*** or by any person whosoever may at any time be using or occupying or visiting the premises or be in, on or about the premises, whether the loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of ***(COMPANY)*** or of any occupation, visitor, or user of any portion of the premises, or shall result from or be caused by any other matter or thing whether of the same kind as or of a different kind than the matters of things above set forth. ***(COMPANY)*** shall indemnify and hold harmless GPA and the Navy against any and all claims, liabilities, losses, or damage whatsoever on account of any such loss, injury, death, or damage. ***(COMPANY)*** waives all claims against GPA and the Navy for damages to the buildings and improvements that are now on or hereafter placed or build on the premises and to the property of ***(COMPANY)*** in, on, or about the premises, and for injuries to persons or property in or about

the premises, from any cause arising at any time. As to ***(COMPANY)***'s obligations to GPA, the two preceding sentences shall not apply to loss, injury, death, or damage arising by reason of the gross negligence or misconduct of GPA, its agents, or employees.

ARTICLE 22 PROHIBITION OF VOLUNTARY ASSIGNMENT – EFFECT OF BANKRUPTCY OR INSOLVENCY

Neither this Sublease Agreement nor the premises nor any interest of GPA under this Sublease Agreement in the premises or in the building of improvements of the premises shall be subject to involuntary assignment, transfer, sale, or to assignment, transfer or sale by operation of law in any manner whatsoever; any attempt at involuntary assignment, transfer, or sale shall be void and of no effect.

Without limiting the generality of the provisions of the preceding paragraph of this Article 21, ***(COMPANY)*** agrees that in the event any proceedings under the Bankruptcy Act or any amendment to the act is commenced by or against ***(COMPANY)***, (and, if against ***(COMPANY)***, the proceeding shall not be dismissed before either an adjudication in bankruptcy or the confirmation of composition, arrangement, or plan or reorganization), or in the event ***(COMPANY)*** is adjudged insolvent or makes an assignment for the benefits of its creditors, or if a receiver is appointed in any proceeding or action to which ***(COMPANY)*** is a party, with authority to take possession or control of the premises or the business conducted on the premises by ***(COMPANY)***, and such receiver is not discharged within a period of thirty (30) days after his or her appointment, any such event of any involuntary assignment prohibited by the provisions of the preceding paragraph of this Article 21 shall be deemed to constitute a breach of this Sublease Agreement by ***(COMPANY)*** and shall, at the election of GPA, without notice or entry or other action of the GPA terminate this Sublease Agreement and also all rights of ***(COMPANY)*** under this Sublease Agreement in and to the premises and also all rights of any and all persons claiming under ***(COMPANY)***.

ARTICLE 23 DEFAULT AND REMEDIES ON DEFAULT

23.01. Default. This Sublease Agreement is entered into on the condition that ***(COMPANY)*** shall perform all the terms and conditions set forth herein to be performed by ***(COMPANY)***, and the failure of ***(COMPANY)*** to perform said terms and conditions shall constitute a default under this Sublease Agreement. GPA may, at its option and without limiting GPA in the exercise of any other right or remedy it may have on account of a default or breach by ***(COMPANY)***, exercise the rights and remedies specified in Section 23.02. if:

(a) ***(COMPANY)*** defaults in the payment of any money agreed to be paid by ***(COMPANY)*** to GPA for rent or for any other purpose under this Sublease Agreement, and if such default continues for ten (10) days after written notice to ***(COMPANY)*** by GPA;
(b) The premises is used for an unlawful purpose;
(c) The premises are left vacant, unoccupied, or deserted for a period of thirty (30) days or more, unless caused by circumstances beyond the reasonable control of ***(COMPANY)***;
(d) ***(COMPANY)*** defaults in the performance of any other of its agreements, conditions or covenants under this Sublease Agreement and such default continues for thirty (30) days after written notice to ***(COMPANY)*** by GPA.

23.02. Remedies. On any breach, default, or abandonment by ***(COMPANY)***, GPA may exercise any of the following rights after the periods of time stated in Section 23.01:

(a) Immediately reenter and, at GPA's election, remove all persons and property from the premises, store the personal property in a public warehouse or elsewhere at the cost of, for the account of, and at the risk of ***(COMPANY)***. In the event of any such reentry by GPA, GPA may make any repairs, additions, or improvements in, to or upon the premises which may be necessary or

convenient. In such instance, the Sublease Agreement will be terminated, and GPA will be entitled to recover all damages allowable under law or this Sublease Agreement.

(b) Collect by suit or otherwise each installment of rent or other sum as it becomes due hereunder, or enforce, by suit or otherwise, any other term or provision hereof on the part of ***(COMPANY)*** required to be kept or performed, it being specifically agreed that all unpaid installments of rent other sums shall bear interest at the highest legal rate from the due date thereof until paid.

(c) Terminate this Sublease Agreement, in which event ***(COMPANY)*** agrees to immediately surrender possession of the premises and any improvements thereon, and to pay GPA, in addition to any other remedy GPA may have, all damages GPA may incur by reason of ***(COMPANY)***'s defaults, including the cost of recovering the premises.

23.03. No Waiver of Default. GPA's failure to take advantage of any default or breach of covenant on the part of ***(COMPANY)*** shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may arise between the parties in the course of administering this Sublease Agreement be construed to waive or to lessen the right of GPA to insist upon the performance by ***(COMPANY)*** of any term, covenant, or condition hereof, or to exercise any rights given on account of any such default. A waiver of a particular breach, or default, shall not be deemed to be a waiver of the same or any other subsequent breach or default. The acceptance of rent hereunder shall not be, or be construed to be, a waiver or any term, covenant, or condition of this Sublease Agreement.

23.04. ***(COMPANY)***'s Waiver of Statute of Limitations. ***(COMPANY)*** does further waiver the benefit of any statute of limitations to which it might be entitled.

23.05. Remedies Cumulative. The rights, powers, elections, and remedies of GPA contained in this Sublease Agreement shall be construed as cumulative and no one of them is or shall be considered exclusive of the other or exclusive of any rights or remedies allowed by law, and the exercise of one or more rights, powers, elections, or remedies shall not impair GPA's right to exercise any other.

ARTICLE 24 TERMINATION OF SUBLEASE AGREEMENT ON EXPIRATION OR TERMINATION OF MASTER LEASE

This Sublease Agreement is subject to the terms and conditions of the Master Lease between GPA and Navy, and this Sublease Agreement shall terminate automatically on the termination, cancellation, expiration or surrender of the Master Lease between GPA and Navy.

ARTICLE 25 TERMINATION OF SUBLEASE AGREEMENT UPON MUTAL AGREEMENT

This Sublease Agreement may be terminated upon the written mutual agreement of GPA and ***(COMPANY)***, with notice provided to the Navy of such termination.

ARTICLE 26 SURRENDER OF PREMISES

Upon the voluntary or other termination of this Sublease Agreement or any early termination of the term from whatever cause, ***(COMPANY)*** shall peaceably and quietly surrender and deliver up to GPA the premises, including all buildings, alterations, rebuilding, replacements, and changes, additions, and improvements, constructed, erected, added, or placed on the premises by ***(COMPANY)***, with all building service equipment in or appurtenant to the premises, in as good condition, repair, and as clean as at the commencement of the term, and as any new buildings, structures, replacements, additions, or improvements constructed, erected, added, or placed on the premises by ***(COMPANY)*** were when completed, with ordinary wear and tear excepted.

ARTICLE 27 NOTICES

All notices and demands that may be required or permitted by either party to the other will be in writing. All notices and demands shall be sent by telefax or mail, postage prepaid, addressed to (with a copy to the Navy to the addresses listed in Section __ of the Master Lease):

To: *(Post Office Address)*
GUAM POWER AUTHORITY
General Manager
P.O. Box 2977
Hagatna, Guam 96932

Or

(Physical Address)
GUAM POWER AUTHORITY
General Manager
Gloria B. Nelson Public Service Bldg
688, Route 15-Suite 100
Mangilao, Guam 96913-6203

To: ***(COMPANY Address)***

ARTICLE 28 PARTIES BOUND

The covenants, agreements, terms, provisions and conditions contained in this Sublease Agreement shall apply to and bind the successors, executors, administrators, and assigns parties.

ARTICLE 29 RELATIONSHIP OF PARTIES

Nothing contained in this Sublease Agreement shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between GPA and ***(COMPANY)***, provided that any actions or inactions of ***(COMPANY)*** may be attributed by the Navy to GPA and GPA shall be responsible therefore, in accordance with the terms of the Master Lease.

ARTICLE 30 DISPUTE RESOLUTION

30.01. Disputes. The parties hereto agree that in the event that there is any dispute or difference between them arising out of or in connection with this Sublease Agreement or in the interpretation of any of the provisions hereof or the breach, termination or validity of this Sublease Agreement, the chief executives of GPA and ***(COMPANY)*** shall meet together within five (5) days of one party notifying the other party of any dispute in an effort to resolve such dispute by discussion between them. Any joint decision of such chief executives shall be binding upon the parties hereto.

30.02. Guam Procurement Law and Government Claims Act. Where any dispute is not resolved as provided for in the preceding Article 30.01, such dispute shall be resolved pursuant to the Guam Procurement Law (5 GCA Section 5001 et. seq.) and the Government Claims Act (5 GCA Section 6101 et. seq.).

30.03. Continuing Obligations. During the pendency of any dispute hereunder, the parties shall continue to perform their obligations hereunder.

ARTICLE 31 GOVERNING LAW

This Sublease Agreement will be governed by and construed in accordance with the laws of the Territory Guam and the applicable laws of the United States of America.

ARTICLE 32 NO WAIVER

The failure of either party to this Sublease Agreement to insist on the performance of any of its terms and conditions, or the waiver of any breach of any of the terms and conditions of this Sublease Agreement, shall not be construed as thereafter waiving any such terms and conditions, but they shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

ARTICLE 33 ATTORNEYS' FEE

If either party commences an action against the other in connection with this Sublease Agreement, the prevailing party will be entitled to recover costs of suit and reasonable attorneys' fees.

ARTICLE 34 EFFECT OF PARTIAL INVALIDITY

The invalidity of any part of this Sublease Agreement will not and shall not be deemed to affect the validity of any other part. In the event that any provision of this Sublease Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

ARTICLE 35 ENTIRE AGREEMENT

This Sublease Agreement sets forth all the agreements between GPA and ***(COMPANY)*** concerning the premises, and there are no agreements, either oral or written, other than as set forth in the Sublease Agreement.

ARTICLE 36 MODIFICATION OF SUBLEASE AGREEMENT

Any modification of this Sublease Agreement or additional obligation assumed by either party in connection with this Sublease Agreement shall be binding only if evidenced by a document in writing signed by each party or an authorized representative of each party and approved by the Navy.

ARTICLE 37 COUNTERPARTS

This Sublease Agreement may be executed in any number of counterparts, each which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

ARTICLE 38 FURTHER ASSURANCES

The parties agree to execute whatever papers and documents and assurances may be necessary to effectuate the terms of this Sublease Agreement and take such further action required by law or as GPA or ***(COMPANY)*** ay from time to time reasonably request in order to carry out more effectively the intent and purpose of this Sublease Agreement and to establish and protect the rights and remedies created in favor of GPA or ***(COMPANY)***.

ARTICLE 39 PARAGRAPH HEADINGS

The titles to the paragraphs of this Sublease Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simply, or aid in the interpretation of the provisions of this Sublease Agreement.

ARTICLE 40 CONSENT BY NAVY

The Sublease Agreement will have no effect unless consented to in writing by the Navy.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Parties hereto have caused this Sublease Agreement to be executed on the dates provided below to be effective as of the day and year first above written.

WITNESS:

By: _____
D. GRAHAM BOTHA
GPA LEGAL COUNSEL
GUAM POWER AUTHORITY

Date: _____

GUAM POWER AUTHORITY

By: _____
JOHN M. BENAVENTE, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

Date: _____

APPROVED BY THE CONSOLIDATED COMMISSION ON UTILITIES:

By: _____ Date: _____
JOSEPH T. DUENAS
CHAIRMAN
CONSOLIDATED COMMISSION ON UTILITIES

WITNESS:

By: _____
WITNESS NAME
Title
Division
Company

Date: _____

(COMPANY)

By: _____
LESSEE SIGNATORY
Title
Division
Company

Date: _____

Exhibit A

MASTER LEASE

(to be provided)

Exhibit B

PREMISES
Property Maps & Descriptions

(to be provided)

INVITATION FOR MULTI-STEP BID

NO.: GPA-XXX-17

RENEWABLE ENERGY RESOURCE

PHASE III

Volume IV

Bid Scoring Mechanism

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1 Introduction

1.1 Overview

GPA will use the Bid Scoring Procedures described in this volume of the Invitation for Bid (IFB) to qualify Bidders for the participation in the final bid stage. The Bid Scoring Procedures provide the Bidders the opportunity to highlight their qualifications to bid in terms of their resources, experience in developing renewable resources, financial conditions and creditworthiness qualifications, risk exposure, pricing structure, and ability to comply with bidding "Threshold Requirements".

The IFB bid evaluation shall be based on such specifications and based on the relative ranking of each Bidder's qualifications, financial information, and the structure of their bid.

1.2 Bid Scoring Worksheets

Bidders shall complete the following worksheets in the **Qualitative Scoring Workbook.xls** for Step 1 of this multi-step IFB.

- **Part 1- Qual Support References**
- **Part 2 – Technical Data**

Bidders shall complete the **Priced Proposal** worksheet in the **Priced Proposal Workbook.xls** for Step 2 of this multi-step IFB.

2 Step 1 - Qualitative Bid Scoring

The qualitative bid scoring is designed to assess the quality of the Bidder's resources, experience, credit worthiness, maturity of resource technology, and control of proposed site. Each GPA evaluator shall score each Bidder separately under a point system to determine the acceptability of each bid. The majority of the determinations of GPA evaluators shall prevail in the decision to Qualify or not Qualify a Bidder for Step 2.

2.1 Technical Qualification Proposal Qualitative Bid Scoring Procedure

The instructions for filling out the Qualitative Scoring Workbook are listed in the **Workbook Instructions** tab in the Workbook. The Bidder must complete all entries in the **Part 1- Qual Support References** and **Part 2 – Technical Data** tabs of the Workbook.

GPA may elect to have up to seven (7) evaluators for this IFB. Evaluators will be employees of GPA.

Each GPA evaluator will score Bidders' responses in the "**Part 1- Qual Support References"** and the **"Part 2 – Technical Data"** Worksheet Tabs using the following steps in filling out the "**Qual Eval Scoresheet"** tab:

- Review each Bidder's response to each line item;
- Assign a relative score to each Bidder's response to each line item;
- Determine each Bidder's weighted average raw score using pre-specified weights for each question.

The maximum Total Qualitative Score is **1,865 points**.

Each GPA evaluator will analyze the contents of the bids and categorize the bids as:

a. Acceptable—those Technical Qualification Proposals receiving a score at or above 80% of the total possible score of 1,865 points (those receiving 1,492 points).

b. Potentially Acceptable—those Technical Qualification Proposals receiving a score of less than 80% but at least 70% of the total possible score of 1,865 points (those receiving at least 1,306 points)

c. Unacceptable—those Technical Qualification Proposals receiving a score of less than 70% of the total possible score of 1,865 points (those receiving less than 1,306 points)

A rating of Potentially Acceptable means the GPA evaluator has determined this Bidder has a reasonable possibility of making its submittal acceptable. A percent score of less than 70% indicates that a GPA evaluator has determined that the Bidder has not supplied sufficient evidence of qualifications and should not be allowed to participate in Step 2.

After each GPA evaluator has completed the evaluation of Technical Qualification Proposals, GPA shall complete the Table 1 below. The Procurement Officer will enter for each GPA evaluator and Bidder one and only one of the following in the appropriate table cell below:

- Acceptable
- Potentially Acceptable
- Unacceptable

Table 1. Final Evaluation of Bidder Qualification

	BIDDER 1	BIDDER 2	BIDDER 3	BIDDER 4	BIDDER 5	BIDDER 6
TECHNOLOGY:						

EVALUATOR						
1						
2						
3						
4						
5						
Majority Result:						

If the majority of the GPA evaluators rate the Bidder as Acceptable, that Bidder is determined to be Qualified and will be allowed to participate in Step 2.

The Procurement Officer may initiate Step Two if there are sufficient acceptable Technical Qualification Proposals to assure effective price competition in the second phase without technical discussions. Sufficient acceptable Technical Qualification Proposals shall include variety of resource technologies in order to meet GPA's generation diversification goals.

If the Procurement Officer finds that such is not the case, the Procurement Officer shall issue an amendment to this Invitation for Bid or engage in technical discussions with Bidders who are rated by a majority of the GPA evaluators as Acceptable or Potentially Acceptable. During the course of such discussions, the Procurement officer shall not disclose any information derived from one Technical Qualification Proposals to any other Bidders. Once discussions are begun, any Bidder who has not been notified that it's Offer has been finally found acceptable, may submit supplemental information amending its Technical Offer at any time. Such submission may be made at the request of the Procurement Officer or upon the Bidder's own initiative.

Bidders who are rated by the majority of the GPA evaluators as Unacceptable are determined to be not qualified and will not be allowed to participate in Step 2.

The Procurement Officer shall record in writing the basis for finding a Bidder Not Qualified and make it part of the procurement file.

2.2 Qualitative Scoring

Table 2 identifies the factors that will determine which of the Bidders meet the qualifications to participate in Step 2, Price Evaluation, in this multi-step bid. Evaluators will score each bid by criteria category sub-factors listed in this table. The Evaluator scores will be summed by category and weighted to produce a weighted score. The weighted scores will be totaled to produce a total score which will be the final score used to determine "Acceptable", "Potentially Acceptable", and "Unacceptable" bids as defined in previous section.

Descriptions of the scoring criteria sub-factors can be found in Volume II.

Table 2 - Qualitative Scoring

Invitation for Bid: GPA-XXX-17 Renewable Resource Acquisition for the Guam Power Authority PART 3 - QUAL EVAL SCORESHEET					
Bidder's Name: **Bidder's No.: <<< BIDDER'S BID NO >>>**				**Date:**	
				BID EVALUTION	
EVALUATION FACTORS	**Raw Score Weight**	**MAX Possible Score**	**Maximum Weighted Possible Score**	**RAW SCORE**	**WEIGHTED SCORE**
A. PROJECT DEVELOPMENT	**20**	**26**	**520**	**0**	
A1. Method and status of project financing (3)		3			
A2. Level of site control by developer (6)		6			
A3. Project team experience (5)		5			
A4. Project Schedule & Commerical Operation Date (4)		4			
A5. Status of equipment supply and EPC agreements (3)		3			
A6. Bidder concurrence to the draft Purchase Power Agreement (5)		5			
B. PHYSICAL PROJECT CHARACTERISTICS	**20**	**20**	**400**	**0**	
B1. Operating Profile (5)		5			
B2. Point of delivery (5)		5			
B3. Risk that the resource will not perform as expected (5)		5			
B4. Project life and extension options. (5)		5			
C. POWER PRODUCT CHARACTERISTICS	**25**	**12**	**300**	**0**	
C1. Guaranteed Annual MWH (3)		3			
C2. Dispatchability (3) - **Proposals not capable of energy shifting total daily solar generated energy shall be disqualified.**		3			
C3. Product flexibility (3)		3			
C4. Contract Term (3)		3			
D. CREDIT EVALUATION	**20**	**21**	**420**	**0**	
D1. Debt and equity ratings (3)		3			
D2. Performance assurance (3)		3			
D3. Financial ratio analysis (3)		3			
D4. Default risk (3)		3			
D5. Credit concentration and liquidity effect (3)		3			
D6. Enforceability of contractual credit terms (3)		3			
D7. Bidder revisions to contract templates that may affect credit requirements (3)		3			
E. Environmental Permits and Impacts	**15**	**15**	**225**	**0**	
E1. Permits (5)		*5*			
E2. Site Environmental Assessment (10)		*10*			
TOTALS	**100**	**94**	**1865**	**0**	
				EVALUATION RATING:	
ACCEPTABLE - Scores Greater Than or Equal to:			**1492**		
POTENTIALLY ACCEPTABLE - Less than Acceptable but Greater Than or Equal to:			**1306**		
UNACCEPTABLE - Scores are less than:			**1306**		

3 Step 2 — Priced Proposal Evaluation

The price evaluation will be based on the total net cost to the utility of integrating a bidder's proposed project onto the utility's grid and purchasing the renewable energy from the bidder at the bidder's proposed price. Bids will be compared to each other based on the methodology and cost components described below.

The cost analysis will include an evaluation of the utility's fuel and O&M cost savings expected to be realized by contracting with each Bidder's project against the utility cost projected in GPA's 2013 Integrated Resource Plan using the Ventyx/ABB Strategist Software. GPA will award the contract(s) to the Bidder(s) whose bid yields the lowest Net Present Value Utility Costs that equals or is lower than GPA's projected net present value utility cost in the Integrated Resource Plan, while also meeting GPA's fuel diversification goals.

At this stage of the evaluation process, the components of the total cost of power to the utility for each bid will include the cost of the energy to be purchased as a product of the bid price and the Contract Energy based on the generation profile submitted by the bidder.

GPA will accept bids from intermittent resources that offer Annual Fixed Pricing (in $/MWh) for the term of the contract. GPA will not accept bids with year-over-year (YOY) escalation rates greater than 1.0% per year.

Table 3. Priced Proposal Evaluation

	BIDDER 1	BIDDER 2	BIDDER 3	BIDDER 4	BIDDER 5	BIDDER 6
TECHNOLOGY:						
Net Present Value – Contract Costs						

GPA will select the bids based on the lowest net present value costs results.

The basis of the cost analysis will be the process used in developing GPA's Integrated Resource Plan. GPA's Integrated Resource Plan includes assumptions such as GPA Generator performance and efficiencies (Heat Rate, Availability, etc.), Fuel Forecasts, Load Forecasts, and GPA Generator Fixed and Variable Operating Costs.

Renewable bids compete with GPA operating cost for Generation (all power plants) including but not limited to variable O&M and fuel costs using the Ventyx/ABB Strategist software application. The evaluation compares the difference in total system costs between the case without Phase III Renewable Energy Bids and with Bidder proposed costs and energy guarantees singly and in combination. To meet the avoided cost standard, the Bidder's proposed costs and operational guarantees must result in an equal or lower total system cost when included in the GPA generation mix than the GPA system without the proposed renewable energy system.

The charts below show GPA's Marginal Electric Cost for its current operation.

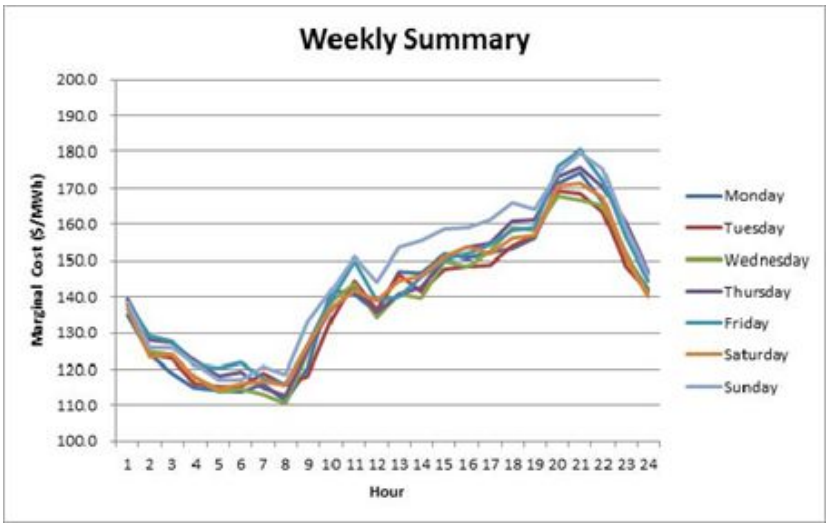


Figure 3 Weekly Marginal Electric Costs Assuming Cabras Unit 3 is Online

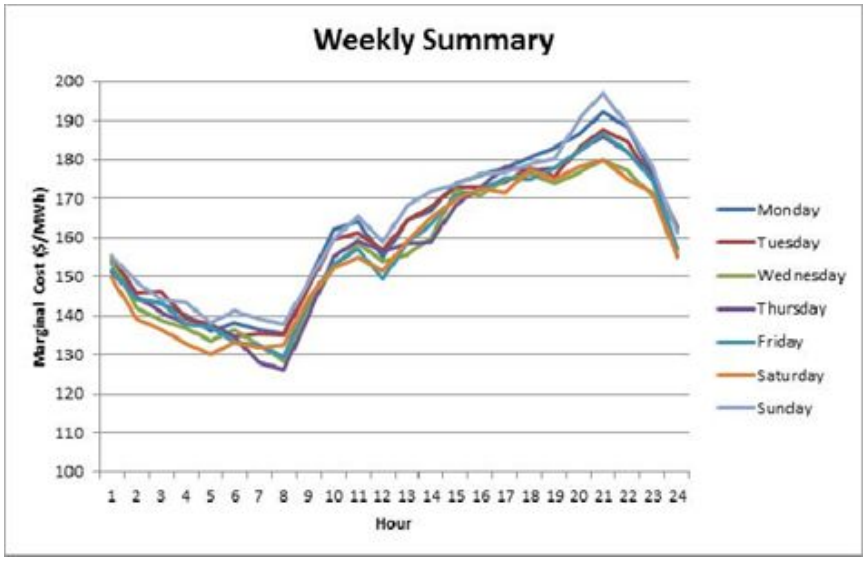


Figure 4 Weekly Marginal Electric Costs Assuming Cabras Unit 3 is Offline

Historical LEAC rates are also provided in Appendix O of the bid documents.

INVITATION FOR MULTI-STEP BID

NO.: GPA – XXX- 17

RENEWABLE ENERGY RESOURCE

PHASE III

Volume V

Appendices

APPENDIX A

Proposal Checklists

DOCUMENT RECEIPT CHECKLIST

Document Title	Proponent Initial
Volume I Commercial Terms and Conditions	_____
Volume II Technical Qualification Requirements	_____
Volume III Purchase Power Agreement (Draft)	_____
Volume IV Proposal Scoring Mechanism	_____
Volume V Appendices	_____
APPENDIX A – Proposal Checklist	_____
APPENDIX B – Bid Bond Form and Instructions	_____
APPENDIX C – Major Shareholders Disclosure Affidavit	_____
APPENDIX D – Non-Collusion Affidavit	_____
APPENDIX E – Local Procurement Preference Application	_____
APPENDIX F – Performance Bond	_____
APPENDIX G – Electrical System Drawings	_____
APPENDIX H – Required Interconnection Technical Information	_____
APPENDIX I – Not Used	_____
APPENDIX J – No Gratuities or Kickbacks Affidavit	_____
APPENDIX K – Ethical Standards Affidavit	_____
APPENDIX L – Declaration Re Compliance With U.S. DOL Wage Determination	_____
APPENDIX M – Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property	_____
APPENDIX N – Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations	_____
APPENDIX O – Historical LEAC – Fuel Recovery Rates	_____
APPENDIX P – Environmental Assessment for PV Systems (2015)	_____
APPENDIX Q – Site Access Security Application	_____
Qualitative Scoring Workbook.xls	_____
Priced Proposal Workbook.xls	_____
Contiguous Amendment Notifications From Amendment No. 1 through ___	_____
Others:	_____

TECHNICAL PROPOSAL SUBMITTAL CHECKLIST

	ITEM	QUANTITY (ORIGINALS) [1]	QUANTITY (COPIES) [1]	GPA INITIAL
1	Technical Qualification Proposal	_____	_____	_____
2	Written Responses and Supporting Information to the Questions Raised in the Qualitative Scoring Workbook	_____	_____	_____
3	Electronic Copy of the Completed Qualitative Scoring Workbook (Reference Worksheet)	_____	_____	_____
4	Completion of data input into Technical Proposal Form	_____	_____	_____
5	Electronic Copy of the Completed Price Technical Proposal Workbook	_____	_____	_____
6	Supplementary Information:	_____	_____	_____
6.1	Articles of Incorporation and By-Laws[2]	_____	_____	_____
6.2	Affidavit of Disclosure of Major Shareholders (Appendix D)[2]	_____	_____	_____
6.3	Audited Financial Information on Bidder and Sub-Contractors	_____	_____	_____
6.4	Certificate of Good Standing[2]	_____	_____	_____
6.5	Non-collusion Affidavit (Appendix E)[2]	_____	_____	_____
6.6	Client References	_____	_____	_____
6.7	Bid Bond[2]	_____	_____	_____
6.8	Local Procurement Preference Application	_____	_____	_____
6.9	No Gratuities or Kickbacks Affidavit	_____	_____	_____
6.10	Ethical Standards Affidavit	_____	_____	_____
6.11	Declaration Re Compliance with US DOL Wage Determination	_____	_____	_____
6.12	Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property	_____	_____	_____

[1] Quantities supplied for each item must comply with minimums established in Volume I of the Invitation for Bid documents.
[2] Proposal is subject to automatic disqualification if this article is not provided.

APPENDIX B

Bid Bond Form and Instructions

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

BID BOND

NO. :_____

KNOW ALL MEN BY THESE PRESENTS that _____, as Principal Hereinafter called the Principal, and (Bonding Company), _____ A duly admitted insurer under the laws of the Territory of Guam, as Surety, hereinafter called the Surety are Held firmly bound unto the Territory of Guam for the sum of _____ Dollars ($_____), for Payment of which sum will and truly to be made, the said Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid (Identify project by number and brief description)

_____

_____

NOW, THEREFORE, if the Territory of Guam shall accept the bid of the Principal and the Principal shall enter into a Contract with the Territory of Guam in accordance with the terms of such bid, and give such bond or bonds as my be specified in bidding or Contract documents with good and sufficient surety for the faithful performance of such Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Territory of Guam the difference not to exceed the penalty hereof between the amounts specified in said bid and such larger amount for which the Territory of Guam may in good faith contract with another party to perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain full force and effect.

Signed and sealed this _____ day of _____ 2017.

_____
(PRINCIPAL) (SEAL)

_____
(WITNESS)

_____
(TITLE)

_____
(MAJOR OF FICER OF SURETY)

_____ _____
(TITLE) (TITLE)

_____
(RESIDENT GENERAL AGENT)

SE E I NSTRUCTI ONS FOR SUPPORTI NG DOCUME NTS RE Q UI RE D.

I NSTRUCTI ON TO PROVI DE RS:

NOTICE to all Insurance and Bonding Institutions:

The Bond req uires the signatures of the Vendor, two (2) maj or Officers of the Surety and Resident General Agent, if the Surety is a foreign or alien surety.

W hen the form is submitted to the Guam Power Authority, it should be accompanied with copies of the following:

1 . Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Tax ation.

2 . Power of Attorney issued by the Surety to the Resident General Agent.

3 . Power of Attorney issued by two (2) maj or officers of the Surety to whoever is signing on their behalf.

Bonds, submitted as Bid Guarantee, without signatures and supporting documents are invalid and Bids will be rej ected.

APPENDIX C

Major Shareholders Disclosure Affidavit

GUAM POWER AUTHORITY
ATURIDAT ILEKTRESEDAT GUAHAN
P O BOX 2977, AGANA, GUAM 96932-2977

SPECIAL PROVISON
FOR
MAJOR SHAREHOLDERS DISCLOSURE AFFIDAVIT

All Bidders/Offerors are required to submit a current affidavit as required below. Failure to do so will mean disqualification and rejection of the bid/rfp.

5 GCA §5233 (Title 5, Section 5233) states:

"Section 5233 Disclosue of Major Shareholders. As a condition of submitting a bid or offer, any partnership, sole proprietorship or corporation doing business with the government of Guam shall submit an affidavit executedunder oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid, or, that it is a not for profit organization that qualifies for tax exemption under the Internal Revenue Code of the United States or the Business Privilege Tax law of Guam, Title 12, Guam Code Annotated, Section 26203©. With the exception of not for profit organizations, the affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or offer and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying."

1. **If the affidavit is a copy, indicate the BID/RFP number and where it is filed.**

2. **Affidavits must be signed within 60 days of the date the bids or proposals are due.**

MAJOR SHAREHOLDERS OF DISCLOSURE AFFIDAVIT

TERRITORY OF GUAM)
)
HAGATNA, GUAM)

I, undersign, _____,
(partner or officer of the company of, etc.)
being first duly sworn, deposes and says:

1. That the person who have held more than ten percent (10%) of the company's shares during the past twelve (12) months are as follows:

Name	Address	Percentage of Shares Held
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
	Total number of shares	_____

2. Persons who have received or are entitled a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid/rfp for which this Affidavit is submitted are as follows:

Name	Address	Amount of Comission Gratuity or other Compension
_____	_____	_____
_____	_____	_____

Further, affiant sayeth naught.

Date:_____ _____
Signature of individual if bidder/offeror is a sole Proprietorship; Partner, if the bidder/offeror is a Partnership Officer, if the bidder/offeror is a corporation.

Subscribe and sworn to before me this _____ day of _____,

20_____.

Notary Public _____

In and for the Territory of Guam

My Commision expires _____.

APPENDIX D

Non-collusion Affidavit

NON-COLLUSION AF F IDAVIT

Guam)
)ss:
H agatna)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1 . That I am the _____ of _____ .
(Title) (Name of Bidding/ RF P Company)

2 . That in mak ing the foregoing proposal or bid, such proposal or bid is Genuine and not collusive or shame, that said bidder/ offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham or to refrain from bidding or submitting a proposal and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid amount of any other bidder, or to secure any overhead, proj ect or cost element of said bid price, or that of any bidder, or to secure any advantage against the GUAM POW ER AUTH ORITY or any person interested in the proposed contract; and

3 . That all statements in said proposal or bid are true.

4 . This affidavit is made in compliance with Guam Administrative Rules and Regulations § § 3 1 2 6 (b).

_____
(Declarant)

SUBSCRIBED AND SW ORN to me before this _____ day of _____ 2 0 1 7 .

)Seal(

_____
Notary Public

SPECIAL PROVISIONS

All offerors are required to submit a current affidavit; failure to do so will mean disqualification and rejection of the proposal.

APPENDIX E

Local Procurement Preference Application

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Edward J. B. Calvo
Governor

Raymond S. Tenorio
Lieutenant Governor

Telephone Nos. (671) 648-3054 / 55 Fax: 648-3165

Accountability · Impartiality · Competence · Openness · Value

LOCAL PROCUREMENT PREFERENCE APPLICATION

Based on the law stipulated below, please place a check mark or an "X" on the line indicating the item that applies to your business:

5 GCA, Chapter 5, Section 5008, "Policy Preference" of the Guam Procurement Law states:

All procurement of supplies and services shall be made from among businesses licensed to do business on Guam and that maintains an office or other facility on Guam, whenever a business that is willing to be a contractor is:

( ) (a) A licensed bonafide manufacturing business that adds at least twenty-five percent (25%) of the value of an item, not to include administrative overhead, using workers who are U. S. Citizens or lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their former citizenship in the Trust Territory for the Pacific Islands; or

( ) (b) A business that regularly carries an inventory for regular immediate sale of at least fifty percent (50%) of the items of supplies to be procured; or

( ) (c) A business that has a bonafide retail or wholesale business location that regularly carries an inventory on Guam of a value of at least one half of the value of the bid or One Hundred Fifty Thousand Dollars ($150,000.00 if less), which supplies and items of a similar nature to those being sought; or

( ) * (d) A service actually in business, doing substantial business on Guam, and hiring at least 95% U. S. Citizens, lawfully admitted permanent residents or national of the Unites States, or persons who lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

- Bidders indicating qualification under (d) may be considered QUALIFIED for the Local Procurement Preference **only if** the Government's requirement is for service. Service is defined Pursuant to 5 GCA Government Operations Subparagraph 5030 entitled DEFINITIONS under Chapter 5 of the Guam Procurement Law.

1. I _____, representative for _____, have read the requirements of the law cited above and do hereby qualify and elect to be given the LOCAL PROCUREMENT PREFERENCE for Bid No.: GPA _____. By filling in this information and placing my signature below, I understand that the Guam Power Authority will review this application and provide me with a determination whether or not the 15% preference will be applied to this bid.

2. I _____, representative for _____, have read the requirements of the law cited above, and do not wish to apply for the Local Procurement Preference for Bid No.: GPA _____.

_____
Bidder Representative Signature

_____
Date

APPENDIX F

Performance Bond

PERFORMANCE BOND NUMBER:_____

KNOW ALL MEN BY THESE PRESENTS that _____ , as Principal, hereinafter called **CONTRACTOR**, and _____ , a corporation hereinafter called **SURETY**, are held and firmly bound unto the **GUAM POWER AUTHORITY** as Obligee, in the amount of _____ Dollars ($_____), an amount negotiated for the first partial **GUAM POWER AUTHORITY** fiscal year within the term of the **CONTRACT**, for the payment whereof **CONTRACTOR** and **SURETY** bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, **CONTRACTOR** has by written agreement dated _____, 2009, entered into a **PURCHASE POWER AGREEMENT** with the **GUAM POWER AUTHORITY** through midnight of _____, _____, in accordance with forms and specifications prepared by the **GUAM POWER AUTHORITY** which **CONTRACT** is by reference made a part hereof, and is hereinafter referred to as the "**CONTRACT**".

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if **CONTRACTOR** shall promptly and faithfully perform said **CONTRACT** then this obligation shall be null and void; otherwise it shall remain in full force and effect. The **SURETY** hereby waives notice of any alteration or extension provided the same is within the scope of the **CONTRACT**. Whenever **CONTRACTOR** shall be and is declared by the **GUAM POWER AUTHORITY** to be in default under the **CONTRACT**, **GUAM POWER AUTHORITY** having performed its obligation thereunder, the **SURETY** may promptly remedy the default or shall promptly:

(1) Complete the **CONTRACT** in accordance with its terms and conditions; or,

(2) Obtain a bid or bids for completing the **CONTRACT** in accordance with its terms and conditions and upon determination by the **GUAM POWER AUTHORITY** and the **SURETY** jointly of the lowest responsive, responsible **BIDDER**, arrange for a **CONTRACT** between such **BIDDER** and the **GUAM POWER AUTHORITY** and make available as work progresses (even though there should be a default or a succession of defaults under the **CONTRACT** or **CONTRACTs** of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the **CONTRACT** price; but not exceeding, including other costs and damages for which the **SURETY** may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "balance of the **CONTRACT** price", as used in this paragraph shall mean the total amount payable by the **GUAM POWER AUTHORITY** to **CONTRACTOR** under the **CONTRACT** for the current fiscal year and any amendments thereto, less the amount properly paid by the **GUAM POWER AUTHORITY** to **CONTRACTOR** for that partial or full fiscal year.

The term fiscal year shall mean the time between October 1 in the calendar year to September 30 of the next calendar year.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the **GUAM POWER AUTHORITY** or successors of the **GUAM POWER AUTHORITY**.

Signed and sealed this _____ day of _____, 20_____.

_____

(Principal) (Seal)

_____

(Witness) (Bonding Company)

_____

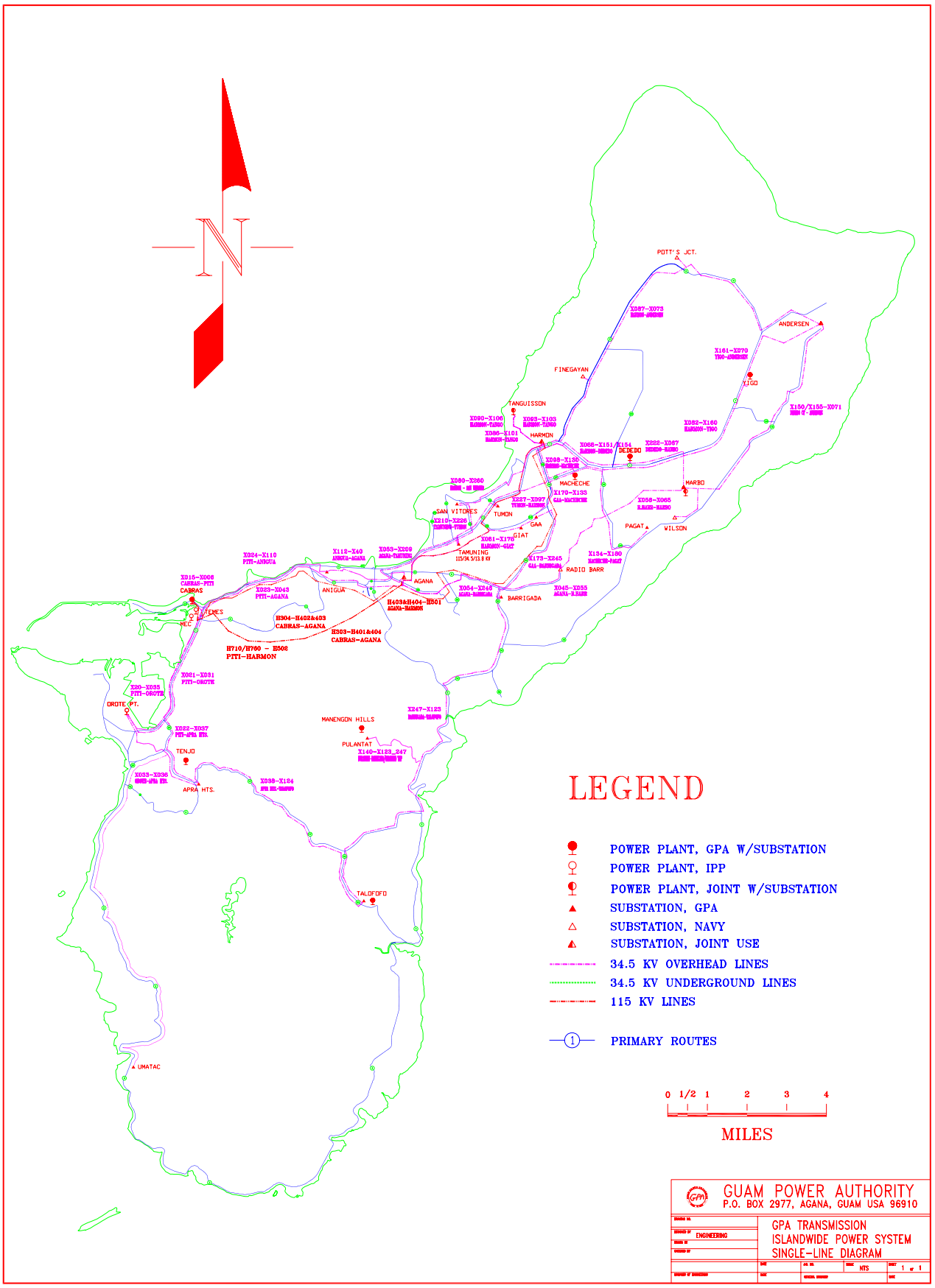
(Title) (Title)

By: _____

(Witness) (Attorney-In-Fact)

APPENDIX G

Electrical System Drawings


POTT'S JCT.
ANDERSEN
FINEGAYAN
LIGO
TANGUISSON
HARMON
DEDEDO
MACHECHE
MARBO
SAN VITORES
TUMON
GAA
GIAT
PAGAT
WILSON
TAMUNING
RADIO BARR
AGANA
ANIGUA
BARRIGADA
CABRAS
TEMES
NEC
H304-H402&403
CABRAS-AGANA
H303-H401&404
CABRAS-AGANA
H710/H760 - H502
PITI-HARMON
OROTE PT.
MANENGON HILLS
PULANTAT
TENJO
APRA HTS.
TALOFOFO
UMATAC
LEGEND
POWER PLANT, GPA W/SUBSTATION
POWER PLANT, IPP
POWER PLANT, JOINT W/SUBSTATION
SUBSTATION, GPA
SUBSTATION, NAVY
SUBSTATION, JOINT USE
34.5 KV OVERHEAD LINES
34.5 KV UNDERGROUND LINES
115 KV LINES
PRIMARY ROUTES
0 1/2 1 2 3 4
MILES
GUAM POWER AUTHORITY
P.O. BOX 2977, AGANA, GUAM USA 96910
ENGINEERING
GPA TRANSMISSION
ISLANDWIDE POWER SYSTEM
SINGLE-LINE DIAGRAM
NTS

APPENDIX H

Required Interconnection Technical Information

Bidders are required to provide the following information in describing or detailing proposed project's interconnection with GPA grid.

1. Provide preliminary Single-Line Diagram(s) for the generation and interconnection facilities. The Single-line diagram(s) should include:

    a. **Transformers -** For main and generator step up transformer(s), show:

        i. Transformer voltage and MVA ratings.

        ii. Transformer impedance(s).

            - Transformer winding connections and grounding. If neutrals are grounded through impedance, show the impedance value.

    b. **Breakers -** For the Breakers include:

        i. The voltage, continuous current and interrupting capability ratings.

        ii. The trip speed (time to open)

    c. The protective relaying and metering for the generators, buses, and all other main substation equipment.

    d. For the potential transformers, indicate the type, quantity, ratio, and accuracy rating.

    e. For the current transformers, indicate the type, quantity, ratio, and accuracy rating, and thermal rating factor.

    f. Auxiliary power devices (e.g. capacitors, reactors, storage systems, etc.) and their rating(s); additional inquiries may be made to obtain technical data for these devices.

    g. The generator(s) voltage, impedances, and MVA ratings.

    h. The generator grounding method. If the generator is not solidly grounded, provide the grounding method details and equipment ratings.

2. Provide a plan map of the facilities and indicate the interconnection point to the GPA system.

3. Provide the technical specifications and other information available for the generators included in the proposal.

APPENDIX I

(Not Used)

APPENDIX J

No Gratuities or Kickbacks Affidavit

NO GRA TUI TI E S OR K I CK BA CK S A FFI DA VI T

A FFI DA VI T
(Offeror)

TE RRI TORY OF GUA M)
) SS:
H A GA TNA , GUA M)

_____, being first duly sworn, deposes and says:

As the duly authoriz ed representative of the Offeror, and neither I nor the Offeror' s officers, representatives, agents, subcontractors, or employees has or have offered, given or agreed to give any government of Guam employee or former employee, any payment, gift, k ick back , gratuity or offer of employment in connection with Offeror' s proposal.

_____

Signature of Individual if Proposer is a Sole Proprietorship; Partner if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBCRI BE D A ND SW ORN before me this _ day of _____, 2 0 1 7 .

_____
Notary Public
In and for the Territory of Guam
My Commission Ex pires:

APPENDIX K

Ethical Standards Affidavit

E TH I CA L STA NDA RDS A FFI DA VI T

A FFI DA VI T
(Proposer)

TE RRI TORY OF GUA M)
) SS:
H A GA TNA , GUA M)

_____, being first duly sworn, deposes and says: That I am (the Sole Proprietor, a Partner or Officer of the Offeror)
That Offeror mak ing the foregoing Proposal, that neither he or nor of the Offeror' s officers, representatives, agents, subcontractors, or employees of the Offeror have k nowingly influenced any government of Guam employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 1 1 , and promises that neither he nor any officer, representative, agent, subcontractor, or employee of Offeror will k nowingly influence
any government of Guam employee to breach any ethical standard set for in 5 GCA Chapter 5 Article 1 1 .

_____

Signature of Individual if Proposer is a Sole Proprietorship; Partner if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBCRI BE D A ND SW ORN to before me this _ day of _____, 2 0 1 7 .

_____
Notary Public
In and for the Territory of Guam
My Commission Ex pires:

APPENDIX L

Declaration Re Compliance with US DOL Wage Determination

DECLARATION RE-COMPLIANCE W ITH U. S. DOL W AGE DETERMINATION

Procurement No. : _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

Name of Offeror Company: _ _ _ _ _ _ _ _ _ _ _ _ _ _

APPENDIX M

Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property

GUAM POWER AUTHORITY
ATURIDAT I LEKTRESEDAT GUAHAN
PO BOX 2977, AGANA, GUAM 96932-2977

SPECIAL PROVISION FOR MAJOR SHAREHOLDERS DISCLOSURE AFFIDAVIT

All Bidders/Offerors are required to submit a current affidavit as required below. Failure to do so will mean disqualification and rejection of the bid/rfp.

5 GCA § 5233 (Title 5, Section 5233) states:

" Section 5233 Disclosure of Major Shareholders. As a condition of submitting a bid or offer, any partnership, sole proprietorship or corporation doing business with the government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid, or, that it is a not for profit organization that qualifies for tax exemption under the Internal Revenue Code of the United States or the Business Privilege Tax law of Guam, Title 12, Guam Code Annotated, Section 26203©. With the exception of not for profit organizations, the affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which were held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or offer and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying. "

1. **If the affidavit is a copy, indicate the BID/RFP number and where it is filed.**
2. **Affidavits must be signed within 60 days of the date the bids or proposals are due.**

APPENDIX N

Procurement Regulations

(excerpts from 1984 GSA Procurement Regulations)

3-403 Cost or Pricing Data

6-101.09 Liquidated Damages

3-401.05 WRITTEN DETERMINATION OF NONRESPONSIBILITY REQUIRED.
If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the procurement file.

3-402 PREQUALIFICATION OF SUPPLIERS.
Prospective suppliers may be prequalified for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors shall include, but shall not be limited to, such prequalified suppliers.

3-402.01 PREQUALIFICATION.

3-402.01.1 GENERAL.
Prospective contractors may be prequalified for bidder lists, but distribution of the solicitation shall not be limited to prequalified contractors, nor may a prospective contractor be denied award of a contract simply because such contractor was not prequalified. The fact that a prospective contractor has been prequalified does not necessarily represent a finding of responsibility.

3-402.01.2 QUALIFIED PRODUCTS LISTS.
This Section is not applicable to qualified products lists which are treated in Section 4-202.02.2 (Procedures for the Development of Specifications, Special Additional Procedures) of Chapter 4 (Specifications) of these Regulations.

3-403 COST OR PRICING DATA.

3-403.01 SCOPE OF REGULATION ON COST OR PRICING DATA.
This Section sets forth the pricing policies which are applicable to contracts of any type and any price adjustments thereunder when cost or pricing data are required to be submitted. The provisions of this Section requiring submission of cost or pricing data do not apply to a contract let by competitive sealed bidding (including multi-step bidding) or small purchases. However, cost or pricing data may be required under a contract let by competitive sealed bidding when price adjustments are subsequently made in such a contract and, to this extent, those provisions would apply. See Section 3-403.02 (Requirement for Cost or Pricing Data) for when the contractor may be required to submit cost or pricing data.

3-403.02 REQUIREMENT FOR COST OR PRICING DATA.

3-403.02.1 SUBMISSION OF COST OR PRICING DATA. Except as provided in Subsection 3-403.02.2 of this Section, cost or pricing data is required to be submitted in support of a proposal when:

(a) any contract expected to exceed $100,000 is to be awarded by competitive sealed proposals, by sole source procurement, by competitive selection, or under Chapter 5 of the Guam Procurement Act, (Architect-Engineer and Land Surveying Services).

(b) adjusting the price of any contract, including a contract awarded by competitive sealed bidding, whether or not cost or pricing data were required in connection with the initial pricing of the contract, if the adjustment involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. (For example, the requirement applies to a $30,000 net modification resulting from a reduction of $70,000 and an increase of $40,000 when the reduction and increase are related.) However, this requirement shall not apply when unrelated and separately priced adjustments for which cost or pricing data would not be required if considered separately are consolidated for administrative convenience. The price shall also be adjusted to reflect non-payment by the contractor of any taxes which would have been paid were it not for the exclusion provided by Section 19543.1016 (Gross Receipts Tax) as added by Section 26 of the Guam Procurement Act; or

(c) the Procurement Officer makes a written determination that the circumstances warrant requiring submission of cost or pricing data provided, however, cost or pricing data shall not be required where the contract award is made pursuant to competitive sealed bidding. However, generally cost or pricing data should not be required where the contract or modification is less than $25,000. Moreover, when less than complete cost analysis (for example, analysis of only specific factors) will provide a reasonable pricing result on awards under $100,000 without the submission of complete cost or pricing data, the Procurement Officer shall request only that data considered adequate to support the limited extent of the cost analysis needed and need not require certification.

3-403.02.2 EXCEPTIONS

Cost and pricing data need not be submitted or certified:

(a) where the contract price is based on:
  (i) adequate price competition;
  (ii) established catalogue prices or market prices; except as provided by Section 3-403.03.3(c); or
  (iii) prices set by law or regulation; or

(b) when the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency determines in writing to waive the applicable requirement for submission of cost or pricing data under Subsection 3-403.02.1(a), (b), or (c) of this Section in a particular pricing action and the reasons for such waiver are stated in the determination. A copy of such determination shall be kept in the contract file and made available to the public upon request.

If, after cost or pricing data were initially requested and received, it is determined that adequate price competition does exist, the data need not be certified.

3-403.03 MEANING OF TERMS 'ADEQUATE PRICE COMPETITION', 'ESTABLISHED CATALOGUE PRICES OR MARKET PRICES', AND 'PRICES SET BY LAW OR REGULATION'.

3-403.03.1 APPLICATION.

As used in the exceptions set forth in Section 3-403.02.2 (Requirement for Cost or Pricing Data, Exceptions) the terms 'adequate price competition', 'established catalogue prices or market prices', and 'prices set by law or regulations' shall be construed in accordance with the following definitions.

3-403.03.2 ADEQUATE PRICE COMPETITION.

Price competition exists if competitive sealed proposals are solicited and at least two responsible offerors independently compete for a contract to be awarded to the responsible offeror submitting the lowest evaluated price by submitting priced offers (or best and final offers) meeting the requirements of the solicitation. If the foregoing conditions are met, price competition shall be presumed to be "adequate" unless the Procurement Officer determines in writing that such competition is not adequate.

3-403.03.3 ESTABLISHED CATALOGUE PRICES OR MARKET PRICES.

(a) See §6958(b) (Definitions, Established Catalogue Price of the Guam Procurement Act), for the definition of established catalogue price. (This definition is quoted in Section 1-106.24 of these Regulations).

(b) 'Established Market Price' means a current price, established in the usual and ordinary course of trade between buyers and sellers, which can be substantiated from sources which are independent of the manufacturer or supplier and may be an indication of the reasonableness of price.

(c) If, despite the existence of an established catalogue price or market price, and after consultation with the prospective contractors, the Procurement Officer considers that such price is not reasonable, cost or pricing data may be requested. Where the reasonableness of the price can be assured by a request for cost or pricing data limited to data pertaining to the differences in the item or services being procured and those listed in the catalogue or market, requests should be so limited.

3-403.03.4 PRICES SET BY LAW OR REGULATION.
The price of a supply or service is set by law or regulation if some governmental body establishes the price that the offeror or contractor may charge the territory and other customers.

3-403.04 SUBMISSION OF COST OR PRICING DATA AND CERTIFICATION.

3-403.04.1 TIME AND MANNER.
When a cost or pricing data are required, they shall be submitted to the Procurement Officer prior to beginning price negotiations at any reasonable time and in any reasonable manner prescribed by the Procurement Officer. When the Procurement Officer requires the offeror or contractor to submit cost or pricing data in support of any proposal, such data shall either be actually submitted or specifically identified in writing.

3-403.04.2 OBLIGATION TO KEEP DATA CURRENT.
The offeror or contractor is required to keep such submission current until the negotiations are completed.

3-403.04.3 TIME FOR CERTIFICATION.
The offeror or contractor shall certify as soon as practicable after agreement is reached on price that, to the best of his knowledge and belief, the cost or pricing data submitted are accurate, complete, and current as of a mutually determined date prior to reaching an agreement. Certification shall be made using the certificate set forth in Section 3-403.05 (Certificate of Current Cost or Pricing Data) of these Regulations.

3-403.04.4 REFUSAL TO SUBMIT DATA.
A refusal by the offeror to supply the required data shall be referred to the Chief Procurement Officer, the Director of

Public Works, or the head of a Purchasing Agency, whose duty shall be to determine in writing whether to disqualify the noncomplying offeror, to defer award pending further investigation, or to enter into the contract. A refusal by a contractor to submit the required data to support a price adjustment shall be referred to the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency who shall determine in writing whether to further investigate the price adjustment, not to allow any price adjustment, or to set the amount of the price adjustment, subject to the contractor's rights under Chapter 9 (Legal and Contractual Remedies) of these Regulations.

3-403.05 CERTIFICATE OF CURRENT COST OR PRICING DATA.

3-403.05.1 FORM OF CERTIFICATE.
When cost or pricing data must be certified, a certificate substantially as set forth below shall be included in the contract file along with any award documentation required under these Regulations. The offeror or contractor shall be required to submit the certificate as soon as practicable after agreement is reached on the contract price or adjustment.

CERTIFICATE OF CURRENT COST OR PRICING

This is to certify that, to the best of my knowledge and belief, cost or pricing data as defined in Section 3-101.01 of the Guam Procurement Regulations submitted, either actually or by specific identification in writing (See Section 3-403.04) to the Procurement Officer in support of .....[1], are accurate, complete, and current as of (date)(month)(year).....[2]

This certification includes the cost or pricing data supporting any advance agreement(s) between the offeror and the territory which are part of the proposal.

FIRM.....

NAME.....

TITLE.....

DATE OF EXECUTION.....[3]
(End of Certificate)

[1]Describe the proposal, quotation, request for price adjustment or other submission involved, giving appropriate identifying number (e.g., RFP No. _____).

contractor's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

(6) *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."

6-101.09 LIQUIDATED DAMAGES CLAUSE.

6-101.09.1 WITH TERMINATION FOR DEFAULT CLAUSE.
The following clause is authorized for use in supply or service contracts when it is difficult to determine with reasonable accuracy the amount of damage to the territory due to delays caused by late contractor performance or nonperformance and the contract contains the termination for default clause set forth in Section 6-101.08 of this Chapter.

"LIQUIDATED DAMAGES

When the Contractor is given notice of delay or nonperformance as specified in Paragraph (1) (Default) of the Termination for Default Clause of this contract and fails to cure in the time specified, the contractor shall be liable for damages for delay in the amount of one-fourth of one-percent (1%) of outstanding order per calendar day from date set for cure until either the territory reasonably obtains similar supplies or services if the contractor is terminated for default, or until the contractor provides the supplies or services if the contractor is not terminated for default. To the extent that the contractor's delay or nonperformance is excused under Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of the Termination for Default Clause of this contract, liquidated damages shall not be due the territory. The contractor remains liable for damages caused other than by delay."

6-101.09.2 IN OTHER SITUATIONS.
If the contract will not have a termination for Default Clause or the liquidated damages are to be assessed for reasons other than delay, the Chief Procurement Officer or the head of a Purchasing Agency may approve the use of any appropriate liquidated damages clause.

6-101.10 TERMINATION FOR CONVENIENCE CLAUSE.

"TERMINATION FOR CONVENIENCE

(1) *Termination.* The Procurement Officer may, when the interest of 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.

[2]The effective date shall be a mutually determined date prior to, but as close to the date when price negotiations were concluded and the contract price was agreed to as possible. The responsibility of the offeror or contractor is not limited by the personal knowledge of the offeror's or contractor's negotiator if the offeror or contractor had information reasonably available at the time of agreement, showing that the negotiated price is not based on accurate, complete, and current data.

[3]This date should be as soon after the date when the price negotiations were concluded and the contract price was agreed to as practical.

3-403.05.2 REPRESENTATION AS TO ACCURACY OF COST OR PRICING DATA.
Although the certificate pertains to "cost or pricing data", it is not to be construed as a representation as to the accuracy of the offeror's or contractor's judgment on the estimated portion of future costs or projections. It does, however, constitute a representation as to the accuracy of the data upon which the offeror's or contractor's judgment is based. A Certificate of Current Cost or Pricing Data shall not substitute for examination and analysis of the offeror's or contractor's proposal.

3-403.05.3 INCLUSION OF NOTICE AND CONTRACT CLAUSE.
Whenever it is anticipated that a Certificate of Current Cost or Pricing Data may be required, notice of this requirement shall be included in the solicitation. If such a certificate is required, the contract shall include a clause giving the territory a contract right to a reduction in the price as provided in Section 3-403.06 (Defective Cost or Pricing Data).

3-403.05.4 EXERCISE OF OPTION.
The exercise of an option at the price established in the initial negotiation in which certified cost or pricing data were used does not require recertification or further submission of data.

3-403.06 DEFECTIVE COST OR PRICING DATA.
3-403.06.1 OVERSTATED COST OR PRICING DATA.
If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the territory is entitled to an adjustment of the contract price, including profit or fee or any exclusion of taxes (Gross Receipts Tax) pursuant to Section 19543.1016 as added by Section 26 of the Guam Procurement Act, to exclude any significant sum by which the price, including profit or fee or any exclusion of taxes (Gross Receipts Tax) pursuant to Section 19543.1016 as added by

Section 26 of the Guam Procurement Act was increased because of the defective data. Judgmental errors made in good faith concerning the estimated portions of future costs or projections do not constitute defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data were not used or relied upon, the price should be reduced in such amount. In establishing that the defective data caused an increase in the contract price, the Procurement Officer is not expected to reconstruct the negotiation by speculating as to what would have been the mental attitudes of the negotiating parties if the correct data had been submitted at the time of agreement on price.

3-403.06.2 OFF-SETTING UNDERSTATED COST OR PRICING DATA.

In determining the amount of a downward adjustment, the contractor shall be entitled to an off-setting adjustment for any understated cost or pricing data submitted in support of price negotiations for the same pricing action up to the amount of the territory's claim for overstated cost or pricing data arising out of the same pricing action.

3-403.06.3 DISPUTE.

If the contractor and the Procurement Officer cannot agree as to the existence of defective cost or pricing data or amount of adjustment due to defective cost or pricing data, the Procurement Officer shall set an amount in accordance with Subsections 3-403.06.1 and 3-403.06.2 of this Section and the contractor may appeal this decision as a contract controversy under Chapter 9 (Legal and Contractual Remedies) of these Regulations.

3-403.07 PRICE ANALYSIS TECHNIQUES.

Price analysis is used to determine if a price is reasonable and acceptable. It involves an evaluation of the prices for the same or similar items, services, or construction. Examples of price analysis criteria include, but are not limited to:

(a) price submissions of prospective bidders or offerors in the current procurement;
(b) prior price quotations and contract prices charged by the bidder, offeror, or contractor;
(c) prices published in catalogues or price lists;
(d) prices available on the open market; and
(e) in-house estimates of cost.

In making such analysis, consideration must be given to any differing terms and conditions.

3-403.08 COST ANALYSIS TECHNIQUES.
Cost analysis includes the appropriate verification of cost or pricing data, and the use of this data to evaluate:

(a) specific elements of costs;
(b) the necessity for certain costs;
(c) the reasonableness of amounts estimated for the necessary costs;
(d) the reasonableness of allowances for contingencies;
(e) the basis used for allocation of indirect costs;
(f) the appropriateness of allocations of particular indirect costs to the proposed contract; and
(g) the reasonableness of the total cost or price.

3-403.09 EVALUATIONS OF COST OR PRICING DATA.
Evaluations of cost or pricing data should include comparisons of costs and prices of an offeror's cost estimates with those of other offerors and any independent territorial price and cost estimates. They shall also include consideration of whether such costs are reasonable and allocable under the pertinent provisions of Chapter 7 (Cost Principles) of these Regulations.

3-501 TYPES OF CONTRACTS.

3-501.01 SCOPE OF SECTION.
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the territory in its procurement.

3-501.02 PROHIBITION OF COST-PLUS-A-PERCENTAGE-OF-COST CONTRACTING.
Except for a cost-plus-a percentage-of-cost contract, which is prohibited by Section 6952 (Types of Contract) of the Guam Procurement Act, the use of any type of contract is permissible.

3-501.03 POLICY REGARDING SELECTION OF CONTRACT TYPES.

3-501.03.1 GENERAL.
The selection of an appropriate contract type depends on factors such as the nature of supplies, services, or construction to be procured, the uncertainties which may be involved in contract performance, and the extent to which the territory or the contractor is to assume the risk of the cost of performance of the contract. Contract types differ in the degree of responsibility assumed by the contractor.

The objective when selecting a contract type is to obtain the best value in needed supplies, services, or construction in the time required and at the lowest cost or price to the territory.

APPENDIX O

Historical LEAC – Fuel Recovery Rates

Historical Levelized Adjustment Clause - Fuel Recovery Rate (Secondary)

EFFECTIVE DATES		FUEL RECOVERY RATE (per Kwh)
From	To	
4/20/2006	1/31/2007	0.098589
2/1/2007	7/31/2007	0.108893
8/13/2007	2/29/2008	0.123957
3/1/2008	5/31/2008	0.150467
6/1/2008	10/2/2008	0.170440
10/3/2008	11/30/2008	0.187750
12/1/2008	1/31/2009	0.171050
2/1/2009	4/30/2009	0.157630
5/1/2009	7/31/2009	0.136450
8/1/2009	1/31/2010	0.129670
2/1/2010	7/31/2010	0.150460
8/1/2010	1/31/2011	0.124650
2/1/2011	7/31/2011	0.161530
8/1/2011	1/31/2012	0.192220
2/1/2012	3/31/2012	0.191980
4/1/2012	7/31/2012	0.192310
8/1/2012	1/31/2013	0.186834
2/1/2013	7/31/2013	0.209271
8/1/2013	1/31/2014	0.182054
2/1/2014	7/31/2014	0.172986
8/1/2014	1/31/2015	0.176441
2/1/2015	7/31/2015	0.102054
8/1/2015	1/31/2016	0.104871
2/1/2016	7/31/2016	0.086613

APPENDIX P

Environmental Assessment for PV Systems (2015)

Environmental Assessment document removed due to file size for this draft transmittal

APPENDIX Q

Site Access Security Application

The following has been provided by Navy for some guidance to base access. Site security access is required for the Naval Base Guam sites. Site visit participants are required and responsible for obtaining the required security access for the site visit.

The Naval Base Guam Visitor Control Center (VCC) has indicated that the approval for visitor passes takes approximately 3-5 business days. The VCC will notify the 'company' who submitted the application when the approval is ready. Those requesting a pass must also be prepared to supply two forms of accepted identification on the day.

Also, depending on the duration of the project/visit, VCC may either issue a DBIDS paper pass or a credential. Normally, credentials are issued when the access is required for more than one year. This may be something to consider upon or near contract award.

Additionally, for your information, NCACS (Rapidgate) IDs have been transitioning to the DBIDS credential. If you hold a NCACS/Rapidgate you will need to have made the change before August 15, 2017 in order to continue base access.

Please note that Foreign Nationals do require in-person biometrics and therefore the lead time for pass/ID is longer (requirement for foreign national to go to VCC in-person prior to the site visit date).

The Naval Base Guam VCC is located outside the main Naval Base front gate and open Monday, Tuesday, Thursday & Friday 6:30 a.m. to 4:30 p.m and Wednesday, 7:00 a.m. to 3:00 p.m. For more information please call 339-1280 or 339-1380.

The following is a sample of the required application form.

Application form to be provided (removed due to file size for this draft transmittal)

Invitation for Bid: GPA-XXX-17
Re-Bid Renewable Resource Acquisition for the Guam Power Authority
QUALITATIVE SCORING WORKBOOK INSTRUCTIONS

Bidders should enter their name in highlighted cell, this will title the other sheets in the workbook with the Bidder's name.

Bidder should enter a unique bid no. (1,2,3….) in the highlighted cell if submitting more than one bid.

<<< BIDDER'S BID NO >>>

Overview:
Bidders are required to complete Task 1 and Task 2 described below. GPA staff will complete Tasks 3 and 4. Bidders must fill in the worksheets titled "**Part 1- Qual Support References**" and "**Part 2 - Technical Data**" and return an electronic copy of this entire workbook with their IFB submittals. GPA will review each Bidder's submittal of Task 1 to ensure that the referenced pages/sections given by the Bidder in the worksheet truly support compliance with the Technical Requirements. The Bidders have been given the Task 1 worksheet to facilitate the bid evaluation. In addition, GPA has requested for specific technical information that must be provided as described in Task 2. For the Bidders' reference, there is a copy of the scoring sheet used to qualify/disqualify the Unpriced Technical Offers on the worksheet titled "Part 3 - Qual Eval Scoresheet." The Bidders may use this sheet as a tool to assess the strength of their submittals. However, GPA evaluators will fill this information in for each bid received and only the GPA evaluators' scorings will count.

Task 1: **Complete the worksheet titled "Part 1-Qual Support References**
Each Bidder Must Complete Task 1.

Step	**Directions**
1	Go to the "Part 1 - Qual Support References" worksheet.
2	In Column E, labeled "Bid Reference," cite the volume, chapter, section, page number, etc. of the Bidder's submittal where the information supporting compliance for the given Checklist Item can be found. Give locational references as specifically as possible. Leave the reference cell blank if the bid does not contain adequate supporting information for the given Checklist Item.

Task 2: **Complete the worksheet titled "Part 2 - Technical Data"**
Each Bidder Must Complete Task 2.

Step	**Directions**
1	Go to the "Part 2 - Technical Data" worksheet. This width of this sheet (columns B to Q) can be viewed completely by setting zoom to 84%
2	Fill in the yellow highlighted cells in this worksheet with the information requested. Additional instructions are provided below. If any of the items are not applicable, mark "N/A".

No:	Technical Data Request:
1.	**Provide the name of the company bidding.**
2.	**Provide Bidder contact information.**
3.	**Provide the name of the renewable energy project.**
4.	**Assign a bid number to the bid form.** If a Bidder is submitting two alternative bids for the same project, the bid number would be 1 for the first and 2 for the second. Alternative bids might be submitted for different CODs, project sizes, etc.
5.	**Select the renewable energy technology being utilized by the project.** If the technology is not listed in the selection list enter the technology on the space provided directly to the right of the selection box.
6.	**Provide the location of the project by street address (if available).** If a street address is not applicable, provide GPS coordinates or a general description of where the project is located.
7.	**Indicate whether the proposed facility is new or existing.** This refers to the project that will be supplying renewable energy in this bid request.
8.	**Provide the names, contact information, and ownership share for project owner(s).**
9.	Provide the requested project technical information specific to the project being proposed.
9.A	**Date of Initial Operation.** Provide the date at which the project is operational. This may not be the date at which GPA will begin to receive renewable power (i.e. startup for test)
9.B	**Agreement beginning date.** Provide the date at which GPA will begin receiving renewable energy. Note: May not be the same as 9.A.
9.C	**Nameplate capacity of the facility in kW.**
9.D	**ESS capacity, in MW and MWh.**
9.E	**Estimated annual capacity factor (net) percentage.**

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Re-Bid Renewable Resource Acquisition for the Guam Power Authority
QUALITATIVE SCORING WORKBOOK INSTRUCTIONS

9.F	**Guaranteed net annual generation in MWh/yr.** Bidders are required to provide annual production guarantees for each contract year.
9.G	**Minimum annual generation in MWh/yr at 95% Confidence Level.** Bidders are required to provide annual production for each contract year.
9.H	**Guaranteed Success Rate, AC-AC Efficiency and Availability in percentage.**
9.I	**Estimated equivalent availability factor percentage.**
9.J	**Expected project life in years.**
10.	Provide the requested project interconnection and transmission information:
10.A	**Voltage at which the project interconnects to the transmission system.**
10.B	**Point of interconnection or interconnection substation name.**
10.C	**Name of the transmission line on which the project is interconnected.**
10.D	**Total interconnection cost.** Bidder is to provide estimate on interconnection costs. GPA will conduct a system interconnection study for bidders who have been selected for award at the cost of the selected bidder to verify and confirm the amount provided here.
11.	Provide the requested Power Purchase Agreement Non-Pricing Information:
11.A	**Term of the agreement, in years.**
11.B	**Contract net capacity, in MW.** Contracts with selected bidders will be based on the capacity provided here. GPA will not be obligated to purchase additional energy beyond the proposed project capacity.
12.	**Provide the monthly estimated average net MWh per hour for every hour of the day.** GPA requests for operation profile to evaluate the project. Annual projections must equal the Guaranteed net annual generation in 9.G above.
13.	**Provide the monthly estimated net portfolio credits per hour for every hour of the day.**
14.	**If the Bidder is proposing an arrangement not covered by either of the preceding categories, the Bidder may include a description of the agreement here. The Bidder is responsible for providing sufficient information to allow GPA to evaluate this alternative bid package.**

Task 3: Review the Bidder's information referenced under Task 1 and Task 2.
GPA Evaluators Shall Complete Task 3.

Step	Directions
1	Review Bidder entries in Column E of the sheet "Part 1 - Qual Support References" and additional information in "Part 2 - Technical Data." Using these entries, evaluate the Bidder's supporting documents to determine if the Bidder has provided enough information and has met the Technical Requirements.

Task 3: Score the Bidder's IFB submittal using the worksheet titled "Part 2 - Qual Eval Scoresheet"
GPA Evaluators Shall Complete Task 3.

Step	Directions
1	Go to the "Part 2 - Qual Eval Scoresheet" worksheet.
2	In Column H, rate the quality of the Bidder's response to each requested Checklist Item, based on review of the submittal.

Invitation for Bid: GPA-XXX-17 Renewable Resource Acquisition for the Guam Power Authority PART 1 - QUAL SUPPORT REFERENCES		
Bidder's Name:	**Bidder's No.: <<< BIDDER'S BID NO >>>**	**DATA MISSING**
EVALUATION FACTORS	**BID REFERENCE (Enter the chapter/section and page number where information is to be found within submitted materials)**	**ALERTS**
A. PROJECT DEVELOPMENT		
A1. Method and status of project financing (3) Bidders are required to provide responses to all questions below. Bidders are required to demonstrate the financial viability of their project. Bidders should provide the following information: **A1-a**. Identification of equity participants. *• Who are the equity participants in the project?*		<<< Reference Required
A1-b. Evidence that the project will be financed. *• How will the project be financed?*		<<< Reference Required
• Is there a written commitment from the equity participants? If so, please provide a copy with confidential information redacted if necessary.		<<< Reference Required
• Discuss and/or provide supporting information on any project financing guarantees.		<<< Reference Required
• Does the developer envision any conditions precedent to project financing other than execution of the power purchase agreement and Guam Public Utilities Commission approval of the power purchase agreement? If so, what do you expect them to be?		<<< Reference Required
A1-c. Description of the Bidder's organizational structure from a financial and legal perspective, including any general and limited partners, involvement of subsidiaries, providers of capital, and percentage interest of each party.		<<< Reference Required
A1-d. Provide a description of the financing plan for the project, including construction and term financing. The financing plan should address information contained in the pro forma, such as: *• The project's projected financial structure*		<<< Reference Required
• Expected sources of debt and equity financing		<<< Reference Required
• Estimated capital cost.		<<< Reference Required
• Evidence the project is financeable		<<< Reference Required
• In addition, the financing plan should address the financing of development costs. All bidders are required to provide this information.		<<< Reference Required
A1-e. Provide documentation illustrating the experience of the project sponsor in securing financing for projects of similar size and technology. For each project provide the following information: *• Project name and location*		<<< Reference Required
• Project type and size		<<< Reference Required
• Date of construction and permanent financing		<<< Reference Required
A1-f. Provide evidence that the Bidder has the financial resources and financial strength to complete and operate the project as planned.		<<< Reference Required
A1-g. Provide copies of the most recent audited financial statement or annual report for each Bidder, including affiliates of the Bidder. Also, list the current credit rating from Standard & Poor's and Moody's for the sponsor, affiliates, partners, and credit support provider.		<<< Reference Required
A1-h. The Bidder should demonstrate its ability (and/or the ability of its credit support provider) to provide the required security, including its plan for doing so (including type of security, sources of security and a description of its credit support provider).		<<< Reference Required
A1-i. Provide a description of any current credit issues regarding the Bidder or affiliate entities raised by rating agencies, banks, or accounting firms.		<<< Reference Required
A1-j. Describe the implication of the federal Production Tax Credits or Investment Tax Credits (or similar incentives) on the viability of the project.		<<< Reference Required
A1-k. Provide a memorandum with supporting information demonstrating that the proposal will not be subject to Variable Interest Entity treatment[1] and that GPA will not have to carry this entity on its financial statements. ***NOTE [1]*** *GPA is not willing to be subject to accounting treatment that results from variable interest entity ("VIE") treatment as set forth in Financial Accounting Standards Board Interpretation No. 46 (revised December 2003) ("FIN46R").*		<<< Reference Required
A1-l. Pro forma income and cash flow statement conforming to Generally Accepted Accounting Principles for the project for the term of the proposed Power Purchase Agreement (include revenue and cost data by major categories, debt service, depreciation expenses and other relevant information). Bidders may propose to submit their financial pro forma to a mutually agreed upon independent third party rather than to GPA. Bidders should note that this information will be required of short-listed bidders only and will be requested by GPA upon shortlist notification or after. Should GPA request pro forma financial information from the bidder, the information will only be used for project viability assessment only.		<<< Reference Required

Invitation for Bid: GPA-XXX-17 Renewable Resource Acquisition for the Guam Power Authority PART 1 - QUAL SUPPORT REFERENCES		
Bidder's Name:	**Bidder's No.: <<< BIDDER'S BID NO >>>**	**DATA MISSING**
EVALUATION FACTORS	**BID REFERENCE (Enter the chapter/section and page number where information is to be found within submitted materials)**	**ALERTS**
A1-m. Bidders must disclose any litigation related to projects owned or managed by them or any of their affiliates in the United States.		<<< Reference Required
A2. Level of site control by developer (3) GPA provides the sites for this bid. GPA has entered into a lease with the Navy for use of specific properties for solar photovoltaic development. Bidders should provide GPA with some confidence in plant siting using these sites.. **A2-a.** Provide a map of the site that clearly identifies the location of the site, the total acreage, the interconnection point, and the relationship of the site to other local infrastructure. In addition to providing the required map, provide a site layout plan which illustrates the location of all equipment and facilities on the site.		<<< Reference Required
A2-b. Identify any rights-of-way or easements that are required for access to the project or for interconnection. Describe the status of rights-of-way and easement acquisition, and describe the plan for securing the necessary rights-of-way, including the proposed timeline.		<<< Reference Required
A2-c. Describe whether the project has the capability for expansion at the proposed site. If so, describe the expansion capability possible.		<<< Reference Required
A3. Project team experience (5) Bidders are required to demonstrate project experience and management capability to successfully develop and operate the project proposed. GPA is interested in a project team which has demonstrated success in projects of similar type, size and technology and can demonstrate an ability to effectively work together to bring the project to commercial operation in a timely fashion. **A3-a.** Provide an organizational chart for the project that lists the project participants and identifies the management structure and responsibilities.		<<< Reference Required
A3-b. For each of the project participants (including the Bidder, partners, and proposed contractors), provide statements that list the specific experience of the firm in developing, financing, owning, and operating generating facilities, other projects of similar type, size and technology, and any evidence that the project participants have worked jointly on other projects. If a bidder is relying on the experience of a consultant or contractor to meet the Experience Threshold Requirement, the bidder should describe any contractual relationships between the bidder and the consultant or contractor.		<<< Reference Required
A3-c. Provide a management chart which lists the key personnel dedicated to this project and provide biographies of the key personnel.		<<< Reference Required
A3-d. Provide a listing of all projects the project sponsor has successfully developed or that are currently under construction. Provide the following information as part of the response: *• Name of the project*		<<< Reference Required
• Location of the project		<<< Reference Required
• Project type, size and technology		<<< Reference Required
• Commercial operation date		<<< Reference Required
• Capacity factor of the unit for the past three years		<<< Reference Required
• Availability factor of the unit for the past three years		<<< Reference Required
• References, including the names and current addresses and telephone numbers of individuals to contact for each reference.		<<< Reference Required
A3-e. With regard to the Seller's project team, identify and describe the entity responsible for the following: *• Construction Period Lender*		<<< Reference Required
• Operating Period Lender		<<< Reference Required
• Financial Advisor		<<< Reference Required
• Environmental Consultant		<<< Reference Required
• Owner's Engineer		<<< Reference Required
• Construction Contractor		<<< Reference Required
• Transmission Consultant		<<< Reference Required
• Legal Counsel		<<< Reference Required

Invitation for Bid: GPA-XXX-17 Renewable Resource Acquisition for the Guam Power Authority PART 1 - QUAL SUPPORT REFERENCES		
Bidder's Name:	**Bidder's No.: <<< BIDDER'S BID NO >>>**	**DATA MISSING**
EVALUATION FACTORS	**BID REFERENCE (Enter the chapter/section and page number where information is to be found within submitted materials)**	**ALERTS**
A4. Project Schedule & Commerical Operation Date		**<<< Reference Required**
A5. Status of equipment supply and EPC agreements(3) Bidders should provide information about the specific technology or equipment including the track record of the technology and equipment. **A5-a.** Provide a reasonable but preliminary engineering plan which includes the following information: *• Name of principal engineering firm responsible for facility design*		**<<< Reference Required**
• Type of generation technology		**<<< Reference Required**
• Major equipment considered or expected to be used		**<<< Reference Required**
• Equipment vendors selected/considered		**<<< Reference Required**
• History of equipment operations		**<<< Reference Required**
• Equipment procurement strategy		**<<< Reference Required**
A5-b. Provide name of expected key equipment suppliers and information that illustrates and discusses the proposed equipment and technology, lead times for delivery to GPA, and suppliers prior experience with equipment operation in tropical island environments.		**<<< Reference Required**
A5-c. Please identify similar equipment by the same manufacturer that are presently in commercial operations including the number installed, installed capacity and estimated generation.		**<<< Reference Required**
A5-d. Provide evidence that the technology to be employed for energy production is ready for transfer to the design and construction phases. *• Describe the technology to be employed for energy production.*		**<<< Reference Required**
• To the developer's best knowledge, are there, or have there been any similar plants in commercial operation? If not, i) are there, or have there been, any pilot projects, and ii) please provide evidence that the technology to be employed for energy production has been proven. Such evidence may include copies of studies confirming technical feasibility.		**<<< Reference Required**
A5-e. Please indicate if the Bidder has secured its equipment for the project. If not, identify the long-lead equipment options and describe the timing for securing equipment.		**<<< Reference Required**
A6. Bidder concurrence to the draft Purchase Power Agreement (5)		**<<< Reference Required**
B. PHYSICAL PROJECT CHARACTERISTICS		**<<< Reference Required**
B1. Operating Profile (5) **B1-a. Conformance with Performance Standards**		**<<< Reference Required**
B1-b. Impacts on System Operations/Stability		**<<< Reference Required**
B1-c. Generation Profile		**<<< Reference Required**
B1-d. Quality of Forecasting and Dispatchability		**<<< Reference Required**
B1-e. O&M Plan and Coordination of Maintenance *• Provide an operation and maintenance plan for the project that demonstrates the long term operational viability of the proposed project. The plan should include a discussion of the staffing levels proposed for the project, the expected role of the project sponsor or outside contractor, scheduling of major maintenance activity, maintenance funding levels, and the plan for testing equipment.*		**<<< Reference Required**
• Indicate whether or not the project sponsor is willing to coordinate the maintenance schedule for the project with the annual maintenance schedule of GPA.		**<<< Reference Required**
• Describe the status of the project sponsor in securing any operation and maintenance agreements or contracts. Include a discussion of the sponsors plan for securing a long-term O&M contract.		**<<< Reference Required**
• Provide examples of the Bidder's experience with O&M services for other similar projects.		**<<< Reference Required**
B2. Point of delivery (5) **B2-a.** Provide preliminary Single-Line Diagram(s) for the generation and interconnection facilities (see Appendix H for required details)		**<<< Reference Required**
B2-b. Provide a plan map of the facilities; indicate the interconnection point to the GPA system.		**<<< Reference Required**

Invitation for Bid: GPA-XXX-17 Renewable Resource Acquisition for the Guam Power Authority PART 1 - QUAL SUPPORT REFERENCES		
Bidder's Name:	**Bidder's No.: <<< BIDDER'S BID NO >>>**	**DATA MISSING**
EVALUATION FACTORS	**BID REFERENCE (Enter the chapter/section and page number where information is to be found within submitted materials)**	**ALERTS**
B2-c. Provide the technical specifications and other information available for the generators included in the proposal.		<<< Reference Required
B3. Risk that the resource will not perform as expected (5) Discuss risks and plans associated with resource performance.		<<< Reference Required
B4. Project life and extension options. (5) Describe willingness to allow GPA to extend the life of a resource beyond the initial term or forecast provide potential future risk mitigation. As a result, proposals that provide rights to long-term access to the resource or energy supply will be scored higher than		<<< Reference Required
C. POWER PRODUCT CHARACTERISTICS		
C1. Guaranteed Annual MWH (3)		<<< Reference Required
C2. Dispatchability (3)		<<< Reference Required
C3. Product flexibility (3)		
C3-a. Discuss In-service date (GPA prefers projects that reasonably propose a commercial operation date in the 2019-2020 timeframe)		<<< Reference Required
C3-b. Willingness to accept contract provisions for flexibility to accommodate future changes to performance standards.		<<< Reference Required
C3-c. Bid size (GPA may prefer contracts in an output range sufficient to allow GPA to contract with more than one project entity to diversify project risk).		<<< Reference Required
C4. Contract term (1) Discuss contract term. (NOTE: No firm capacity payments will be offered for this BID. GPA prefers proposals that have a longer contractual term.)		<<< Reference Required
D. CREDIT EVALUATION		
D1. Debt and equity ratings (3)		<<< Reference Required
D2. Performance assurance (3)		<<< Reference Required
D3. Financial ratio analysis (3)		<<< Reference Required
D4. Default risk (3)		<<< Reference Required
D5. Credit concentration and liquidity effect (3)		<<< Reference Required
D6. Enforceability of contractual credit terms (3)		<<< Reference Required
D7. Bidder revisions to contract templates that may affect credit requirements (3)		<<< Reference Required
E. Environmental Permits and Impacts		
The Bidder should identify environmental impacts associated with the proposed project and its plan to mitigate such impacts. Included in this section are technical environmental issues associated with air, water, solid waste, land use, noise, and other environmental issues. The following addresses specific environmental permitting considerations, **E1. Permits (5)** **E1-a.** Identify all permits, licenses, and environmental assessments and/or environmental impact statements required.		<<< Reference Required
E1-b. *Provide a list of all Federal and GUAM permits, licenses, and environmental assessments and/or environmental impact statements required to construct and operate the project. Identify governmental agencies for issuing permits and licenses.*		<<< Reference Required
E1-c. Identify the governmental agencies which will issue or approve the required permits, licenses, and environmental assessments and/or environmental impact statements. Prepare timeline to complete acquisition of permits, licenses, and environmental assessments and/or environmental impact statements.		<<< Reference Required
E1-d. Provide the anticipated timeline for seeking and receiving the required permits, licenses, and environmental assessments and/or environmental impact statements, using the execution date of the power purchase agreement as the starting point. Please include a narrative on the basis for the assumed timeline.		<<< Reference Required
E2. Site Environmental Assessment (5) Discuss proposed actions to address environmental issues stated in the Navy Environmental Assessment including • *Site development*		<<< Reference Required
• *Air quality*		<<< Reference Required
• *Water resources*		<<< Reference Required
• *Ecology*		<<< Reference Required

Invitation for Bid: GPA-XXX-17 Renewable Resource Acquisition for the Guam Power Authority PART 1 - QUAL SUPPORT REFERENCES		
Bidder's Name:	**Bidder's No.: <<< BIDDER'S BID NO >>>**	**DATA MISSING**
EVALUATION FACTORS	**BID REFERENCE (Enter the chapter/section and page number where information is to be found within submitted materials)**	**ALERTS**
• *Land use*		**<<< Reference Required**
• *Cultural resources*		**<<< Reference Required**
• *Previous site use*		**<<< Reference Required**
• *Noise level*		**<<< Reference Required**
• *Aesthetic/visual*		**<<< Reference Required**
E2-b. Identify a community support and a communications plan to gain support for or acceptance of the proposed project. Identify support for and/or acceptance of the proposed project by the affected communities and the general public. • *Identify communities and other stakeholders that may be affected by the proposed project. How will they be affected?*		**<<< Reference Required**
• *How will affected communities and the general public be informed about the proposed project?*		**<<< Reference Required**
• *Will the affected communities and the general public be given an opportunity to provide the developer with feedback and comments on the proposed project? What will the developer do with the feedback and comments received?*		**<<< Reference Required**

<<<<<<<<<< END >>>>>>>>>>

Invitation for Bid: GPA-XXX-17
Renewable Resource Acquisition for the Guam Power Authority
PART 2 - TECHNICAL DATA

BIDDER: **PROJECT NAME.: <<<project name>>>** **BIDDER'S NO.: <<< BIDDER'S BID NO >>>**

Bidder Information

1. Company Name:

Primary Contact:	**Alternative Contact:**
2. Contact Name:	Contact Name:
Company Name:	Company Name:
Street Address:	Street Address:
City:	City:
State & Zip Code:	State & Zip Code:
Phone Number:	Phone Number:
Fax Number:	Fax Number:
e-mail Address:	e-mail Address:

Renewable Energy Project Information

3. Project Name: <<<project name>>>
4. Unique Bid Number (1,2,3…): <<< BIDDER'S BID NO >>>
5. Renewable Technology (Select one): <renewable technology>
6. Street Address (or general location):
City / County:
State & Zip Code:

7. New or existing? (Click One Below)
☐ Existing Facility
☐ New Facility

8. Project Owners

Owner 1:	Owner 2:	Owner 3:
Contact:	Contact:	Contact:
Street Address:	Street Address:	Street Address:
City:	City:	City:
State & Zip Code:	State & Zip Code:	State & Zip Code:
Phone Number:	Phone Number:	Phone Number:
e-mail Address:	e-mail Address:	e-mail Address:
Ownership Share:	Ownership Share:	Ownership Share:

9. Project Technical Information

9.A Date of Initial Operation, *(MM/DD/YYYY):* << This is the date when the facility will initiate operation mainly for testing
9.B Agreement Beginning Date, *(MM/DD/YYYY):* 1/1/2022 << This is the Commercial Operation Date
9.C Nameplate Capacity, kW:
9.D ESS Capacity (MW and MWh): KW KWH << This will be used for dispatching solar energy production for evaluation purposes.

Invitation for Bid: GPA-XXX-17
Renewable Resource Acquisition for the Guam Power Authority
PART 2 - TECHNICAL DATA

BIDDER: **PROJECT NAME.: <<<project name>>>** **BIDDER'S NO.: <<< BIDDER'S BID NO >>>**

9.E Estimated Annual Capacity Factor (net), %: _____

9.F Guaranteed Net Annual Generation, MWh/yr:

Contract Year:		Contract Year:		Contract Year:	
1		11		21	
2		12		22	
3		13		23	
4		14		24	
5		15		25	
6		16			
7		17			
8		18			
9		19			
10		20			

9.G Expected Minimum Annual Generation, MWh/yr at 95% Confidence Level:

Contract Year:		Contract Year:		Contract Year:	
1		11		21	
2		12		22	
3		13		23	
4		14		24	
5		15		25	
6		16			
7		17			
8		18			
9		19			
10		20			

9.H Guaranteed Success rate, AC-AC efficiency and availability for RI-ESS:

	1% Ramp Rate Guaranteed Success Rate		Guaranteed AC-AC Efficiency		Guaranteed Availability
Contract Year:	1	Contract Year:	1	Contract Year:	1
	2		2		2
	3		3		3
	4		4		4
	5		5		5
	6		6		6
	7		7		7
	8		8		8
	9		9		9
	10		10		10
	11		11		11
	12		12		12
	13		13		13
	14		14		14
	15		15		15
	16		16		16
	17		17		17

Invitation for Bid: GPA-XXX-17
Renewable Resource Acquisition for the Guam Power Authority
PART 2 - TECHNICAL DATA

BIDDER: **PROJECT NAME.: <<<project name>>>** **BIDDER'S NO.: <<< BIDDER'S BID NO >>>**

18	18	18
19	19	19
20	20	20
21	21	21
22	22	22
23	23	23
24	24	24
25	25	25

9.I Estimated Equivalent Availability Factor, %:
9.J Expected Project Life, years:

10. Interconnection and Transmission Information

10.A Interconnection Voltage:
10.B Interconnection Point / Substation:
10.C Interconnecting Transmission Line:
10.D Total Interconnection Cost:

11. Power Purchase Agreement Information

11.A Term, years:
11.B Contract Net Capacity, KW:

12. Renewable Energy Project Generation Profile

Provide the monthly estimated average net MWh per hour for every hour of the day. GPA requests for operation profile to evaluate the project. Annual projections must equal the Guaranteed net annual generation in 9.G above. **Data provided shall be the solar production net output (excludes ESS & other losses/meter output). GPA will use this data to determine total daily production to be dispatched over its peak period (6PM -10PM) based the ESS capacity entered in 9D above.**

Open Fold ***(Show All Years)*** **Close Fold** ***(Hide After 1st Year)***

			Hour:																								
CON YR	MON	YR	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	DAYS	Monthly Total MWh
1	Jan	2022																									31	0
1	Feb	2022																									28	0
1	Mar	2022																									31	0
1	Apr	2022																									30	0
1	May	2022																									31	0
1	Jun	2022																									30	0
1	Jul	2022																									31	0
1	Aug	2022																									31	0
1	Sep	2022																									30	0
1	Oct	2022																									31	0
1	Nov	2022																									30	0
1	Dec	2022																									31	0

Invitation for Bid: GPA-XXX-17
Renewable Resource Acquisition for the Guam Power Authority
PART 2 - TECHNICAL DATA

BIDDER: **PROJECT NAME.: <<<project name>>>** **BIDDER'S NO.: <<< BIDDER'S BID NO >>>**

	Annual Production (MWH)	Guarantee Match? (9.G)	Capacity Factor
Contract Year: 1	0	YES	#DIV/0!
2	0	YES	#DIV/0!
3	0	YES	#DIV/0!
4	0	YES	#DIV/0!
5	0	YES	#DIV/0!
6	0	YES	#DIV/0!
7	0	YES	#DIV/0!
8	0	YES	#DIV/0!
9	0	YES	#DIV/0!
10	0	YES	#DIV/0!

	Annual Production (MWH)	Guarantee Match? (9.G)	Capacity Factor
Contract Year: 11	0	YES	#DIV/0!
12	0	YES	#DIV/0!
13	0	YES	#DIV/0!
14	0	YES	#DIV/0!
15	0	YES	#DIV/0!
16	0	YES	#DIV/0!
17	0	YES	#DIV/0!
18	0	YES	#DIV/0!
19	0	YES	#DIV/0!
20	0	YES	#DIV/0!

	Annual Production (MWH)	Guarantee Match? (9.G)	Capacity Factor
Contract Year: 21	0	YES	#DIV/0!
22	0	YES	#DIV/0!
23	0	YES	#DIV/0!
24	0	YES	#DIV/0!
25	0	YES	#DIV/0!
26	0	YES	#DIV/0!
27	0	YES	#DIV/0!
28	0	YES	#DIV/0!
29	0	YES	#DIV/0!
30	0	YES	#DIV/0!

13. Renewable Energy Project Portfolio Credit Generation Profile

Provide the monthly estimated net portfolio credits per hour for every hour of the day.

Open Fold ***(Show All Years)*** **Close Fold** ***(Hide After 1st Year)***

			Hour:																								
CON YR	MON	YR	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	DAYS	Monthly Total MWh
1	Jan	2022																									31	0
1	Feb	2022																									28	0
1	Mar	2022																									31	0
1	Apr	2022																									30	0
1	May	2022																									31	0
1	Jun	2022																									30	0
1	Jul	2022																									31	0
1	Aug	2022																									31	0
1	Sep	2022																									30	0
1	Oct	2022																									31	0
1	Nov	2022																									30	0
1	Dec	2022																									31	0

<<<<< END >>>>>>

Invitation for Bid: GPA-XXX-17
Renewable Resource Acquisition for the Guam Power Authority
PART 3 - QUAL EVAL SCORESHEET

Date:

Bidder's Name:
Bidder's No.: <<< BIDDER'S BID NO >>>

EVALUATION FACTORS	Raw Score Weight	MAX Possible Score	Maximum Weighted Possible Score	BID EVALUTION RAW SCORE	BID EVALUTION WEIGHTED SCORE
A. PROJECT DEVELOPMENT	**20**	**26**	**520**	**0**	
A1. Method and status of project financing (3)		3			
A2. Level of site control by developer (6)		6			
A3. Project team experience (5)		5			
A4. Project Schedule & Commerical Operation Date (4)		4			
A5. Status of equipment supply and EPC agreements (3)		3			
A6. Bidder concurrence to the draft Purchase Power Agreement (5)		5			
B. PHYSICAL PROJECT CHARACTERISTICS	**20**	**20**	**400**	**0**	
B1. Operating Profile (5)		5			
B2. Point of delivery (5)		5			
B3. Risk that the resource will not perform as expected (5)		5			
B4. Project life and extension options. (5)		5			
C. POWER PRODUCT CHARACTERISTICS	**25**	**12**	**300**	**0**	
C1. Guaranteed Annual MWH (3)		3			
C2. Dispatchability (3) - **Proposals not capable of energy shifting total daily solar generated energy shall be disqualified.**		3			
C3. Product flexibility (3)		3			
C4. Contract Term (3)		3			
D. CREDIT EVALUATION	**20**	**21**	**420**	**0**	
D1. Debt and equity ratings (3)		3			
D2. Performance assurance (3)		3			
D3. Financial ratio analysis (3)		3			
D4. Default risk (3)		3			
D5. Credit concentration and liquidity effect (3)		3			
D6. Enforceability of contractual credit terms (3)		3			
D7. Bidder revisions to contract templates that may affect credit requirements (3)		3			
E. Environmental Permits and Impacts	**15**	**15**	**225**	**0**	
E1. Permits (5)		*5*			
E2. Site Environmental Assessment (10)		*10*			
TOTALS	**100**	**94**	**1865**	**0**	
			EVALUATION RATING:		

ACCEPTABLE - Scores Greater Than or Equal to:	**1492**
POTENTIALLY ACCEPTABLE - Less than Acceptable but Greater Than or Equal to:	**1306**
UNACCEPTABLE - Scores are less than:	**1306**

Invitation for Bid: GPA-XXX-17
Renewable Resource Acquisition for the Guam Power Authority
PRICE OFFER WORKSHEET

Instructions:
Bidder shall fill in the highlighed fields.

1. **Bidder's Name:**

2. **Bid Reference No.:**
   (Refers to Bidder's Bid No. if bidder is submitting more than one bid, otherwise enter "N/A")

3. **Contract Term, Years:**

4. **Price Offer Entry:**
   Enter fixed annual energy purchase price and the Guaranteed Net Annual Generation (MWH/YR) into the table below.

Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Contract Year	Annual Price ($/MWH)	Guaranteed Net Annual Generation (MWH/YR)
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 2017-33

AUTHORIZING MANAGEMENT TO CHANGE BID AND RE-SOLICIT FOR THE SUPPLY AND DELIVERY OF DIESEL FUEL OIL NO.2 FOR THE BASELOADS AND PEAKING UNITS

WHEREAS, the three (3) year base period for the current contract (GPA-029-14) for the Supply of Diesel Fuel Oil No.2 for the **Baseloads** (Cabras 1&2 and MEC 8&9), and the **Peaking Units** (Tenjo Vista, Fast Tracks: Manenggon and Talofofo, TEMES CT and the Northern Diesel Plants: Dededo CT, Macheche CT, and Yigo CT) will expire on December 31, 2017; and

WHEREAS, the aftermath of the Cabras 3&4 incident in August 2015 drastically increased GPA's diesel consumption, overly exceeding the estimated quantities provided in Schedule B of the current contract (Exhibit A); and

WHEREAS, through Resolution 2017-05 and PUC Docket 17-18 GPA (Exhibit B) issued an Invitation For Bid for the procurement of diesel fuel oil for the Baseload and Peaking Units for a base period of two (2) years, to commence on January 01, 2018 through December 31, 2019, with three (3) additional one-year extension options; and

WHEREAS, changing operational requirements and dispatching for the next 3-5 years, as well as inquiries raised by prospective bidders has necessitated major changes in the structure of the current bid; and

WHEREAS, GPA is requesting authorization to change bid and re-solicit with revised structure and requirements; and

WHEREAS, the draft bid solicitation documents for the procurement of a new diesel fuel oil supply contract is hereby attached as (Exhibit C); and

WHEREAS, the total cost for the new contract is anticipated to exceed $1.5M requiring GPA to seek authorization for this procurement from the PUC; and

WHEREAS, GPA is requesting the approval of the CCU to petition the PUC to change and re-issue an Invitation for Bid for a new diesel fuel oil supply contract; and

WHEREAS, GPA's re-issued bid will separate Diesel Fuel Supply and Diesel Fuel Delivery, as this structure would be in the best interests of the Authority.

NOW THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities, subject to the review and approval of the Public Utilities Commission, as follows:

1. The General Manager is authorized to change bid requirements and re-issue an Invitation for Bid for a new Diesel fuel supply contract through a Multi-Step Bid process that is reasonable, prudent and necessary for GPA.
2. GPA is authorized to petition the Public Utilities Commission for approval to re-issue an Invitation for Bid to procure a Contractor for the supply of Diesel Fuel Oil No.2 for the Baseloads and Peaking Units.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

DULY and REGULARLY ADOPTED AND APPROVED THIS 29th day of AUGUST, 2017.

Certified By:

JOSEPH T. DUENAS
Chairperson

Attested By:

J. GEORGE BAMBA
~~Secretary~~ FRANCIS SANTOS VICE CHAIRMAN

I, J. George Bamba, Board Secretary of the Consolidated Commission on Utilities (CCU), as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the members of Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were present voted as follows:

AYES: 4

NAYS: 0

ABSENT: 0

ABSTAIN: 1

Invitation For Re-Bid

Multi-Step IFB No. GPA-057-17

DIESEL FUEL OIL NO.2

A. SUPPLY TO GPA BULK STORAGE

Volume II

CONTRACT

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CONTRACT

CONTRACTOR

GUAM POWER AUTHORITY

2017

Re-Bid IFB No. GPA-057-17

SUPPLY OF DIESEL FUEL OIL NO.2

FORMAL CONTRACT

This Agreement and Formal Contract ("Contract"), is made and entered into on the _____ day of _____, 2017 by and between:

_____., hereinafter referred to as CONTRACTOR, duly organized, licensed, registered and qualified to do business in Guam with its principal address at _____

- and –

GUAM POWER AUTHORITY, hereinafter referred to as the **"Authority"** or **"GPA"**, a Public Corporation with its office located at the Gloria Nelson Public Service Complex, Fadian Mangilao Guam;

RECITALS

WHEREAS, GPA desires to maintain uninterrupted supply of Diesel Fuel Oil No.2 to its Baseload Power Plants;

WHEREAS, the three (3) year base period the current contract for the supply if Diesel Fuel Oil No.2 will expire on December 31, 2017; and

WHEREAS, the current contract for the supply of Diesel Fuel Oil No.2 will be extended for six (6) months to expire on June 30, 2018; and

WHEREAS, GPA seeks to procure a new Diesel Fuel Oil No.2 Supply Contractor; and

WHEREAS, the Consolidated Commission on Utilities has determined that the (CONTRACTOR) is a preferred option for GPA to supply the Diesel Fuel Oil No.2 requirements for the Authority;

WHEREAS, the Guam Public Utilities Commission has, through stipulation, ordered GPA to proceed with the procurement of a CONTRACTOR for the Supply of Diesel Fuel Oil No.2;

WHEREAS, GPA has issued an Invitation For a Multi-Step Bid for the Supply of Diesel Fuel Oil No.2 under Re-bid IFB GPA-057-17; and

WHEREAS, CONTRACTOR submitted a bid in response to the Invitation for Bid for the Supply of Diesel Fuel Oil No.2;

WHEREAS, GPA, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR**. is the lowest responsive and responsible bidder;

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledged; **CONTRACTOR** and GPA hereby agree as follows:

SECTION 1. DEFINITIONS

"Fuel oil" means a liquid hydrocarbon product satisfying the specifications in Schedule A

**"$"** The term "$" refers to currency in U.S. dollars.

"ASTM" The term "ASTM" shall mean the American Society for Testing and Materials.

"API" The term "API" shall mean the American Petroleum Institute.

"Gallon" shall mean a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

"Barrel" The term "Barrel" means a volume equivalent to 42 U.S. gallons.

"Contract" The term "Contract" means the Diesel Fuel Oil No.2 Supply Contract executed as a result of this IFB.

"Contract Agreement (Agreement)" The written agreement between GPA and CONTRACTOR covering the Supply of Diesel Fuel Oil No.2 any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

"Contract Documents" The Contract Agreement, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract Agreement, together with all Modifications issued after execution of the Contract Agreement.

"Contracting Officer" The term "Contracting Officer" as used herein means the General Manager of the Guam Power Authority and shall include his authorized representatives.

"CONTRACTOR" The term "CONTRACTOR" as used herein means the party or parties who or which shall have duly entered into a contract with the Guam Power Authority to perform the work herein contemplated or his or their

authorized assignee.

"Day" A calendar day of twenty-four (24) hours measured from midnight to the next midnight.

"Delivery Time" The total number of days or the dates stated in the Agreement for furnishing the product.

"General Manager" The General Manager is the Chief Executive Officer of the Guam Power Authority. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of the Guam Power Authority.

"Notice" The term "Notice" as used herein shall mean and include all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with contract requirements. Any written notice by either party to the contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box. The CONTRACTOR must provide and maintain a post office address within Guam and file the same with the Contracting Officer.

"Procurement Officer" The General Manager of the Guam Power Authority or the General Manager's designee.

"PURCHASER" The Guam Power Authority with whom CONTRACTOR has entered into the Contract Agreement.

"Seller" The CONTRACTOR.

"Territory" The Territory of Guam.

"OPA'90" means the Oil Pollution Act of 1990 by the U.S. Congress.

"Platt's Asia-Pacific/ Arab Gulf Marketscan" refers to the source document for the ` fuel Contract pricing.

"D.E.S." means Delivered Ex- Ship.

"Receiving facility" means any wharf, dock, jetty, pier, quay, sea terminal, buoy, lighter, barge, vessel, or other suitable apparatus capable of receiving fuel oil in bulk.

SECTION 2. FUEL OIL TO BE SUPPLIED

CONTRACTOR agrees to furnish and **GPA** agrees to accept and pay for all of **GPA**'s diesel fuel oil requirements for power generating plants in Guam for the term of the Contract.
Fuel Oil to be supplied to **GPA** shall conform to the product quality requirements specified in Schedule A and shall come from reputable sources not sanctioned by the United States government.
The **estimated** total fuel oil requirement is about ONE MILLION BARRELS PER YEAR (1,000,000 bbls/yr). The Minimum Purchase under the Contract is estimated at FIVE HUNDRED THOUSAND BARRELS PER YEAR (500,000 bbls/yr). The first delivery of fuel oil pursuant to the Contract is anticipated to be on or about **July 01, 2018**.

SECTION 3. CONTRACT TERM

The Contract Term shall be for TWO (2) years and shall commence on or about after 0:00 hour on **July 01, 2018**, and shall continue until midnight of **June 30, 2020**. GPA has the option to extend the contract for THREE (3) years renewable annually with mutual consent of parties.

SECTION 4. CONTRACT PRICE

The total contract price in U.S. Dollars per barrel for all Diesel Fuel Oil No.2 delivered D.E.S. Guam (discharge port) to **GPA** shall be inclusive of all costs and liabilities incurred prior to delivery at discharge port, Cabras Island, Guam.

DES (Delivered Ex- Ship) PROVISIONS:

Under this term, the **CONTRACTOR** quotes a price including the cost of the goods, the marine insurance, and all transportation charges to the designated point of destination (**GPA**). Under this quotation, the **CONTRACTOR** must:

(1) provide and pay for transportation to named point of destination (**GPA**);

(2) pay applicable taxes or charges levied on the cargo outside Guam;

(3) provide and pay for marine insurance;

(4) provide war risk insurance;

(5) obtain and dispatch promptly to **GPA,** or its agent, copies from the original document of a clean bill of lading, and also insurance policy or negotiable insurance certificate;

(6) provide **GPA** with copies from the original document of certificates of origin, or any documents issued in the country of origin, or of shipment, or both, which **GPA** may require for importation of goods and, where necessary, for their passage in transit into another country.

(7) where received-for-shipment ocean bill of lading may be tendered, be responsible for any loss or damage, or both, and other charges until the goods have been delivered into the custody of the ocean carrier to **GPA**;

(8) where on-board ocean bill of lading is required, be responsible for any loss or damage, or both, and other charges until the goods have been delivered on board the vessel to **GPA**;

The **CONTRACT PRICE** shall be the **BID PRICE OFFER** calculated as the **BID REFERENCE PRICE** plus the Contractor's **FIXED SERVICE FEE** in U.S. dollars per barrel for all fuel oil delivered to **GPA** at the Port of Guam.

BID REFERENCE PRICE:

The BID REFERENCE PRICE shall be based on the Platt's Singapore Products Assessment for Fuel Oil Cargoes "Gasoil 10 ppm" for July 21, 2017.

Reference date: July 21, 2017

	Low ($/bbl)	High ($/bbl)
HSFO 180 CST	$ 62.26	$ 62.30

The following is a sample calculation of the mean price for "Gasoil 10 ppm" published in the **Platt's Marketscan, Singapore Products Assessments** for Fuel Oil Cargoes for July 21, 2017.

Mean Singapore Spot = Low + High Price Assessments:

$$= \frac{\$\ 62.26 + \$\ 62.30}{2} \text{ per barrel}$$

= $ 62.280 per barrel

BID REFERENCE PRICE = $ 62.280 per barrel

Diesel Fuel Oil No.2 Supply	**1st year** $/bbl (in 3 decimals)	**2nd year** $/bbl (in 3 decimals)	**3rd yr** $/bbl (in 3 decimals)	**4th yr** $/bbl (in 3 decimals)	**5th yr** $/bbl (in 3 decimals)
BID PRICE					
CONTRACT FIXED SERVICE FEE					

SECTION 5. INVOICE PRICE DETERMINATION

Price shall be based on the arithmetic average of the mean of the high/low quotations for "Gasoil 10 ppm" as published in Platts Asia Pacific/Arab Gulf Marketscan under the heading "FOB Singapore" priced for five (5) valid consecutive quotations immediately prior to B/L date and five (5) immediately after the B/L date plus the FIXED SERVICE FEE.

In case of "No Posting" on the B/L date, no price will be used and the remaining 10-days average will be used. All price postings are at the prices effective dates.

Sample Calculation:

B/L date = July 8, 2017

Marketscan Postings, Gasoil 10 ppm ($/bbl)

	Date		Low	High	Avg
5	July 03, 2017	(Mon)	60.34	60.98	60.960
4	July 04, 2017	(Tue)	62.16	62.20	62.180
3	July 05, 2017	(Wed)	62.84	62.88	62.860
2	July 06, 2017	(Thu)	61.80	61.84	61.820
1	July 07, 2017	(Fri)	59.93	59.97	59.950
B/L	July 08, 2017	(Sat)	No Posting	No Posting	
1	July 10, 2017	(Mon)	58.92	58.96	58.940
2	July 11, 2017	(Tue)	58.97	59.01	58.990
3	July 12, 2017	(Wed)	60.62	60.66	60.640
4	July 13, 2017	(Thu)	59.14	59.18	59.160
5	July 14, 2017	(Fri)	60.30	60.34	60.320
		Mean Arithmetic Average ($/bbl) =			60.582

Invoice Reference Price: $60.582/bbl

Sample Fixed Service Fee: $8.000/bbl

Invoice Price Calculation = Invoice Reference Price + Fixed Service Fee = $68.582/bbl

For invoice calculation purposes, quantity shall be reported in barrels at standard sixty degrees Fahrenheit (60°F) as declared in the Bill of Lading.

SECTION 6. TITLE, CUSTODY AND RISK OF LOSS

Title to the fuel oil and custody thereof shall pass from **CONTRACTOR** to **GPA** when the fuel oil has passed the vessel's permanent flange hose connection at the discharge port.

SECTION 7. TERMS OF PAYMENT

Payment shall be made in U.S. Dollars Funds without off-set, deduction, or counter-claim within THIRTY (30) calendar days (30-days net term) after the Bill of Lading date provided vessel tenders its NOR within TWELVE (12) days after the B/L date, otherwise it extends day by day (B/L date inclusive). In case payment due date falls on a Bank holiday or Saturday in Guam, payment shall be made immediately preceding banking day. However, should payment due falls

on Sunday or Monday bank holiday in Guam, payment shall be made on the immediately following banking day.

Payment shall be available at Seller's account on Maturity Date. If Buyer fails to pay on the maturity date, Seller shall be reimbursed for the interests related to the time of delay. Interest Rate shall be calculated based on the one month London Interbank Offered Rate (LIBOR) for US Dollar Deposits offered by Bloomberg Publication at 11:00 A.M. London Time, as quoted on page BBAM in effect on the date buyer's payment was due, plus one and one-half percent (1.5%) per annum.

In the event that a duly executed Documentary Letter of Credit (L/C) is amended or cancelled due to error or adjustments caused by the **CONTRACTOR**, the **CONTRACTOR** shall reimburse **GPA** for any penalties for the amendment or cancellation of the LC.

The **CONTRACTOR** shall endeavor to assist **GPA** to revise the payment due dates if requested by **GPA** accordingly. GPA has the right to request for revision of the payment due dates and Contractor has the right to reject it at its sole discretion.

CONTRACTOR may provide GPA a Line of Credit, but it is not a requirement in the contract. If the amount due under this contract exceeds the **GPA**'s credit line of:

(Amount in Words _____)
(US$_____),

available at **CONTRACTOR** system, then as a loading condition, for the amount not covered under the credit line, **GPA** shall:

(i) Make advance payment not later than one day before the cargo is loaded; OR

(ii) Open a **DOCUMENTARY LETTER OF CREDIT (L/C)** at a first class international bank mutually agreeable to both **GPA** and the **CONTRACTOR**

SECTION 8. PAYMENT OF TAXES AND OTHER GOVERNMENT CHARGES

All fuels under the terms of this Contract are exempt from the Government of Guam Liquid Fuel Tax and the Government of Guam Gross Receipts Tax as provided by 12 G.C.A., Section 8115.

CONTRACTOR shall be responsible for filing appropriate tax returns or other filings and requesting rebates, credits, drawbacks or exemptions.

In the event any liquid fuel tax or gross receipts tax or other tax including, but not limited to, excise tax, duty, toll, fee, charge for other exaction or the amount equivalent thereto, and any increase thereof, now or hereafter imposed, levied or assessed by the United States Government, the Government of Guam, the Port Authority of Guam, or other instrumentality or agency thereof in connection with and as a result of the sale of fuel oil herein provided for is collectible or payable by **CONTRACTOR**, (except taxes, penalties, fees or other charges that may be imposed on **CONTRACTOR** because of **CONTRACTOR** 's failure to make proper tax filings including requests for credits, exemptions, drawbacks or rebates) it shall be paid by **GPA** as part of the fuel price set forth herein, on demand by **CONTRACTOR**. Any such payment shall be in addition to the price otherwise herein provided for.

Notwithstanding these provisions, should the payment of any such charges described in this section be unduly burdensome to **GPA**, it shall be grounds for renegotiation for an equitable adjustment in price.

CONTRACTOR shall be solely responsible for filings and payment of income tax or taxes measured on net income.

SECTION 9. WARRANTY AND CLAIMS

CONTRACTOR warrants that the fuel oil shall meet the specification prescribed herein under Schedule A, and other pertinent sections. If the fuel oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom.

CONTRACTOR shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of oil shipment and delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of their negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of fuel oil as specified in Section 4.

SECTION 10. PRODUCT AND QUALITY

The fuel oil delivered hereunder shall have the physical and chemical characteristics as described in Schedule A.

The Authority reserves the right to require the supplier to add and to conduct additional tests as may be required.

SECTION 11. QUANTITY AND QUALITY ASSURANCE

(a) Inspection of fuel oil cargo loading and discharge to determine quantity and quality shall be witnessed and or conducted by the appointed third party independent Inspector mutually acceptable to **GPA** and the **CONTRACTOR**. Such independent inspector shall also perform or witness the required sampling, gauging, and inspection of vessel and shore tanks before and after loading at load port as well as discharge port, Guam. Final determination shall be based on the discharge port findings. All quantity calculations and correction to volume at sixty (60) degree (Fahrenheit) shall be in accordance with the ASTM-IP Petroleum Measurement Tables, Table 6- the latest edition published shall be applicable. All costs and charges for the inspections for the load port shall be borne by the **CONTRACTOR**, and costs at the discharge port shall be equally shared by **GPA** and the **CONTRACTOR**.

(b) Load port samples from each individual shore loading tanks shall be sampled by the independent inspector who shall perform or witness the required tests for quality certification prior to loading. Shore tank composite from each individual shore loading tanks shall be separately tested and the quality must conform to the specifications under Schedule A of the contract. Vessel's composite samples from all vessel's cargo compartments shall also be obtained by the inspector for the consignee, **GPA**, in care of the ship's master. All Samples shall be equally divided into THREE (3) parts, sealed, properly identified, and designated with the required "Chain of Custody of Samples" documentations.

(c) The quality of the cargo to be delivered shall be determined by an independent inspector mutually acceptable to GPA and the **CONTRACTOR** and is to be based on the ship composite samples taken at the port of discharge in such a manner as to secure samples which are representative of the entire cargo delivery. Discharge tanks samples and ship's composite samples shall be divided into THREE (3) parts. One part shall be for **CONTRACTOR** and TWO (2) parts shall be for **GPA**, and **GPA** shall utilize one sample for recertification and reserve the other sample as a retained referee sample. All discharge port samples shall be presented by the inspector for **GPA** in care of the Master of the ship. All samples shall be retained for not less than ONE HUNDRED TWENTY (120) days after delivery. In the event of dispute as to quality, analysis of the samples taken at the discharge port shall be made by an independent inspector, which analysis shall be final and binding upon both parties.

GPA reserves the right to reject any or all deliveries that fail to conform to the quality requirements specified in Schedule A.

GPA has the right to reject any cargo outside the specifications limits, as these are agreed in the context of this contract. In this respect, the quality analysis certificate together with the other shipping documents (B/L, certificate of origin, cargo manifest, certificate of origin, certificate of quantity with shore tank measurement report, certificate of quantity, etc) must be transmitted by fax or e-mail to GPA upon completion of loading.

Original/copy of the quality analysis certificates and ship's "certificate of cleanliness" issued before loading to be handed over with the other shipping documents (B/L, Certificate of Origin, Cargo Manifest, Certificate of Quality, Certificate of Quantity with shore tank measurement report, etc.) upon arrival of vessel at discharge port.

It is understood that any delay as may be incurred in discharge due to unavailability of copy of the Bill of Lading will be for **CONTRACTOR's** account. Furthermore, the correct documentation in original format is required in order to establish to the full satisfaction of GPA.

SECTION 12. QUANTITY DETERMNATION

Quantity determination shall be performed by a third party independent inspector mutually acceptable to **GPA** and the **CONTRACTOR.** Quantity shall be based from the load port shore tanks gauges as to be reflected as Bill of Lading quantity NET barrels at sixty degrees Fahrenheit (60 °F). The Certificate of Quantity shall separately use the density from each individual shore

loading tanks. All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 °F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable. A copy of the load port shore tank measurements shall be included as supplemental documents.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

In the event of the variances between the B/L quantity and the discharge port (shore tanks) receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE- FOURTH PERCENT (0.25 %) of the barrel established quantity; shortages beyond the 0.25% shall be covered by the **CONTRACTOR**.

SECTION 13. SECURITY OF SUPPLY

For security of supply, **CONTRACTOR** reserves the right to supply fuel oil meeting **GPA** specifications from any source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in Section 4 above.

SECTION 14. GOVERNMENT LAWS AND REGULATIONS

(a) If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent **GPA** from burning the type of fuel oil to be supplied hereunder, **GPA** shall use its best efforts to obtain an exemption. In the event **GPA** cannot obtain an exemption from such laws and regulations, **CONTRACTOR** shall use his best efforts to furnish **GPA** substitute fuel oil which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute fuel oil causes an increase or decrease in **CONTRACTOR** 's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by **CONTRACTOR** of the notification of substitute fuel oil in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Disputes". However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract fuel oil

specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the parties cannot mutually agree upon the price at which **CONTRACTOR** is to furnish such substitute fuel oil, and **CONTRACTOR** refuses to provide such substitute fuel oil at the Contract price set out herein shall **GPA** then have the option of purchasing from other sources fuel oil at a lower price than that offered by **CONTRACTOR** in such negotiations which complies with such laws and regulations, but in any event, the **CONTRACTOR** shall have no recourse, other than those specified herein.

(b) **CONTRACTOR** shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 15. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 16. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

(a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;

(b) Restraints. Arrest or restraint of princes, rulers or peoples;

(c) Confiscation. Expropriation, requisition, confiscation or nationalization;

(d) Rationing. Embargoes, export or import restrictions or rationing or allocation, whether imposed by law, decree or regulation or by voluntary cooperation of industry at the insistence or request of any governmental authority or person purporting to act therefore;

(e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;

(f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;

(g) Loss for Tankers. Loss of tanker tonnage due to sinking by belligerents or to governmental taking whether or not by formal requisition;

(h) Accidents. Accidents to or adjuncts of shipping navigation;

(i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;

(j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;

(k) Taking by Government. Unavailability of fuel because of the election of the government of the country of its origin to take royalty product in kind;

(l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 17. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 16, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 18. PAYMENT REQUIRED

Notwithstanding the provisions of Section 16, supra, **GPA** shall not be relieved of any obligation to make payments for any fuel delivered to Guam dock/**GPA** tanks hereunder; however, during the force majeure condition the obligation shall be suspended, except for fuel oil deliveries made prior to the force majeure condition.

SECTION 19. PRORATION OR EQUITABLE ALLOATION

If any of the events enumerated in Section 16, supra, have occurred, **CONTRACTOR** shall prorate or otherwise allocate in a fair and equitable manner among its customers, including **GPA**, the supplies of fuel oil **CONTRACTOR** has available for delivery at the time of the occurrence or for the duration of such event taking into account **GPA**'s unique situation as Guam's total dependence on fuel oil. **CONTRACTOR** shall also seek an alternative source of fuel oil to fulfill its contractual obligations.

SECTION 20. ALTERNATE SUPPLY

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 16, supra, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition shall exist.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the Contractor, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition of negligence shall exist. If the cost of fuel during such period of negligence shall exceed the Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

SECTION 21. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any fuel to be sold under the Contract for the reasons which fall within the provisions of Section 16, supra, then the party so prevented shall, as to the remainder of the fuel not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of

deliveries or payment under the causes listed in Section 16, supra, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 22. GOVERNING LAW AND DISPUTES

This CONTRACT shall in all respects be governed by the Laws of Guam. The provisions of the United Nations Convention on Contracts for the International Sale of Goods are expressly excluded.

This CONTRACT shall not be construed to confer any benefit on any person not being a party to this Contract not shall it provide any rights to such person to enforce any of its provisions. The provisions of the English Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

In the event of any controversies, dispute or difference of any nature (a "Dispute") between the parties arising from or in connection with this Contract, either party may give notice to the other in writing of the existence of such dispute specifying its nature and the points at issue. If the dispute shall not have been amicably resolved within thirty (30) days from the date of the said notice, then the same shall be exclusively and definitely resolved through final and binding arbitration in New York, by the AMERICAN ARBITRATION ASSOCIATION ('AAA'), in accordance with the rules of arbitration of such institution in effect as of the date the existence of the controversy is notified by one of the parties. The arbitration shall be conducted by three arbitrators, unless all parties to the dispute agree to a sole arbitrator within thirty (30) days after the filing of the arbitration. Each party to the dispute shall appoint one arbitrator within thirty (30) days of the filing of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators have been appointed by the parties to the dispute. If a party to the dispute fails to appoint its party-appointed arbitrators or if the two party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then LCIA shall appoint the remainder of the three arbitrators. The arbitration proceedings shall be conducted in English and the arbitrator(s) shall be fluent in the English language. The award of the arbitral tribunal shall be final and binding. Judgment on the award of the arbitral tribunal may be entered and enforced in any court having jurisdiction thereof. The cost of the arbitration proceedings, including attorneys' fees, shall be borne in the manner determined by the arbitral tribunal. Any right to appeal or challenge any arbitral decision or award is hereby waived. The parties may seek a preliminary injunction or other preliminary

judicial relief, if in its judgment such action is necessary to avoid irreparable damage. It is expressly agreed that indirect, special, punitive and consequential damages shall not be awarded.

SECTION 23. CONTRACTOR'S INSURANCE

The **CONTRACTOR** shall maintain an insurance policy or ensure that vessel nominated have in place an insurance policy for oil pollution (throughout the entire period of the voyage to and from the discharge port) with coverage consistent with the provisions in compliance to the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90) and any amendments thereto. This includes, but is not limited to, compliance with oil spill clean up plan, financial responsibility, and all other provisions of OPA 90.

SECTION 24. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any oil spillage caused by it or its agent or **CONTRACTOR**s during the process of oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any vessel owned or chartered by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90).

SECTION 25. TRANSPORTATION

The Authority shall nominate and advise the **CONTRACTOR** of the 10-day delivery date range not later than 30 days before the 1st calendar day of the delivery date range. The **AUTHORITY** and **CONTRACTOR** shall mutually agree to narrow down to a 5-day delivery date range 21 days prior to the 1st day of the 5-day delivery date range.

(a) **CONTRACTOR** shall arrange for the transportation of the fuel oil from loading port to the Guam dock, and give **GPA** at least FIFTEEN (15) days prior notice of the approximate arrival date of each tanker.

All risk of loss, cost and liabilities prior to the time of passage of title of the fuel oil to shall be on the **CONTRACTOR**. **CONTRACTOR** or its agents shall further arrange for the use of pier receiving facilities' Manager (Tristar), U.S. Coast Guard, U.S. Custom and Immigration inspections, Guam Commercial Port authorities, Guam tug services, Port Stevedores services, and others as necessary for the safe berthing of fuel tankers.

GPA shall exercise due diligence and make its best effort to assist the **CONTRACTOR** in arranging for safe berthing facilities to accommodate vessels at the F-1 dock with the following information:

Maximum LOA	237 meters
Maximum breadth	45 meters
Maximum vessel draft alongside	14.8 meters
Maximum displacement	120,000 tonnes

GPA shall provide the **CONTRACTOR** an estimated total cargo quantity to be delivered approximately THIRTY (30) days from estimated 10-day delivery date range.

GPA shall provide notification to the **CONTRACTOR** as to the final split cargo delivery quantity approximately TWENTY-ONE (21) days prior to the first (1st) day of the estimated 5-day delivery date range which will also be specified in this final notice. **GPA** estimates a single delivery requirement in the range of FORTY THOUSAND TO ONE HUNDRED TWENTY THOUSAND BARRELS (40,000 -120,000 bbls).

For each delivery **CONTRACTOR** will have an operational tolerance of ~~five~~ ONE-FOURTH PERCENT (0.25%) on the cargo size, as well as the obligation to deliver the shipment within defined delivery date range, as has been notified by **GPA**.

GPA shall have the right to cancel or change the previously notified cargo size and/or delivery date within twenty one (21) calendar days prior to the first day of the delivery range without penalty.

(b) **Tanker nomination procedures:**

The **AUTHORITY** shall advise the contractor of projected "tankers' schedule and quantities per slate" THIRTY (30) days before the commencement of the contract, and **CONTRACTOR** agrees to provide all fuel requirements of **GPA** as advised and all succeeding cargo requirements thereafter.

(i) **Vessel Specification**:

All vessels nominated by the **CONTRACTOR** for fuel oil deliveries to **GPA** shall meet Tristar's vessel vetting requirements and be pre-approved by the F-1 dock facility manager (Tristar), having its registered office at:

414 West Soledad Avenue
GCIC Building, Suite 500P
Hagatna, Guam 96910
Tel : (671) 565-2300/ 565-9021
Fax: (671) 565-3909

The **CONTRACTOR** or its agents shall be responsible in seeking vessel clearance from Tristar. In the event that vessels owned or chartered by the **CONTRACTOR** do not meet the Tristar specification, **CONTRACTOR** shall have the vessel shortfalls corrected or have another vessel nominated and ensure that a suitable vessel is cleared for timely delivery of cargo to **GPA**. The **CONTRACTOR** or its agents shall be responsible for the scheduling and reservation of the dock with Tristar.

The **CONTRACTOR** shall ensure that the vessel assigned to perform the voyage should be rid of any slop before reaching the designated port and have adequate slops – storage capacity to ensure that unloading of any slops is avoided.

(c) **Ship Lay time and Demurrage:**

Ship lay time of thirty-six (36) hours at the discharge port shall commence six (6) hours after the tender of Notice of Readiness (NOR) or when the vessel berths whichever occurs first, and to cease upon last cargo hoses disconnection. Official NOR shall be tendered/ re-tendered after completion of inspection and clearance for conducting cargo discharging operations is granted by the Port Authorities.

However, if the vessel arrives before the first day of the agreed arrival date range, lay time shall not commence until 06:00 AM on the first day of the agreed arrival date range or the time discharge commences whichever is earlier. If the vessel arrives after the last day of the agreed arrival date range lay time shall commence at the time discharge commences.

If regulations of the Port Authorities prohibit the discharge of cargo at night, the time so lost shall not count as used lay time.

(i) **Ship Demurrage:**

If lay time allowed is exceeded, GPA shall be liable to pay the **CONTRACTOR** for applicable demurrage. However, any delay due to vessel inspection and clearance by Local and Federal Authorities, breakdown of the vessel's equipment, or failure by vessel to comply with the requirements of the discharge port with respect to equipment aboard, shall not be counted in the lay time used for calculating demurrage. Waiting period for berthing, port formalities, product sampling and testing for quality conformance shall be deducted in the lay time calculation.

The vessel must be able to attain a minimum discharge rate of four thousand barrels per hour (4,000 bbls/hr) and a discharge pressure of up to one hundred (100) psi measured at the F-1 Dock manifold. Time lost for slow discharging shall be deducted from the lay time used for calculating demurrage.

Demurrage cost if payable by **GPA** shall be at the single voyage demurrage rate specified in the single voyage Charter Party of the vessel loading the cargo in question and the **CONTRACTOR** shall furnish **GPA** with a copy of such Charter Party. Such charges must be submitted to **GPA** within 90 days after Bill of Lading date.

CONTRACTOR 's and **GPA**'s rights and duties under Section 24 and Section 25 do not supersede or control the provisions of Section 16 Force Majeure.

(d) **Dock Use Lay time Charges**:

Dock lay time of thirty-six (36) hours at the discharge port, to commence upon commencement of cargo discharging, and to cease upon last cargo hose disconnection. Dock lay time charges in excess of the first thirty-six (36) hours are paid by GPA to the dock facility manager, Tristar.

In the event that the allowable lay time of thirty-six (36) hours is exceeded due to delays caused by the vessel, the Contractor shall reimburse GPA for any charges in excess of the allowable lay time. Calculation for reimbursement shall be based on the Letter of Protest issued to the Vessel's Officer converted to time units multiplied by the dock excess lay time charge and dock operator overtime cost.

SECTION 26. COORDINATION – AMMUNITION LOADING

(a) The **CONTRACTOR** is hereby advised and agrees that the unloading of fuel oil is not permitted during the time that the unloading or loading of ammunition is taking place at the U.S. Navy's ammunition wharf.

(b) Coordination to prevent conflict in unloading between ammunition and fuel oil will be effected jointly by responsible parties representing the U.S. Navy, the Port Authority, **GPA** and the **CONTRACTOR**. Any charges that may result because of demurrage caused by delay in discharge of fuel oil related to ammunition unloading or loading will be borne by the **GPA**, provided that notice of arrival of tanker is given to **GPA** by the **CONTRACTOR** at least FIFTEEN (15) days prior to ETA Guam. In absence of such notice any delay costs shall be borne solely by the **CONTRACTOR**.

SECTION 27. FAILURE TO SUPPLY

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of fuel oil supply or commits any other substantial breach of this Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure fuel oil supply from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 28. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

(a) Terminate the Contract forthwith or forthwith suspend delivery under the contract until further notice, on notifying GPA orally or by notice in writing; or

(b) Continue to supply fuel oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 29. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR** 's performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon THRITY (30) days written notice.

SECTION 30. PENALTY CLAUSES

(a) **Late Deliveries**

(1) In case of five (5) delayed deliveries beyond the last day of the stipulated delivery date range on the discharge port, after the stipulated delivery date as set out in the nomination procedure, **GPA** reserves the right to terminate the present contract by his written notification, without obligation to indemnify the **CONTRACTOR**.

(2) **CONTRACTOR** accepts to pay **GPA** for every delayed delivery beyond the last day of the five (5) days stipulated delivery date range as set out in the nomination procedure, a penalty equivalent to:

- $0.10/bbl multiplied by the Bill of Lading quantity for every day of delay if delivery is less than five days late.
- 0.20/bbl multiplied by the Bill of Lading quantity for every day of delay if delivery is more than five days late.

In case of delay due to **GPA**'s fault or Force Majeure, the time of delivery shall be correspondingly extended, the **CONTRACTOR** waiving any respective claim against **GPA**.

(b) **Quality Outside Contractual Specifications**

In the event that any fuel, according to the analysis results of either the composite vessel sample or the "Umpire" sample has one or more quality characteristics outside the contractual specifications set in Schedule A, then in addition to any other rights or remedies available to the **GPA** under this contract a penalty will be imposed according to the following:

(1) If the bottom sediment and water exceeds the specification limit, then a price reduction shall be made for all water and non-petroleum sediment in excess of maximums specified in Schedule A multiplied by the Bill of Lading Quantity.
(2) If the heating value is less than the specification limit, then there will be a price reduction calculated as the ratio of the Out-of- Specification heating value and the Guaranteed Heating Value specified in Schedule A, multiplied by the Bill of Lading Quantity.

If any other quality parameter (besides the ones stated in) exceeds the specifications' limits, then a penalty will be agreed between **GPA** and **CONTRACTOR**.

It is expressly agreed that the present penalty clauses shall be imposed regardless of whether damages were or not suffered by the **GPA** due to the delay in delivering the fuel and fuel quality outside contractual specifications, and that the **GPA** reserves the right to claim cumulatively both the amount of the penalty clauses and indemnification for every direct damage suffered by him due to **CONTRACTOR** non-contractual actions or omissions. If during the period of this contract the **GPA** is forced to purchase fuel oil in order to maintain the **GPA**'s Power Stations on full commercial load as a result of failure on the part of the **CONTRACTOR** to deliver fuel oil in accordance with the terms of this contract (save for events of Force Majeure) any additional cost borne by the **GPA** over and above the price provided for in this Contract will be liable to be refunded to the **GPA** either by payment from the **CONTRACTOR** or by way of reduction from his debts to the **CONTRACTOR** or from the Good Performance Bond of the Contract, or partially from both.

GPA reserves the right to retain the amount of the penalty clauses from his debts to the **CONTRACTOR** or from the Good Performance Bond of the Contract, or partially from both.

SECTION 31. DEFAULT

"If the PARTY refuses or fails to perform any of their obligations under this agreement, non-breaching PARTY shall notify the PARTY either by e-mail or in writing within thirty (30) days of the breach. If the PARTY does not remedy the breach within thirty (30) days after the date of

notification, non-breaching PARTY may by giving notice to the other PARTY terminate the Agreement in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, GPA reserves the right to procure fuel supply from another source upon notification to CONTRACTOR either by e-mail or in writing. Fuel to be procured shall be at the prevailing market price at the time of partial termination or suspension.

The CONTRACTOR shall be liable for the difference between the contract price and the prevailing market price at the time of termination."

SECTION 32. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 33. TERMINATION FOR CONVENIENCE

(a) **Termination**.

The delivery of fuel oil supply under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which supply of fuel oil under the Contract is terminated, and the Contract shall be terminated effective THREE HUNDRED SIXTY (360) days after receipt of notice by **CONTRACTOR**.

In the case of termination of this Contract, GPA shall reimburse the CONTRACTOR of all the expenses related to the period of the Performance Bond that were not used.

(b) **CONTRACTOR's Obligations.**

The **CONTRACTOR** shall incur no further obligations in connection with the terminated fuel oil supply delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of fuel oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for fuel oil supply. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and

Contracts, if any, connected with the terminated fuel oil supply delivery. **GPA** may direct the **CONTRACTOR** to assign the Contractor's right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver fuel oil supply not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) **Right to Supplies.**

GPA may require the **CONTRACTOR** to transfer title of fuel oil cargo in transit to Guam at the time of receipt by Contractor of **GPA**'s Notice of Termination.

(d) **Compensation.**

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within ONE (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** 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 by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Guam Uniform Commercial Code, and the Contract price of the fuel supply not terminated.

(3) Absent complete agreement under subparagraph (1) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

(i) Fuel oil Contract prices for supplies or services accepted under the Contract by **GPA**;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of fuel oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted fuel oil supplies or services; provided, however, that if it appears that the **CONTRACTOR** would

have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of Contracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;

(iv) 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 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 this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code.

SECTION 34. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 35. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 36. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving FIFTEEN (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____

_____

_____

_____

SECTION 37. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 38. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter **CONTRACTOR**'s obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the Contract without **GPA**'s consent which may be given or refused at **GPA**'s absolute discretion.

SECTION 39. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 40. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind the **AUTHORITY**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 41. DESCRIPTIVE HEADINGS

The descriptive headings of the several Sections and Subsections in this Invitation are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 42. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract

nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 43. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 44. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 45. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 46. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in

conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 47. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY

GCA 5 §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION 48. RESTRICTION AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

GCA 5 §5253(b) restricts the CONTRACTOR against employing convicted sex offenders from working at Government of Guam venues. It states:

> (b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the CONTRACTOR has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the CONTRACTOR is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the

administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

SECTION 49. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the Re-Bid **IFB-GPA-057-17**. This Contract is subject to the approval of **GPA** and the Public Utilities Commission and it shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority (GPA)**:

John M. Benavente, P.E. **General Manager**	**DATE**

For **(CONTRACTOR)** :

(Company Name and Seal)

CONTRACTOR, Duly Authorized **REPRESENTATIVE OF COMPANY**	**DATE**

APPROVED AS TO FORM:

Graham Botha, Legal Counsel **GUAM POWER AUTHORITY**	**DATE**

PERFORMANCE AND PAYMENT BONDS

KNOW ALL MEN BY THESE PRESENTS that _____

_____

_____

(Name of CONTRACTOR)

herein after called the CONTRACTOR and _____

_____

_____

(Name of Surety)

a corporation duly organized under the laws of the State of _____

_____

(hereafter referred to as: "Surety") authorized to transact business in Guam as Surety, are held and firmly bound unto the Guam Power Authority, as obligee, for use and benefit of claimants as herein below defined, in the amount of _____

_____Dollars (US$_____) for the payment whereof the CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the CONTRACTOR has by written agreement dated _____, 20 _____, entered into a Contract with the Guam Power Authority for the **Supply of Diesel Fuel Oil No.2** in accordance with the Specifications prepared by the Guam Power Authority, which Contract is by reference made a part hereof, and is hereafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the CONTRACTOR shall promptly and faithfully perform said Contract, and shall promptly make payment to all claimants as hereinafter defined for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

A. The Surety hereby waives notice of any alteration or extension of the time made by the Guam Power Authority provided the same is within the scope of the Contract.

B. Whenever CONTRACTOR shall be and is declared to be in default under the Contract by the Guam Power Authority, and the Guam Power Authority has performed its Contract obligations, the Surety may promptly remedy the default or shall promptly:

1. Complete the Contract in accordance with its terms and conditions; or

2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Guam Power Authority and the Surety of the lowest responsive, responsible bidder, arrange for a Contract between such bidder and the Authority, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less than balance of the Contract price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph shall mean the total amount payable by the Guam Power Authority to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by the Guam Power Authority to CONTRACTOR. No right of action shall accrue on this bond to or

for the use of any person or corporation other than the Guam Power Authority or successors of the Authority.

C. A claimant is defined as one having a direct contract with the CONTRACTOR, or with a sub-CONTRACTOR of the CONTRACTOR for labor, material, or both, used or reasonably required for use in the performance of the Contract labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

D. The above-named CONTRACTOR and Surety hereby jointly and severally agree with the Guam Power Authority that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) calendar days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Guam Power Authority shall not be liable for the payment of any costs or expenses of any such suit.

E. No suit or action shall be commenced hereunder by a claimant:

1. Unless claimant, other than one having a direct contract with the CONTRACTOR, shall have given written notice to any two of the following:

   The CONTRACTOR, the Guam Power Authority, or the Surety above named, within ninety (90) calendar days after such claimant did or performed that last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was

done or performed. Such notice shall be personally served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the CONTRACTOR at any place the principal maintains an office or conducts it business.

2. After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.

3. Other than in a court of competent jurisdiction in and for Guam.

F. The amount of the payment bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED THIS _____ day of _____ 20___ .

IN THE PRESENCE OF:

(Note: If the Principles are Partners, each must execute the Bond)

_____ _____

(WITNESS) (CONTRACTOR) (SEAL)

_____ _____

(TITLE)

(MAJOR OFFICER OF SURETY)	(MAJOR OFFICER OF SURETY)
(TITLE)	(TITLE)

SCHEDULE A: PRODUCT QUALITY SPECIFICATION

DIESEL FUEL Oil No. 2

Property	ASTM Test Method [B]	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	60 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm^2 at 40°C	1.9 Min 4.1 Max
Total Aromatic Hydrocarbons	IP 391		% mass	15 Min 35 Max
Polycyclic Aromatic Hydrocarbons	IP 391		% mass	11 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453	D-7039	ppm (µg/g)	14 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	15 Min 35 Max
Micro Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	400 Max
Conductivity	D2624	D4308	pS/m	100 Min 600 Max
Density @ 15°C	D1298	D4052	Kg/m^3	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Hydrogen Sulfide in Liquid	IP 570A		Mg/kg	
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.25 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp	Visual			Report
Haze Rating	D4176		Haze Rating	1 Max
Fatty Acid Methyl Ester (FAME)	D 7371-14	EN 14078	% vol	0.1 Max
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min
Stadis 450	Declared		Mg/L	
Lubricity Additive	Declared		Mg/kg	

The Authority may require the supplier to conduct additional test as necessary for plant's performance/efficiency evaluation.

Invitation For Re-Bid

Multi-Step IFB No. GPA-057-17

DIESEL FUEL OIL NO.2

B. DELIVERY TO GPA PLANTS

Volume II

CONTRACT

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CONTRACT

(CONTRACTOR)

GUAM POWER AUTHORITY

2017

Re-Bid

Multi-Step IFB No. GPA-057-17

DELIVERY OF DIESEL FUEL OIL NO.2

FORMAL CONTRACT

This Agreement and Formal Contract ("Contract"), is made and entered into on the _____ day of _____, 2017 by and between:

_____, hereinafter referred to as "**CONTRACTOR**", with its principal address at _____;

- and –

GUAM POWER AUTHORITY, hereinafter referred to as the **"Authority"** or **"GPA"**, a Public Corporation with its office located at the Gloria Nelson Public Service Complex, Fadian Mangilao Guam;

RECITALS

WHEREAS, the current services contract for the delivery of Diesel Fuel Oil No.2 will expire on December 31, 2017; and

WHEREAS, the current services contract for the delivery of Diesel Fuel Oil No.2 is extended by six (6 months) until June, 2018; and

WHEREAS, GPA sought to procure a new **CONTRACTOR** for the delivery of Fuel Oil to the with the following Baseload Plants and Peaking Units site locations: **(1) Cabras 1&2 and MEC 8&9**; **(2) Tenjo Vista; (3) Manenggon and Talofofo; (4) TEMES CT; (5) Dededo CT and Macheche CT;** and **(6) Yigo CT, and Aggreko**; and

WHEREAS, GPA issued an Invitation For a Multi-Step Bid for the Delivery of Diesel Fuel Oil No.2 under re-bid IFB GPA-057-17; and

WHEREAS, CONTRACTOR submitted a bid in response to the Invitation for Bid for the Delivery of Diesel Fuel Oil No.2; and

WHEREAS, GPA, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR**. is the lowest responsive and responsible bidder for the following GPA plant locations: _____; and

WHEREAS, the Guam Consolidated Commission on Utilities (CCU) and the Guam Public Utilities Commission (PUC) has determined that the **CONTRACTOR** is the preferred option for **GPA** to delivery the Fuel oil requirements for the Authority for those plant locations.

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledge; **CONTRACTOR** and **GPA** hereby agree as follows:

SECTION 1. DEFINITIONS

"$" refers to currency in U.S. dollars.

"ASTM" means the American Society for Testing and Materials, a recognized organization providing globally- accepted standard testing and evaluation methods for petroleum.

"API" means the American Petroleum Institute, a recognized organization providing globally accepted petroleum procedures.

"Barrel" means a volume equivalent to 42 U.S. Gallons.

"Contract" means this written agreement between **GPA** and **CONTRACTOR** covering the Delivery of Fuel oil and any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

"Contract Documents" means the Contract, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract, together with all Modifications issued after execution of the Contract.

"Contracting Officer" means the General Manager of the **GPA** and shall include his authorized representatives.

"CONTRACTOR" means the party which has duly entered into this Contract with **GPA** to perform the work herein contemplated or his or their authorized assignee.

"Day" means a calendar day of twenty-four (24) hours measured from midnight to the next midnight.

"Month" means a calendar month.

"Year" means a calendar year.

"Delivery Time" means the total number of hours or days or the dates stated in this Agreement for furnishing the Fuel Oil.

"General Manager" means the Chief Executive Officer of **GPA**. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of **GPA**.

"Notice" means and includes all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with Contract requirements. Any written notice by either party to the Contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box and file the same with the Contracting Officer.

"Procurement Officer" means the General Manager or the General Manager's designee.

"PURCHASER" means **GPA**.

"Seller" means the **CONTRACTOR**.

"Territory" means the Territory of Guam.

"OPA'90" means the Oil Pollution Act of 1990 enacted by the U.S. Congress.

"Platt's Asia-Pacific/ Arab Gulf Marketscan" refers to the source document for the `Fuel Oil Contract pricing.

"Metric Ton" means unit of mass equal to 1,000 kilograms (2,205 pounds)

"Fuel Oil" means a liquid hydrocarbon product satisfying the specifications in Section 8 and Schedule A.

"Gallon" means a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

"CCU" means the Guam Consolidated Commission on Utilities.

"PUC" means the Guam Public Utilities Commission.

"COA" means Certificate of Analysisor Quality Certificate, a formal document recording the CONTRACTOR's laboratory determination of quality of a particular sample which represents a specific delivery, said laboratory determinations having been performed in accordance with the test methods specified in Schedule A.

"Independent Inspector" means a qualified third-party petroleum inspection contractor acceptable to both parties providing petroleum sampling, measurement and other services before, during and after a delivery.

"Receiving Facility" means any of GPA's generating facilities, storage facilities and/or other facilities used to receive, transport, store, or otherwise handle the Diesel, and/or ULSD located on the island of Guam as designated by GPA.

"ULSD" means Ultra-Low Sulfur Diesel produced in conformity with the provisions of the quality in the Specification which are set forth in Schedule A.

SECTION 2. CONTRACT TERM

The Contract term shall be for FIVE (5) years to commence on or about July 01, 2018 and shall continue until midnight of June 30, 2023.

SECTION 3. CONTRACT PRICE

The **CONTRACT PRICE** shall be the **FIXED SERVICE FEE** in U.S. dollars per Gallon ($/gal) for all deliveries of Fuel Oil to the **GPA** plants shall be inclusive of all costs and liabilities required to fulfill the contract.

The **FIXED SERVICE FEE** for all deliveries of Fuel Oil to certain GPA Plants identified on Schedule B hereto shall be as follows:

CONTRACT PRICE	1st year	2nd year	3rd yr	4th yr	5th yr
	$/gallon	$/gallon	$/gallon	$/gallon	$/gallon

	(in 3 decimals)	(in 3 decimals)	(in 3 decimals)	(in 3 decimals)	(in 3 decimals)
FIXED SERVICE FEE					

SECTION 4. FUEL OIL DELIVERY

CONTRACTOR agrees to deliver and **GPA** agrees to accept and pay for all of **GPA**'s Fuel Oil delivery requirements for the power generating plants in Guam identified in Schedule B on an "As Needed Basis" as determined by **GPA** for the term of the Contract.

CONTRACTOR shall own, lease or have the right to use tanker trucks, storage tanks, loading racks, and other facilities sufficient to meet **CONTRACTOR**'s obligations under this Contract. Cost for the use of such resources shall be borne by the **CONTRACTOR.**

The **estimated** total Fuel Oil delivery requirement is listed in Schedule B. This information is provided as reference material only. Although every attempt has been made to ensure its accuracy, GPA makes no guarantees that these quantities will be achieved but they may be exceeded. GPA expressly disclaims any liability whatsoever arising from reliance or non-reliance of the data provided.

Actual quantities may vary depending on the dispatching of the plants. The estimated Fuel Oil requirement provided herein are only approximate values and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the estimated fuel oil requirements.

The first delivery of Fuel Oil pursuant to the Contract is anticipated to be on or about **July 01, 2018**.

The **CONTRACTOR** shall be available to deliver the Fuel Oil to the point of delivery as designated by **GPA** within twenty-four hours (24 hrs) notice or less of receiving a request. **CONTRACTOR** must be available to receive and accept delivery requests daily, including weekends and holidays. The **CONTRACTOR** shall provide transfer pumps at its delivery trucks and/or whatever else may be necessary to deliver Fuel Oil to **GPA** plant storage tanks to the height of 45 feet. Fuel Oil deliveries shall be on an "on call" basis. **CONTRACTOR** must closely coordinate with the plants and shall

exercise its best efforts to deliver Fuel Oil to **GPA** to meet operational requirements regardless of the estimates provided by **GPA.**

SECTION 5. TITLE, CUSTODY AND RISK OF LOSS

Title to the Fuel Oil shall remain with **GPA.**

a. Pipeline transfer to CONTRACTOR's Storage Tank.

All risk of loss, cost and liabilities shall pass from **GPA** to the **CONTRACTOR** when the Fuel Oil has passed the **GPA** pipeline flange connecting the **CONTRACTOR**'s pipeline flange.

b. **Delivery by Tanker Truck to GPA plants.**

All risk of loss, cost and liabilities shall pass from the CONTRACTOR to GPA when the Fuel Oil has passed the GPA pipeline flange at the GPA storage tanks connecting the CONTRACTOR's tanker truck delivery hose.

SECTION 6. TERMS OF PAYMENT

Invoices for Fuel Oil delivery services pursuant to quantity (Fuel Oil receipts) and quality prescribed under the terms of this contract shall be submitted no more than1 week after each delivery, based on the number of Gallons of Fuel Oil delivered to **GPA**. The invoices must be supported by Fuel Oil Bill of Lading (BOL) or delivery tickets including a receipt acknowledgement from a **GPA** representative. The payment terms are 30 days (net) beginning on the date the invoice is received by the **GPA** accounts payable section. All payments shall be based on the delivered quantity, corrected to volume (net) at 60 °F.

SECTION 7. WARRANTY AND CLAIMS

CONTRACTOR agrees, represents and warrants as follows:

CONTRACTOR warrants that it has the facilities sufficient to meet **CONTRACTOR**'s obligations under this Contract. Such facilites shall include, but not limited to: tanker trucks, storage tanks,

loading racks, and other resources. Cost for the use of such resources shall be borne by the **CONTRACTOR.**

If the Fuel Oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom. **CONTRACTOR** shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of Fuel Oil delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of its negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of Fuel Oil as specified in Section 4.

SECTION 8. PRODUCT AND QUALITY

Test Methods shall be in conformance with the prescribed procedures set forth by the American Society for Testing and Materials (ASTM) Standards for Petroleum Products, Lubricants, and Fossil Fuels, or alternative tests acceptable and subject to prior authorization by **GPA**.

The Fuel Oil delivered to **GPA** shall have the physical and chemical characteristics as described in Schedule A.

SECTION 9. QUANTITY AND QUALITY ASSURANCE

a. Pipeline Transfer to CONTRACTOR's Storage Tank

In the event that CONTRACTOR shall use its storage tank to transfer product from the **GPA** bulk storage tank, quantity determination of product transferred by the **CONTRACTOR** by pipeline from the **GPA** bulk storage shall be determined at the time of each transfer by the Independent Inspector gauging the **GPA** bulk storage tank and **CONTRACTOR** receiving tanks before and after delivery. Cost shall be borne by the **CONTRACTOR.**

CONTRACTOR shall also test the product in its storage tank without additional cost to GPA.

Quantity shall be corrected to the volume at sixty degrees Fahrenheit. Conversion shall be made in accordance with the ASTM-IP Petroleum Measurement Tables (IP-200), Table 6B (latest edition). Quantity certification prepared by independent inspector shall be final and binding upon both parties.

b. Delivery to the GPA plants

CONTRACTOR'S calibrated load rack meters shall be utilized to determine the quantity of Fuel Oil delivered by tanker truck to **GPA.** Quantity of product delivered by CONTRACTOR at CONTRACTOR's nominated terminal to the CONTRACTOR's nominated tanker truck(s) to the GPA plants shall be determined at the time of each delivery by CONTRACTOR, converted in each instance to volume at 60 degrees Fahrenheit by the automated rack control system and shall be the basis for the Bill of Lading (BOL).

CONTRACTOR shall have such meters calibrated no less than annually or as required and agreed by CONTRACTOR and GPA. CONTRACTOR shall furnish **GPA** a copy of the certificate of newly calibrated meter(s) within 10 days after the calibration date. In the event of a dispute over the accuracy of the **CONTRACTOR's** meters, an independent third party mutually agreeable to both parties will be brought in to perform a recalibration. In the event of a miscalibration, the costs shall be borne by the **CONTRACTOR**. Any loss incurred by **GPA** as a result of miscalibration of meters shall be negotiated and returned to **GPA**.

BOL quantities shall be deducted from the quantity of product withdrawn by the **CONTRACTOR** in the GPA bulk storage. Any undelivered product withdrawals shall be returned to GPA or issued a credit invoice equivalent to the cost of the undelivered product.

Appropriate Certificate of Analysis (COA) reports shall also accompany each delivery and must be presented to the **GPA** receiving facility. Quality must conform with the requirements specified under Section 8 and Schedule A as a condition for acceptance of delivery.

In the event of a dispute over the quality of Fuel Oil received by **GPA**, an inspection of Fuel Oil will be conducted by an appointed third party inspector mutually acceptable to **GPA** and the **CONTRACTOR**.

CONTRACTOR, at its own expense, is required to install security seals on valves and compartments of the delivery tanker trucks after Fuel Oil loading is completed. Seals shall remain intact upon inspection by the **GPA** receiving facility. Seal numbers shall be recorded in the delivery receipt and initialed by an authorized terminal representative. **GPA** reserves the right to reject deliveries with tampered or missing seals.

CONTRACTOR shall provide a comprehensive summary of the Fuel Oil delivery reports. **CONTRACTOR** shall tailor its reports to **GPA's** needs. **CONTRACTOR** shall submit copy(ies) of all Certificates of Analysis (COA) for the delivery month. Reports shall be submitted to the GPA

within five (5) working days after each report month. **CONTRACTOR** shall also submit other reports and/or documentations that is relevant to the contract as may be required by the Authority.

SECTION 10. QUANTITY DETERMINATION

In the event of the variances between the BOL quantity and the GPA plant receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE-FOURTH PERCENT (0.25 %) of the gallons established quantity; shortages beyond the 0.25% tolerance shall be covered by the **CONTRACTOR**.

GPA reserves the right to require the intervention of a third party independent inspector for quantity determination. Such inspector shall be mutually acceptable to **GPA** and the **CONTRACTOR.** Cost shall be borne by the **CONTRACTOR.** All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 ^{o}F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

SECTION 11. GOVERNMENT LAWS AND REGULATIONS

CONTRACTOR shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 12. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 13. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the

Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

(a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;

(b) Restraints. Arrest or restraint of princes, rulers or peoples;

(c) Confiscation. Expropriation, requisition, confiscation or nationalization;

(e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;

(f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;

(i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;

(j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;

(k) Taking by Government. Unavailability of Fuel Oil to deliver because of the election of the government of the country of its origin to take royalty product in kind;

(l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 14. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 13, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 15. PAYMENT REQUIRED

Notwithstanding the provisions of Section 13, supra, **GPA** shall not be relieved of any obligation to make payments for any Fuel Oil delivered to **GPA** tanks hereunder; however, during the force majeure condition the obligation shall be suspended, except for deliveries of Fuel Oil made prior to the force majeure condition.

SECTION 16. ALTERNATE DELIVERY

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 13, supra, or if CONTRACTOR will be unable to deliver at the time needed, **CONTRACTOR** shall seek an alternative delivery source so long as such condition shall exist.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the **CONTRACTOR**, **CONTRACTOR** shall seek an alternative delivery source so long as such condition shall exist, without additional cost to **GPA**.
GPA may at its sole discretion seek an alternative delivery source so long as such condition of negligence shall exist. If the cost of delivery during such period of negligence shall exceed the Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

SECTION 17. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any Fuel Oil to be delivered under the Contract for the reasons which fall within the provisions of Section 13, supra, then the party so prevented shall, as to the remainder of the Fuel Oil not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 13, supra, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 18. GOVERNING LAW AND DISPUTES

(a) All controversies between **GPA** and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by **GPA** pursuant to Guam Procurement laws and regulations.

(b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.

(c) The **CONTRACTOR** shall comply with any decision of **GPA** and proceed diligently with performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of **GPA** has made a written determination that continuation of work under the Contract is essential to the welfare of the Territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.
The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of

the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 19. CONTRACTOR'S INSURANCE

CONTRACTOR shall not commence work under this Contract until he has obtained all insurance required under this section and such insurance has been approved by **GPA**, nor shall the **CONTRACTOR** allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to GPA within the period prescribed by **GPA**. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

Failure on the part of the **CONTRACTOR** to provide the required documents and/or to enter into a contract with **GPA** shall be sufficient grounds for the annulment of the award. **GPA** may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

A. **WORKMEN'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE:** The **CONTRACTOR** shall take out and maintain during the life of this Contract the applicable statutory Workmen's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable State or Territory covering all his employees, and in the case of any work sublet, the **CONTRACTOR** shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees. The **CONTRACTOR** shall secure and maintain, during the life of this Contract, Employer's Liability Insurance with a limit of $500,000 with an insurance company authorized to write such insurance in all states or territories where the Contractor will have employees located in the performance of this Contract. **CONTRACTOR** shall provide a Waiver of Subrogation in favor of **GPA** via endorsement to the Workers Compensation policy.

B. COMMERCIAL GENERAL LIABILTY:

1. The **CONTRACTOR** shall maintain, during the life of this Contract, such Commercial General Liability as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from operations under this Contract whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided Liability Insurance shall be as follows:

Bodily Injury Limits:	$ 1,000,000 Each Person
Property Damage Limits:	$ 1,000,000 Each Occurrence
	$ 2,000,000 Aggregate

2. The Commercial General Liability required by the preceding Subparagraph 1 shall include the following extensions of coverage:

(a) The property damage coverage shall include a Broad Form Property Damage Endorsement.

(b) Contractual Liability coverage shall be included.

(c) Protective Liability coverage shall be included to protect the **CONTRACTOR** against claims arising out of operations performed by his Subcontractors.

(d) Products Liability and/or Completed Operations coverage shall be included.

(e) **GPA** shall be an additional insured on Commercial General Liability policy.

(f) **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**.

C. AUTOMOBILE LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, such Automobile Liability insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this Contract. **GPA** shall be an additional insured on Auto Liability policy. **CONTRACTOR** will grant Waiver of Subrogation in

favor of **GPA**. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits:	$ 1,000,000 Each Person
	$ 1,000,000 Each Occurrence
Property Damage Limits:	$ 1,000,000 Each occurrence

D. POLLUTION LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, Pollution Liability Insurance with minimum limits of $5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of **GPA**. **GPA** is to be an additional insured.

E. EXCESS LIABILITY

Excess Liability with limits of $5,000,000. **GPA** shall be an additional insured. **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**.

F. CERTIFICATE OF INSURANCE:

The **CONTRACTOR** shall furnish **GPA** with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give **GPA** at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the **CONTRACTOR** shall furnish a Certificates of Insurance evidencing renewal of such coverage to **GPA**. The Certificates of Insurance shall clearly show this Contract number.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to **GPA** as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

G. SUBCONTRACTOR'S INSURANCE:

The **CONTRACTOR** shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the **CONTRACTOR** under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the **CONTRACTOR** two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph C. above. The **CONTRACTOR** shall furnish one (1) copy of the certificate to **GPA**.

H. INSURANCE COMPANY AND AGENT:

All insurance policies herein required of the **CONTRACTOR** shall be written by a company duly authorized to do business in the Territory where deliver under this Contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

SECTION 20. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any Fuel Oil spillage caused by it or its agent or **CONTRACTOR**s during the process of Fuel Oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any transportation owned or leased by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90) and other regulatory agencies.

SECTION 21. TRANSPORTATION

CONTRACTOR shall arrange for the transportation of the Fuel Oil to **GPA**. **CONTRACTOR** shall have the tanker truck fleet that is sufficient to meet **CONTRACTOR**'s obligations under this Contract.

All risk of loss, cost and liabilities shall pass from the CONTRACTOR to GPA when the Fuel Oil has passed the GPA pipeline flange at the GPA storage tanks connecting the CONTRACTOR's tanker truck delivery hose.

CONTRACTOR 's and **GPA**'s rights and duties under Section 20 and Section 21 do not supersede or control the provisions of Section 13 Force Majeure.

SECTION 22. FAILURE TO DELIVER

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of Fuel Oilor commits any other substantial breach of this Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure Fuel Oil delivery services from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 23. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

(a) Terminate the Contract forthwith or forthwith suspend delivery under the Contract until further notice, on notifying **GPA** orally or by notice in writing; or

(b) Continue to deliver Fuel Oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 24. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR** 's performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare

of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon THRITY (30) days written notice.

SECTION 25. DEFAULT

If a PARTY refuses or fails to perform any of its obligations under this Contract, the non-breaching PARTY shall notify the PARTY either by e-mail or in writing within thirty (30) days of the breach. If the PARTY does not remedy the breach within thirty (30) days after the date of notification, non-breaching PARTY may by giving notice to the other PARTY terminate the Contract in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, **GPA** reserves the right to procure Fuel Oil delivery from another source upon notification to **CONTRACTOR** either by e-mail or in writing. Fuel Oil to be procured shall be at the prevailing market price at the time of partial termination or suspension.

In the event of termination because of **GPA's** default, the **CONTRACTOR** shall not be liable for the difference between the Contract price and the prevailing market price at the time of termination.

SECTION 26. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 27. TERMINATION FOR CONVENIENCE

(a) **Termination**.

The delivery of Fuel Oil deliver under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which deliver of Fuel Oil under the Contract is terminated, and the Contract shall be terminated effective NINETY (90) days after receipt of notice by **CONTRACTOR**.

In the case of termination of this Contract, **GPA** shall reimburse the **CONTRACTOR** of all the expenses related to the period of the Performance Bond that were not used.

(b) **CONTRACTOR's OBLIGATIONS.**

The **CONTRACTOR** shall incur no further obligations in connection with the terminated Fuel Oil deliver and delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of Fuel Oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for Fuel Oil delivery. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and Contracts, if any, connected with the terminated Fuel Oil delivery. **GPA** may direct the **CONTRACTOR** to assign the **CONTRACTOR'S** right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver Fuel Oil where delivery is not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) **Compensation.**

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within ONE (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** 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 by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code of Guam, and the Contract price of the Fuel Oil delivery not terminated.

(3) Absent complete agreement under subparagraph (2) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

(i) Contract prices for delivery of Fuel Oil services accepted under the Contract by **GPA**;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of Fuel Oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted Fuel Oil delivery services; provided, however, that if it appears that the **CONTRACTOR** would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of Contracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;

(iv) 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 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 this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code.

SECTION 28. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 29. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 30. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving fifteen (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____
_____
_____
_____
_____
_____

SECTION 31. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 32. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter **CONTRACTOR**'s obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the Contract without **GPA**'s consent which may be given or refused at **GPA**'s absolute discretion.

CONTRACTOR and **GPA** shall not transfer or assign its rights and obligations under this contract, in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, the **CONTRACTOR** may transfer or assign its rights and obligations under this contract, in whole or in part, to a US based affiliate (as defined hereinafter), with ninety (90) days prior notice to and at the consent of **GPA**. For the purpose of this contract, "US based affiliate" means any company or legal entity based in the United States of America which (a) controls either directly or indirectly a party hereto, or (b) is controlled directly or indirectly by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such party. "Control" for purposes of the previous sentence means the ability to direct the management and policies of a company or legal entity, whether through ownership of securities, by contract or otherwise.

SECTION 33. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 34. SPECIFICATIONS

Should **GPA** wish to alter any of the specifications set out in Section 8 and Schedule A, method and terms of delivery, for good cause, it shall give written notice to **CONTRACTOR** within thirty (30) days. If such changes cause an increase or decrease in **CONTRACTOR**'s cost of performance of Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim by **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from the date of receipt by **CONTRACTOR** of the notification of changed specifications. **CONTRACTOR** and **GPA** shall, in good faith, negotiate an equitable adjustment pursuant to the change in specifications. If **CONTRACTOR** and **GPA** fail to agree on the adjustment to be made within thirty (30) days after **CONTRACTOR** receives notice of altered specifications, or if **CONTRACTOR** is unwilling to meet the altered specifications, the parties shall be subject to the provisions under Section 18 (Governing Law and Disputes) clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract Fuel Oil specifications as changed.

SECTION 35. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind **GPA**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 36. DESCRIPTIVE HEADINGS

The descriptive headings of the several sections and subsections in this Contract are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 37. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 38. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 39. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 40. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 41. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 42. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRIRORY.

5 GCA §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION 43. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

5 GCA §5253(b) restricts the **CONTRACTOR** against employing convicted sex offenders from working at Government of Guam venues. It states:(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the **CONTRACTOR** has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the

CONTRACTOR is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

SECTION 44. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the re-bid **IFB-GPA-057-17**. This Contract is subject to the approval of **GPA** and the Public Utilities Commission and it shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority (GPA)**:

_____ _____

John M. Benavente, P.E. **DATE**
General Manager

For **(CONTRACTOR)**: _____
(Company Seal)

_____ _____

CONTRACTOR, Duly Authorized **DATE**
REPRESENTATIVE OF COMPANY

APPROVED AS TO FORM:

_____ _____

Graham Botha, Legal Counsel **DATE**
GUAM POWER AUTHORITY

SCHEDULE A: PRODUCT QUALITY SPECIFICATION

DIESEL FUEL Oil No. 2 [A]

Property	ASTM Test Method [B]	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	60 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm^2 at 40°C	1.9 Min 4.1 Max
Total Aromatic Hydrocarbons	IP 391		% mass	15 Min 35 Max
Polycyclic Aromatic Hydrocarbons	IP 391		% mass	11 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453	D-7039	ppm (µg/g)	14 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	15 Min 35 Max
Micro Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	400 Max
Conductivity	D2624	D4308	pS/m	100 Min 600 Max
Density @ 15°C	D1298	D4052	Kg/m^3	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Hydrogen Sulfide in Liquid	IP 570A		Mg/kg	
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.25 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp	Visual			Report
Haze Rating	D4176		Haze Rating	1 Max
Fatty Acid Methyl Ester (FAME)	D 7371-14	EN 14078	% vol	0.1 Max
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min
Stadis 450	Declared		Mg/L	
Lubricity Additive	Declared		Mg/kg	

The Authority may require the supplier to conduct additional test as necessary for plant's performance/efficiency evaluation.

SCHEDULE B: ESTIMATED ANNUAL FUEL OIL REQUIREMENTS

This information is provided as reference material only. Although every attempt has been made to ensure it accuracy, GPA makes no guarantees that these quantities will be achieved but they may be exceeded. GPA expressly disclaims any liability whatsoever arising from reliance or non-reliance of the data provided.

Plant Location	Estimated Annual Requirement (Gallons per Year)
1. Cabras 1&2 and MEC 8&9	**100,000 - 200,000**
2. Tenjo Vista	**5,000,000 – 7,000,000**
3. Manenggon and Talofofo	**3,000,000 – 4,000,000**
4. TEMES CT	**1,700,000 – 2,500,000**
5. Dededo CT and Macheche CT	**3,000,000 – 4,000,000**
6. Yigo CT and Aggreko	**8,000,000 – 10,000,000**
TOTAL	**20,800,000 - 27,700,000**

Actual quantities may vary depending on the dispatching of the plants. The estimated Fuel Oil requirement provided herein are only approximate values and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the estimated fuel oil requirements.

SCHEDULE C: PLANT CONSUMPTION AT MAXIMUM CAPACITIES

Plant Location	Max. Load per Plant (MW)	Plant Efficiency (kwh/gal)	Fuel Consumption per unit (gals/hr)	Fuel Consumption per unit (gals/day)	No. of Units	Total Fuel Consumption at Maximum Capacity (gals/day)	
Tenjo Vista	4.4	13.60	324	7,765	4	**31,059**	**31,059**
Talofofo	4.4	14.34	307	7,364	2	**14,728**	**31,999**
Manengon	5.3	14.73	360	8,635	2	**17,271**	
TEMES CT	40.0	9.16	4,367	104,803	1	**104,803**	**104,803**
Dededo CT	22.0	9.56	2,301	55,230	2	**110,460**	**160,986**
Macheche CT	22.0	10.45	2,105	50,526	1	**50,526**	
Yigo CT	22.0	11.64	1,890	45,361	1	**45,361**	**116,216**
Aggreko	1.0	13.21	76	1,817	39	**70,855**	
TOTAL						**445,064**	

Invitation For Multi-Step Re-Bid

GPA-057-17

Diesel Fuel Oil No.2

A. Supply to GPA Bulk Storage

B. Delivery to GPA Plants

Volume I

Commercial Terms and Conditions

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1. INTRODUCTION

The Guam Power Authority (GPA), hereinafter referred to as GPA, is a public utility corporation that provides electric power service throughout the entire island of Guam. GPA, in conjunction with Private Partners, operates and maintains power plants, with a total rated capacity of about 435 MW. The diesel-fueled power plants total capacity is about 215 MW.

GPA is inviting interested Firms to participate in a Multi-Step Bid for Diesel Fuel Oil No.2 as follows:

A. Supply to the GPA Bulk Storage

B. Delivery to the GPA Power Plants

The Supply Contract shall be for TWO (2) years to commence on or about **July 01, 2018** with THREE (3) year extension options, renewable annually upon mutual agreement of both parties.
The Delivery Contract shall be for FIVE (5) years to commence on or about **July 01, 2018 .**

All interested parties are hereby on notice that minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color and national origin in consideration for an award. The right is reserved to reject any or all bids and to waive any imperfection in the bids in the interest of the Guam Power Authority.

Table 1: Bid Milestones indicate the projected start and end dates for the milestones in the Bid Process. **GPA reserves the right to change the Bid Milestones at its sole discretion.** Bidders are encouraged to confirm with GPA any of the scheduled milestones via an official letter to GPA.

Table 1: Bid Milestones

Bid Process Milestones		From	To
Bid Announcement		10/23/2017	11/30/2017
Pre-Bid Conference (Non-mandatory)		11/08/2017	(10:00 am)
Site Visit (Non-mandatory)		11/08/2017	(1:30 pm)
Submit Questions		10/24/2017	11/24/2017
Cut Off Date for Receipt of Questions		11/24/2017	
GPA Review and Answer Questions		10/24/2017	11/30/2017
Vendor Prepare Bids		10/24/2017	12/15/2017
Cut Off Date for Receipt of Proposals (Technical and Price Proposals)		12/15/2017 2:00 PM Guam Time	
EVALUATION Step One:	Technical Proposal (Bid) Evaluation	12/27/2017	01/05/2018
	GM review and approval	01/08/2018	01/12/2018
	Notify Qualified Bidders	01/15/2018	01/29/2018
Price Proposal Opening		01/31/2018 2:00 PM Guam Time	
EVALUATION Step Two:	Price Proposal Evaluation	02/05/2018	02/09/2018
GM Approval		02/12/2018	02/16/2018
Notice of Intent To Award		02/19/2018	03/04/2018
CCU Approval		03/15/2018	03/22/2018
PUC Approval		03/29/2018	
Contract Signing		04/02/2018	
Contract Mobilization		04/02/2018	06/30/2018
Contract Commencement		07/01/18	

1.1. Invitation for Bid (IFB) Document Organization

Invitation for Bid (IFB) documents are organized into three separate volumes, as follows:

Volume I — Commercial Terms and Conditions

Volume II — Contract

Volume III — Appendices

In addition, the IFB documents include two (2) sets of electronic spreadsheets (MS Excel Workbooks):

- Qualitative Proposal Scoring.xls

- Price Proposal Evaluation.xls.

1.2. Overview and Scope

The CONTRACTOR shall provide GPA with Diesel Fuel Oil No.2 Supply and/or Delivery Services in compliance with the requirements specified in Volume II (CONTRACT) of this bid. The CONTRACTOR shall also provide qualified and trained personnel to safely, efficiently and legally supply and/or deliver the services required by the Authority under this IFB.

The **estimated** total diesel fuel oil requirement is provided in of Volume II (CONTRACT)- Section 2 and Schedule B of the solicitation package.

Product quality specification is prescribed in Volume II (Contract) - Section 9 and Schedule A of the solicitation package.

1.2.1. CONTRACT TERM

A. Supply to GPA Bulk Storage

The Contract Term for the base period shall be for TWO (2) years and shall commence on or about after 0:00 hour on July 01, 2018, and shall continue until midnight of June 30, 2020 with options to extend for THREE (3) additional One (1) year term, upon mutual agreement of both parties.

B. Delivery to GPA Plants

The Contract Term shall be for FIVE (5) years and shall commence on or about after 0:00 hour on July 01, 2018, and shall continue until midnight of June 30, 2023.

The first supply and/or delivery of fuel oil pursuant to the Contract is anticipated to be on or about July01, 2018.

1.2.2. CONTRACT PRICE

The total contract price in U.S. Dollars per U.S Gallon for all diesel fuel oil delivered to GPA shall be inclusive of all costs and liabilities incurred prior to supply and/or delivery. The contract price structure is described in detail in Volume II (Contract) – Section 4 of the solicitation package.

2. INSTRUCTIONS TO BIDDERS

2.1. Introduction

This is a Multi-step Bid Procurement. The **Technical and Price Proposals should both be submitted on or before the Cut-off Date of Receipt of Proposals.**

In Step One, only the submitted Technical Proposals will be evaluated and determined whether Acceptable or Unacceptable. BIDDERs whose Technical Proposals are determined to be Acceptable shall qualify for Step Two. BIDDERs whose Technical Proposals are Unacceptable shall be notified, and the unopened Price Proposal packages shall be returned.

In Step Two, the Price Proposals of the Bidders whose Technical Proposals that are determined to be Acceptable, either initially or as a result of discussions, will be considered for award.

2.2. Language and Correspondence

The official language of Guam is English. The bid and all accompanying documents shall be in English. Any prospective BIDDER desiring an explanation or interpretation of the solicitation, commercial terms, Technical Specification, etc., must make a request in writing to GPA at the address listed below, referencing the Invitation for Bid No.

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

FAX: 1 (671) 646-3054 / 55
Attention: Supply Management Administrator

The written request may also be sent via-email by sending an electronic copy of the written request to the Procurement Officer handling the IFB.

Any information given to a prospective BIDDER concerning a solicitation will be furnished promptly to all parties recorded by Procurement as having received the Invitation for Bid as an amendment to the solicitation if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective BIDDERs. Oral explanations or instructions given will not be binding.

2.3. Technical and Functional Requirements Examination

BIDDERs are required to carefully examine all tender documents inclusive of all technical and functional requirements and to inform themselves of all conditions and requirements of the solicitation in accordance with the laws and regulations of the Territory of Guam. Ignorance on the part of BIDDERs of any part of the tender documents and Technical and Functional Requirements will in no way relieve them of the obligations and responsibilities assumed under the contract.

2.4. Facility Tours

All prospective BIDDERs shall, at their own expense, visit Guam and GPA's Fuel Receiving Facilities to study local conditions, facilities available, craft wages, roads, communications, and transport facilities available. BIDDERs should also acquaint themselves with the relevant laws, rules, and regulations of Guam.

For the purpose of familiarizing BIDDERs with the fuel receiving facilities, BIDDERs may request GPA for a scheduled Facility Tour. All requests must be submitted as specified in Section 2.2. Upon approval and subject to the availability of the facility, GPA shall coordinate with the BIDDER regarding the tour details.

2.5. Solicitation Amendment

Any amendment, modification or addendum issued by the Guam Power Authority, prior to the opening of the proposals, for the purpose of changing the intent of the Technical and Functional Requirements, clarifying the meaning or changing any of the provisions of this Invitation for Bid, shall be binding to the same extent as if written in the tender documents. Any addendum issued will be made available to all BIDDERs via mail, fax, e-mail or posting to the ftp site.

Announcements regarding any Amendment shall also be posted at the GPA Website at **http://www.guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php**. BIDDERs

shall acknowledge receipt of the amendment by a signature on one copy, which is to be returned to the GPA Supply Management Administrator. Acknowledgement may also be made by fax or e-mail.

2.6. Familiarity With Laws

The BIDDER shall be familiar with all Federal (U.S.) and local laws, ordinances, rules and regulations of Guam that in any manner affect the work. Ignorance of law on the part of the BIDDER will not relieve the BIDDER from responsibility.

2.7. Cost of Bidding

BIDDERs shall bear all costs associated with the preparation and submission of its proposal. GPA will not be responsible or liable for those costs, regardless of the outcome of the IFB process.

2.8. Price/Cost Data

BIDDERs shall provide prices/costs in U.S. Dollars. BIDDERs are required to furnish **a bid price for each year of the contract specified in the price proposal form of the IFB documents.**

Technical and Price Proposals shall be submitted on or before the Cut-off Date for Receipt of Proposals, with the Price Proposal on a separate sealed envelope marked "PRICE PROPOSAL" and indicating the date and time of bid package remittance.

2.9. Documents Executed Outside of Guam

The Power of Attorney, performance bond guarantee, and documents defining the constitution of the joint venture, consortium, company or firm, if executed outside Guam, whether required to be submitted with the proposals or after the award of the contract, must be authenticated by a Notary Public or other official authorized to witness sworn statements.

2.10. Proposal Submittal

This section outlines the requirements for proposal submittals, including the proposal package format and content required by GPA. The BIDDERs are advised to keep a copy of all documents submitted, including the Workbooks, and test electronic copies on disk prior to submission to GPA.

2.10.1. Technical Proposal Requirements

Each BIDDER's Technical Proposal Package shall include, but is not limited to, the following:

- Complete printed copies of the Technical Proposal;
- Complete printed responses and supporting information to the questions raised in the Qualitative Proposal Scoring Workbook;
- Complete printed and electronic copies of the Qualitative Proposal Scoring Workbook in a separate sealed envelope marked "TECHNICAL (UNPRICED) PROPOSAL";
- Checklist forms defined in Volume III- Appendix A;
- All other required forms defined in Volume III Appendices; and
- Supplementary information as described below.

The Technical Proposal Package shall be submitted in the format and quantities described below.

2.10.1.1 Technical Proposal

Each BIDDER's Technical Proposal shall include the following:

a. Business Structure and Business Approach

The CONTRACTOR shall provide company information such as name, local address, corporate headquarters (if any) and affiliate company in support for the performance of its contractual obligations. The business structure and nature of services provided shall be provided together with the company information. A copy of the Articles of Incorporation and By-Laws or other applicable forms concerning the business organization is also requested. The CONTRACTOR shall outline business concepts to be used in order to perform, meet, and achieve the objectives of this solicitation.

b. Experience and Qualification

The contractor shall provide supporting information showing extensive and reliable experience in the supply or distribution of diesel fuel oil. The CONTRACTOR shall demonstrate its experience and expertise in the supply of Diesel Fuel Oil No.2 by providing the following:

- Supporting information outlining and/or illustrating past and current successful experience in the supply of Diesel Fuel Oil No.2. Include list of clients for the last five (5) years.
- Experience with Fuel Handling.

Contractor shall also provide documentary evidence of conformity with the Product Quality Specifications set in Volume II Section 9 and Schedule A for the types of fuel to be supplied.

c. Statement of Qualification/ Organizational Structure

The CONTRACTOR shall illustrate its approach in supplying Diesel Fuel Oil No.2 to GPA. The CONTRACTOR shall provide an organizational structure including the names and designations of personnel to be assigned in this contract, including a brief description of the qualifications and responsibilities of each personnel.

The contractor shall also provide its qualifications, and its affiliates' qualifications in the performance of the requirements of this contract.

d. Financial Information

The CONTRACTOR shall provide documentation to illustrate its financial position and capability.

e. Federal and Regulatory Compliance

The CONTRACTOR shall provide supporting documents showing knowledge and experience in complying with federal regulations and other applicable laws on Guam, such as OPA 90 and others, including documents showing compliance with all federal regulations and applicable laws.

f. Client references

At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERs (include the Client Name, Position, Company and copies of contracts with the BIDDERs or AFFILIATES). At least three (3) client reference letters shall be provided, along with a letter describing the relationship with the BIDDER, and the BIDDER's contract performance.

g. Mobilization Capability

The BIDDER shall provide proof of capability to mobilize full support services no later than 30 days after contract signing.

2.10.1.2. Qualitative Proposal Scoring Workbook

The bidder shall submit copies of the Qualitative Proposal Scoring Workbook, prepared as instructed in the **Proposal Instructions** tab. Quantities shall follow the requirements specified in Section 2.10.1.5 of this Volume. For each checklist item, the bidder shall provide references on the responses and supporting documents.

2.10.1.3. Required Forms

Submittal of required forms as specified in Section 3 of this volume, as well as in Volume III Appendices, is mandatory. GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms listed below:

1. A copy of the BIDDER's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;
2. Certificate of Good Standing to conduct business in jurisdiction of residence;
3. Information regarding outstanding claims against the BIDDER;
4. Affidavit of Disclosure of Major Shareholder (Appendix D);
5. Non-collusion Affidavit (Appendix E);
6. No Gratuities or Kickbacks Affidavit (Appendix F);
7. Ethical Standards Affidavit (Appendix G);
8. Declaration of Compliance with US DOL's Wage Determination (Appendix H);
9. Restriction Against Sex Offenders (Appendix I);
10. Bid Bond Form (Appendix J);
11. Local Procurement Preference Application (Appendix K); and,
12. A valid business license.

2.10.1.4. Marking and Packaging of Technical Proposal

The TECHNICAL PROPOSAL shall be submitted in a separate sealed package with the following information clearly marked on the outside of each side:

1) "TECHNICAL PROPOSAL";
2) "DIESEL FUEL OIL NO.2"
   A. SUPPLY TO GPA BULK STORAGE
   B. DELIVERY TO GPA PLANTS;
3) The BIDDER's Name;
4) Invitation for Bid Number;
5) Closing Date and Time (Guam Standard Time);
6) Addressed to, as follows:

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

If the BIDDER's proposal cannot fit within one box or chooses to submit more than one box, each box must be labeled with the following:

1) Box number within the Set of Submitted Boxes
2) The Total Number of Boxes Submitted

2.10.1.5. Technical Proposal Submittal Quantity

BIDDERs are required to submit one (1) original and six (6) bound copies of their technical proposal including one (1) original and six (6) printed copies of the Qualitative Scoring Workbook. One (1) electronic copy of the Qualitative Scoring Workbook should also be submitted.

2.10.2. Price Proposal Requirements

The PRICE PROPOSAL shall be submitted in a separate sealed package with the following information clearly marked on the outside of each side:

(1) "PRICE PROPOSAL";
(2) "DIESEL FUEL OIL NO.2"
A. SUPPLY TO GPA BULK STORAGE
B. DELIVERY TO GPA PLANTS;
(3) The BIDDER's Name;
(4) Invitation for Bid Number;
(5) Closing Date and Time (Guam Standard Time);
(6) Addressed to, as follows:

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

If the BIDDER's proposal cannot fit within one box or chooses to submit more than one box, each box must be labeled with the following:

1) Box number within the Set of Submitted Boxes
2) The Total Number of Boxes Submitted

2.10.3. Non-Repudiation Issues

GPA has structured both its Manual and Electronic IFB submittal procedures to ensure non-repudiation of the submitted proposals. In this IFB, non-repudiation is strong and substantial evidence of the identity of the sender and owner of the proposal and of proposal's integrity in so far as it being unaltered from its original sent state, sufficient to prevent a party from successfully denying the origin, submission or delivery of the proposal and the integrity of its contents. Non-repudiation applies to both parties to this IFB transaction. It binds the sender as well as precludes the recipient from denying the exchange of information and material upon the receipt of secure acknowledgement from the recipient.

GPA and the BIDDER shall manage the Manual IFB Submittal Process to address non-repudiation, security and confidentiality inclusive but not limited to the following:

- Manually executed signatures and printed media documents;
- Chain of custody receipts;
- Manual time-stamps for receipt of IFB materials;
- Machine generated Fax confirmation reports;
- Secure notification e-mail;
- Physical delivery of printed material proposals;
- Physically secured area storage of IFB materials.

2.10.4. Signature of Bidder

A duly authorized person must sign the BIDDER's proposals. All names shall be typed or printed below the signature. A proposal submitted by a corporation must bear the seal of the corporation, be attested to by its Secretary, and be accompanied by necessary Power-of-Attorney documentation.

Associated companies or joint ventures shall jointly designate one Power-of-Attorney person authorized to obligate all the companies of the association or joint venture. A proposal submitted by a joint venture must be accompanied by the document of formation of the joint venture, duly registered and authenticated by a Notary Public, in which is defined precisely the conditions under which it will function,

its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, the principal member of the joint venture, and address for correspondence for the joint venture. BIDDERs are advised that the joint venture agreement must include a clause stating that the members of the joint venture are severally and jointly bound.

Wherever a legal signature is required, receipt of an electronic signature will suffice to meet the submittal deadline for those electing to use the Electronic Proposal Submittal process. The original signed documents must be reproduced electronically and be placed in the submitted compressed archive file. However, the original documents must be sent to GPA via post or courier and post-marked no later than the bid-opening date. In addition, GPA will accept an electronic scanned copy of Notarized documents with the compressed archive submitted will suffice to meet the proposal deadline. However, the original documents must be sent to GPA via post or courier and post-marked no later than the bid-opening date.

2.10.5. Cut-Off Date for Receipt of Proposals

The Technical and Price Proposals have to be submitted on or before the GPA Cut-off Date for Receipt of Proposals specified in Table 1 (Bid Milestones).

Price Proposals shall be returned, unopened, to the BIDDERs whose Technical Proposals are deemed Not Acceptable.

2.10.6. Receipt and Handling of Proposals

Upon receipt, each Proposal submittal package will be time-stamped. The only acceptable evidence to establish the time of receipt at the GPA is the date/time stamp of the Guam Power Authority's procurement office on the wrapper or other documentary evidence of receipt maintained by GPA. Proposals will be stored in a secure place until the date and time set for proposal opening.

GPA procurement personnel and the BIDDERs must ensure that the outside of the sealed package is stamped received using the GPA Procurement Stamp. In addition, GPA procurement personnel must officially log the time and date that the BIDDER's sealed proposal package has been received. GPA makes no warranties on these submittal processes, manual or electronic.

2.10.7. Proposal Changes During Bid Process

Changes may be made by the BIDDERs to the Technical Proposal and Price Proposal prior to the Cut-off Date, and the proposals including corrections or changes made must be re-submitted on or before the Cut-off Date.

2.11. STEP ONE PROCEDURES

2.11.1. Evaluation of Technical Proposals

After the Close of the Proposal submission date, the GPA Evaluation Committee shall evaluate the Technical Proposals. Each of the responses and supporting information shall be evaluated and scored, in accordance with the scoring methodology described in the Qualitative Proposal Scoring Worksheet.

2.11.2 Scoring of Technical Proposals

GPA will use the score from the Qualitative Scoring Workbook to evaluate the contents of Proposals and categorize the Proposals as:

a. **Acceptable**;
b. **Potentially Acceptable**, that is reasonable susceptible of being made acceptable; or
c. **Unacceptable or Not Acceptable**. GPA shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

GPA shall evaluate and score each BIDDER using the methodology as described in Section 4 of this volume. At the conclusion of the evaluation, GPA shall establish a Qualified Bidders List (QBL), and the Procurement Officer or his designee may initiate Step Two if there are sufficient acceptable Technical (Unpriced) Proposals to assure effective price competition in the second phase without technical discussions. If the Procurement Officer or his designee finds that such is not the case, the Procurement Officer shall issue an amendment to this Invitation for Bid or engage in technical discussions with BIDDERs as set forth below.

2.11.3. Discussions of Proposals

The Procurement Officer or his designee may conduct discussions with any bidder who submits acceptable or potentially acceptable Technical Offer. During the course of such discussions, the Procurement Officer or his designee shall not disclose any information derived from one Unpriced Technical Proposal to any other BIDDER.

GPA may conduct discussions or request for additional information or documentation with any BIDDER to determine such BIDDER's qualifications for further consideration and explore with the BIDDER the scope and nature of the required services, method of performance and the relative utility of alternative methods of approach. BIDDERs are required to provide the responses within the time period specified at that time by GPA. **If GPA does not receive any response by the deadline specified, GPA shall consider the lack of a response as the BIDDER's response.** During the course of such discussions, the Procurement Officer shall not disclose any information derived from a technical offer to any other BIDDER.

Each BIDDER is requested not to contact GPA on any matter relating to its proposal, from the time of submission of the Proposals to the time the contract is awarded, except to respond to inquiries by GPA.

2.11.4. Notice of Unacceptable Proposal

A notice of unacceptability will be forwarded to the BIDDER upon completion of the Technical Proposal evaluation and final determination of unacceptability. When the Procurement Officer or his designee determines a BIDDER's Technical Proposal to be unacceptable, such BIDDER shall not be afforded an additional opportunity to supplement its technical offer.

2.12. STEP TWO PROCEDURES

Upon completion of evaluation of Technical Proposals, qualified bidders will be notified and GPA will proceed with Step Two of the multi-step bid. GPA shall return the Price Proposal Packages submitted by BIDDERs whose Technical Proposals did not qualify for Step Two.

2.12.1. Opening of Price Proposals

Each selected BIDDER from the Qualified Bidders list will be notified of the Price Proposal Opening date. BIDDERs may be present during the Bid Opening.

2.12.2. Proposal Changes During Bid Process

No changes may be made between Notification of Acceptable Proposal and Price Proposal Opening date.

2.12.3. Proposal Validity

All price/cost data submitted with the BIDDERs' proposals shall remain firm and open for acceptance for a period of not less than six (6) months after the Price Proposal Opening Date and thereafter shall be subject

to renewal by mutual agreement between the BIDDER and GPA. BIDDER shall state the actual date of expiration in their proposal.

2.12.4. Preliminary Examination of Price Proposal

GPA will examine the Price Proposal on the opening date to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Priced Offers are generally in order.

Arithmetical errors will be rectified on the following basis:

- If there is discrepancy between the unit price and the total price, including any discounts, that is obtained by multiplying the unit priced and quantity, the unit price shall prevail and the total price shall be corrected.
- If the Bidder does not accept the correction of the error, its bid will be rejected. If there is a discrepancy between words and figures, the amount in words will prevail.

2.12.5. Evaluation Criteria and Comparison of Priced Offers

GPA will evaluate and compare the Priced Offers for Bidder's Technical Proposals that were determined during Step One to be responsive to the tender document requirements. The Scoring Mechanism is further explained in Section 4.

2.13. Award of Contract

A. Supply to the GPA Bulk Storage

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal for the TWO (2) year contract base period.

B. Delivery to the GPA Plants

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal for the FIVE (5) year contract period. GPA reserves the right to make multiple awards, partial awards, award by site location, or award in whole, whichever may be most advantageous to the Authority.

The successful BIDDER will be notified by GPA through official written correspondence of the intent to award the contract (Notice of Intent to Award). The written correspondence may be sent by GPA via official letter, e-mail and fax.

The BIDDER will be required to send to Guam, within fourteen (14) days of the date of receipt of such notice, a representative or representatives with proper Power-of-Attorney for the purpose of executing a contract with such alterations or additions thereto as may be required to adopt such contract to the circumstances of the proposal. The successful BIDDER shall provide the required Performance Bond within fourteen (14) working days of receipt of the GPA Notice of Intent to Award.

Failure on the part of the successful BIDDER to provide a Performance Bond and/or to enter into a contract with GPA shall be sufficient grounds for the annulment of the award. GPA may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

2.14. Bid Bond and Performance Bond Requirements

2.14.1. Performance Bond Form, Amount and Duration

The required performance bond shall be in the form as prescribed in Volume III- Appendix B. At the beginning of the CONTRACT and at the beginning of each GPA Fiscal Year during which the CONTRACT is in effect, the CONTRACTOR shall provide and maintain a performance bond in the amount **equivalent to fifteen percent (15%) of the annual contract cost** for that full or partial fiscal year within the term of the contract. If the CONTRACTOR is declared by GPA to be in default under the CONTRACT, GPA may exercise any or all rights and remedies it possesses under the provisions of the performance bond. The GPA Fiscal Year begins on October 1 and ends on September 30 of the following calendar year.

2.14.2. Performance Bond Execution by a Guam Licensed Surety Company

The CONTRACTOR shall provide a Performance Bond executed by a surety company licensed to do business on Guam. A list of surety companies licensed to do business on Guam is provided in Volume III-Appendix C.

2.14.3. Bid Bond Form and Amount

A bid bond for an amount of **no less than Five Hundred Thousand Dollars (US$500,000.00)** is required and may be in the following form:

a. Cash, Bank Draft or Certified Check made payable to the Guam Power Authority;

b. By wire transfer to Guam Power Authority. Account information shall be sent to the bidders upon request.

c. Letter of Credit;

d. Surety Bond – valid if accompanied by:

(1) Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation;

(2) Power of Attorney issued by the Surety to the Resident General Agent

(3) Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bonds submitted as Bid Guarantee without signatures and supporting documents are invalid and bids will be rejected. If a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Volume III- Appendix J.

2.15. General Proposal Guidelines and Requirements

2.15.1. Amendments to the Bid Documents

GPA may elect to change the IFB documents in whole or part. GPA shall send all Amendments to the IFB documents via fax and/or e-mail. In addition, GPA will make all Amendments available on the Internet at: *http://www.guampowerauthority.com/procurement/index.html* .

2.15.2. Proprietary Data

For the purposes of this solicitation and submitted proposals, the laws, rules and regulations of Territory of Guam governing confidentiality shall govern. BIDDERs may designate those portions of the Proposal that contain trade secrets or other proprietary data that are to remain confidential.

The Procurement Officer or his designee shall examine the proposals to determine the validity of any request for nondisclosure of trade secrets and other proprietary data identified in writing. If the BIDDER and GPA do not agree as to the disclosure of data, the Procurement Officer or his designee shall inform the BIDDER in writing and in e-mail within five working days of the closing date for Proposal submittal what

portions of the Proposal will be disclosed and that, unless the BIDDER protests under the Conditions of Contract Disputes clause the information will be so disclosed.

The proposal shall be opened to public inspection subject to any continuing prohibition of the disclosure of confidential data.

2.15.3. Acceptance of Proposals

GPA reserves the right to reject any or all proposals and to waive minor informalities if it appears in GPA's best interest to do so. Any effort by a BIDDER to influence GPA in the proposal evaluation, proposal comparison or contract award decisions may result in the rejection of the proposal. Once GPA has arrived at a decision regarding the award of the contract, it will notify promptly the successful BIDDER through official written correspondence, and shall include information advising the proponents of the timing of the bid milestones such as Contract Finalization, Awarding and Mobilization. Potential Bid Awardees shall await this notification from GPA prior to commencement of any Contract Terms Finalization.

2.15.4. Solicitation Cancellation or Delay

The Guam Power Authority reserves the right to delay award or to cancel the Invitation for Bid, or to reject all proposals or any individual proposal in whole or in part, at any time prior to the final award. When a bid is canceled or rejected prior to final award, notice of cancellation or rejection shall be sent to all BIDDERs and all proposal materials will be promptly returned. The reasons for cancellation or rejection shall be made a part of the procurement file that is available for public inspection.

After opening, but prior to award, all proposals may be rejected in whole or in part when the Procurement Officer or his designee determines that such action is in the Territory's best interest for reasons including but not limited to:

a) The supplies and services being provided are no longer required;
b) The solicitation did not provide consideration of other factors of significance to the Territory;
c) All otherwise acceptable proposals received have clearly unreasonable price/cost data;
d) There is reason to believe that the proposals may not have been independently arrived at in open competition, may have been collusive and may have been submitted in bad faith;

Any individual proposal may be rejected in whole or in part when in the best interest of the Territory.

2.15.5. Disqualification of BIDDER

When, for any reason, collusion or other anticompetitive practices are suspected among BIDDERs, a notice of the relevant facts shall be transmitted to the Guam Attorney General. BIDDERs suspected of collusion or other anticompetitive practices may be suspended or debarred from participating in future procurement opportunities for a specified period.

2.15.6. False Statements In Proposal

BIDDERs must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in any proposal or bid is prescribed in 18 U.S.C. 1001 and Title 9, Guam Code Annotated. Note, by use of a digital signature to sign the proposal, the BIDDER agrees that this act legally binds the BIDDER to his proposal.

2.15.7. Prohibition Against Gratuities, Kickbacks, and Favors to the Territory

Pursuant to GCA 5 Section 5630 (c), this clause is conspicuously set forth to alert all parties in this procurement that *Guam Public Law Title 5 § 5630. Gratuities and Kickbacks* prohibits against gratuities, kickbacks and favors to the Territory.

2.15.8. Restriction against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues

GCA 5 §5253(b) restricts the PROPONENT against employing convicted sex offenders from working at Government of Guam venues. It states:

> All contracts for services to agencies listed herein shall include the following provisions:
> (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and
> (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

3. REQUIRED FORMS AND SUPPLEMENTAL INFORMATION

GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms listed below:

- A copy of the BIDDER's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;
- Audited financial information on BIDDER's firm for the last 3 years.
- Certificate of Good Standing to conduct business in jurisdiction of residence;
- Information regarding outstanding claims against the BIDDER;
- Required affidavits (Major Shareholders Disclosure; Non-Collusion; No Gratuities or Kickbacks; Ethical Standards Affidavit)
- Proposal Checklist
- Bid Bond
- A current Business License. Although it is not required in order to provide a Bid for this engagement, obtaining a Business License is a pre-condition for entering into a contract with the Authority.

The following forms and workbooks will be available on the GPA Website's Procurement Page, in *Volume III Appendices*. Appendices A, D, E, F, G, H, I, J, and K and the MS EXCEL Workbooks Qualitative Proposal Worksheet.xls and Price Proposal must be completed:

- Appendix A: Proposal Checklists
- Appendix B: Performance Bond
- Appendix C: List of Surety Companies Licensed To Do Business In Guam
- Appendix D: Major Shareholders Disclosure Affidavit
- Appendix E: Non-collusion Affidavit
- Appendix F: No Gratuities or Kickbacks Affidavit
- Appendix G: Ethical Standards Affidavit
- Appendix H: Declaration of Compliance with U.S. DOL's Wage Determination
- Appendix I: Restriction Against Sex Offenders
- Appendix J: Bid Bond Form and Instructions
- Appendix K: Local Procurement Preference Application
- Qualitative Proposal Worksheet.xls
- Price Proposal

3.1. Technical Proposal Forms

The following referenced forms shall be completed and submitted with the Proposal.

3.1.1. Proposal Checklists

The BIDDER shall complete Form A-1 by acknowledging the receipt of the Invitation For Bid Documents received from Guam Power Authority, including the latest IFB Amendments received. Acknowledgement of receipt shall be given by signing or putting an initial beside each line item received. This Form is an acknowledgement of receipt, review and understanding of the IFB documents.

During the submission of the Proposals, the BIDDER shall complete Form A-2. This Form provides an inventory of documents submitted by the BIDDER in response to the Proposal requirements.

3.1.2. Major Shareholders Disclosure Affidavit

The BIDDER shall fill out the Major Shareholders Disclosure Affidavit form in Appendix D and submit it with its Proposal.

3.1.3. Non-collusion Affidavit

The BIDDER shall fill out the Non-collusion Affidavit form in Appendix E and submit it with its Proposal.

3.1.4. No Gratuities or Kickbacks Affidavit

The BIDDER shall fill out the No Gratuities or Kickbacks Affidavit Form in Appendix F and submit it with its Proposal.

3.1.5. Ethical Standards Affidavit

The BIDDER shall fill out the Ethical Standards Affidavit Form in Appendix G and submit it with its Proposal.

3.1.6. Declaration of Compliance with U.S. DOL's Wage Determination

The BIDDER shall fill out the Declaration of Compliance with U.S. DOL's Wage Determination Affidavit Form in Appendix H and submit it with its Proposal.

3.1.7. Restriction Against Sex Offenders

The BIDDER shall complete the form, ***Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property*** (Appendix I) and submit it as part of the Technical Proposal.

3.1.8. Bid Bond Form

As stated in Section 2.14.3, if a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Volume III- Appendix J.

3.1.9. Local Procurement Preference Application

The BIDDER shall fill out and sign the Local Procurement Preference Application in Appendix K and submit it with the Technical Proposal.

3.2. Qualitative Proposal Workbook

The BIDDER shall complete the Qualitative Proposal Workbook in accordance with the instructions given in the workbook's Instructions tab. The workbook shall be submitted as part of the Technical Proposal.

3.3. Price Proposal Form

The qualified BIDDERs shall provide prices/costs in U.S. Dollars. BIDDERs are required to furnish a BID PRICE OFFER as specified in the PRICE PROPOSAL FORM. BID PRICE OFFER for optional contract years may also be provided; doing so allows GPA to calculate the cost of the contract should it be extended.

4. PROPOSAL SCORING MECHANISM

4.1. Overview

GPA will use the Proposal Scoring Mechanism described in this Section of the Invitation for Bid (IFB) to qualify BIDDERs for the participation in the final bid stage. The Proposal Scoring Mechanism provides the BIDDERs the opportunity to highlight their qualifications to bid in terms of their resources, skills, operating philosophy and commitments to perform specific tasks and originality. The IFB proposal evaluation shall be based on such specifications and based on the relative ranking of each BIDDER's qualifications.

4.2. Qualitative Proposal Evaluation

The qualitative proposal scoring is designed to assess the quality of the BIDDER's resources, skills, comprehensiveness and responses to specific questions or requirements. GPA may elect to have up to five (5) evaluators for this IFB. Each evaluator shall assess and review the Bidder's Technical Proposal documents. Each GPA evaluator shall score each BIDDER separately under a point system to determine the acceptability of each Proposal. The majority of the determinations of GPA evaluators shall prevail in the decision to Qualify or not Qualify a BIDDER for Step 2 — Price Proposal.

The instructions for filling out the Qualitative Proposal Scoring Workbook are listed in the **Proposal Instructions** tab in the Workbook. The BIDDER must complete all entries in the **Part 1- Qual Support References** tab of the Workbook. The tab, **CONTRACTOR Qualifications Checklist** is automatically populated once BIDDER completes all entries in **Part 1- Qual Support References.** Each GPA evaluator will be provided a copy of Part 1 – Qual Support References as well as the BIDDER's technical proposal materials. Evaluators shall review and evaluate BIDDER responses in **Part 1- Qual Support References** worksheet tab, and fill out the **Part 2 – Qual Eval Scoresheet** tab using the following steps:

1) Each evaluator shall review BIDDER's response to each question on the CONTRACTOR Checklist Items. The Evaluator shall be guided by information provided by the bidder regarding location of responses to each question in Part 1 – Qual Support References tab.
2) In **Part 2 – Qual Eval Scoresheet tab,** Evaluator shall assign a Raw Rating Score for each BIDDER's response to each question. The Evaluator shall be guided by the Checklist Weight and Proposal Scoring Information provided in the **Proposal Scoring Information** tab.
3) Each evaluator shall determine BIDDER's weighted average raw score using pre-specified weights for each question. Part 2 – Qual Eval Scoresheet tab has been formatted to automatically populate the Evaluated CONTRACTOR Qualifications Score.

The evaluators will use the supporting information on Price Proposal Worksheet. The Total Qualitative Points for a 100% Score is specified in the **Proposal Scoring Information** tab and **CONTRACTOR Qualifications Checklist** tab. Each GPA evaluator will analyze the contents of the Proposals and categorize the Proposals as:

- Acceptable: Score ≥ 80%
- Potentially Acceptable, that is reasonably susceptible of being made Acceptable: 80%> Score ≥75%
- Unacceptable: Score < 75%.

A percent score of less than 75% indicates that a GPA evaluator has determined that the BIDDER has not supplied sufficient evidence of qualifications and should not be allowed to participate in Step 2 – Price Proposal.

After each GPA evaluator has completed the evaluation and scoring of BIDDERS, GPA shall complete the Table below. The Procurement Officer will enter for each GPA evaluator and BIDDER one and only one of the following in the appropriate table cell below:

- Acceptable
- Potentially Acceptable
- Unacceptable.

The Procurement Officer or his designee may initiate Step Two if there are sufficient acceptable Unpriced Technical Proposals to assure effective price competition in the second phase without technical discussions. If the majority of the GPA evaluators rate the BIDDER as Acceptable , that BIDDER is determined to be Qualified and will be allowed to participate in Step 2– Price Proposal.

If the Procurement Officer or his designee finds that such is not the case, the Procurement Officer or his designee shall issue an amendment to this Invitation for Bid or engage in technical discussions with BIDDERs who are rated by a majority of the GPA evaluators as Acceptable or Potentially Acceptable. During the course of such discussions, the Procurement Officer or his designee shall not disclose any information derived from one Technical Proposal to any other BIDDER.

Once discussions are begun, any BIDDER who has been notified that its Offer has been finally found acceptable may submit supplemental information amending its Technical Proposal at any time. Such submission may be made at the request of the Procurement Officer or upon the BIDDER's own initiative.

BIDDERs who are rated by the majority of the GPA evaluators as Unacceptable is determined to be Not Qualified and will not be allowed to participate in Step 2– Price Proposal. The Procurement Officer shall record in writing the basis for finding a Bidder Not Qualified and make it part of the procurement file.

Table 1. Final Evaluation of Bidder Qualification

GPA Evaluator	BIDDER 1	BIDDER 2	BIDDER 3	BIDDER 4	BIDDER 5
1					
2					
3					
4					
5					

4.3. Price Proposal Evaluation

A. Supply to the GPA Bulk Storage

The contract will be awarded by site location to the BIDDER evaluated as being qualified and with the best-priced proposal for the TWO (2) year contract base period.

B. Delivery to the GPA Plants

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal for the FIVE (5) year contract period. GPA reserves the right to make multiple awards, partial awards, award by site location, or award in whole, whichever may be most advantageous to the Authority.

5. CONDITIONS OF CONTRACT

5.1. Definitions

Wherever used in these General Conditions or in the other Contract Documents, the terms used have the meanings indicated which are applicable to both the singular and plural thereof.

5.2. Accounting

For accounting purposes and for use in establishing property records, GPA may require CONTRACTOR to provide a reasonable price breakdown of the total price into separate prices applying to the individual items supplied under the Agreement.

5.3. Documentation

GPA shall have the right to reproduce any prints, or other data or documents received from CONTRACTOR.

5.4. Language and Trade Terms

All communications, documents, and execution of services hereunder, unless otherwise designated, shall be in the English language. INCOTERMS (International Rules for the Interpretation of Trade Terms) published by the International Chamber of Commerce in 1980 and any subsequent revisions thereto shall govern interpretation of trade terms in the Contract Documents

5.5. Release of Information

The CONTRACTOR 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 of GPA.

5.6. Limitations of Clause

Nothing herein contained shall excuse the CONTRACTOR from compliance with any rules of law precluding GPA and its officers and any CONTRACTORS from acting in collusion or bad faith in issuing or performing change orders that are clearly not within the scope of the contract.

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 2017–34

AUTHORIZING MANAGEMENT OF THE GUAM POWER AUTHORITY TO PETITION THE PUC FOR APPROVAL OF THE PHASE III RENEWABLE ACQUISITION MULTISTEP BID DOCUMENTS UNDER THE PROCUREMENT PROTOCOL

WHEREAS, in May 2015, via Resolution 2015-32, the CCU authorized GPA to initiate Phase III Renewable Acquisition for renewable energy from Solar PV on lease Navy properties; and

WHEREAS, the resolution referred to Phase II procurement documents with minor modifications that include GPA provided sites and restricted renewable resources to Solar Photovoltaic renewable energy on GPA provided sites; and

WHEREAS, since 2015, GPA has modified the Phase II bid documents to include energy storage for ramping; and

WHEREAS, preliminary drafts and discussions on the Phase II System Impact Studies and GPA's intended award for Phase II for up to 120 MW would impact GPA ability to receive solar energy during the solar energy production period; and

WHEREAS, GPA intends to increase the storage requirements for the primary purpose of shifting delivery of all energy produced by the solar facility to be delivered as required (i.e. during peak hours) with minimal intermittency impact on the grid; and

WHEREAS, GPA has modified the bid documents to reflect the land leased properties and additional energy storage requirements.

NOW, THEREFORE, BE IT RESOLVED, by the CONSOLIDATED COMMISSION ON UTILITIES subject to the review and approval of the Public Utilities Commission as follows:

1. The General Manager is authorized to petition the PUC for approval of the Phase III Renewable Acquisition Multi-Step Bid Documents which would require the shifting of all energy produced to the evening peak hours.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

DULY and REGULARY ADOPTED this 29th day of AUG 2017.

Certified by:

JOSEPH T. DUENAS
CHAIRMAN

Attested by:

J. GEORGE BAMBA
SECRETARY

I, J. George Bamba, Secretary for the Consolidated Commission on Utilities do hereby certifies as follow:

The foregoing is a full, true, and correct copy of the resolution duly adopted at a regular meeting of the members of Guam's Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and members who were present voted as follows:

AYES: 5

NAYS: 0

ABSTENTIONS: 0

ABSENT: 0

CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 52-FY2017

RELATIVE TO APPROVAL OF THE SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION GUIDELINES UPDATE

WHEREAS, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities ("CCU") has plenary authority over financial, contractual and policy matters relative to the Guam Waterworks Authority ("GWA"); and

WHEREAS, the Guam Waterworks Authority ("GWA") is a Guam Public Corporation established and existing under the laws of Guam; and

WHEREAS, the SDC Implementation Guidelines were adopted as an Order of the Public Utilities Commission (PUC) per the January 29, 2010 PUC Decision and Order Docket No. 08-08 GWA System Development Charge (SDC); and

WHEREAS, the current Implementation Guidelines contained inconsistences that required clarification in order to allow the expenditure of SDC funds without potential conflict with the Guidelines and as such the SDC Implementation Guideline Update was generated (See Exhibit A); and

WHEREAS, Public Laws affecting SDC payment deadlines for residential construction, as well as allowing an Affordable Housing SDC, and were passed in 2013, requiring updates to the Implementation Guidelines; and

WHEREAS, the January 29, 2010 PUC Decision and Order Docket No. 08-08 GWA System Development Charge Ordering Provision 8 directed GWA to provide a policy or provision for GWA to give credits or offsets to developers regarding SDC assessments under appropriate circumstances and as such the SDC Financial Offset Policy was created (See Exhibit B).

NOW BE IT THEREFORE RESOLVED, the Consolidated Commission on Utilities does hereby approve and authorize the following:

1. The SDC Implementation Guidelines Update, attached as Exhibit A, is incorporated into this resolution in its entirety.

2. The SDC Financial Offset Policy, attached as Exhibit B, is incorporated into this resolution in its entirety.

3. GWA may seek PUC approval of the SDC Implementation Guidelines Update and Financial Offset Policy.

RESOLVED, that the Chairman certified and the Board Secretary attests to the adoption of this Resolution.

DULY AND REGULARLY ADOPTED AND APPROVED this 29th day of August, 2017.

Certified by:

JOSEPH T. DUENAS
Chairperson

Attested by:

J. GEORGE BAMBA
Secretary

I J. George Bamba, Board Secretary of the Consolidated Commission on Utilities as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular meeting by the members of the Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were present voted as follows:

AYES: 5

NAYS: 0

ABSTENTIONS: 0

ABSENT: 0

EXHIBIT A

GUAM WATERWORKS AUTHORITY
SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION GUIDELINES
Revised August 2017

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Section 1. Short Title

This document shall be known and cited as the "Guam Waterworks Authority System Development Charge Implementation Guidelines."

Section 2. Purpose and Effect

These Guidelines are intended to assure the provision of adequate public water and sanitary sewer facilities in Guam to serve new development and accommodate changes to existing buildings or facilities where density is increased by requiring each development to pay its pro rata share of the costs of such improvements necessitated by and attributable to such new development. The SDCs established by these Guidelines are additional and supplemental to, and not in substitution of, any other requirements imposed by Guam law regarding the development of land, the issuance of building permits or the issuance of certificates of occupancy. Such SDCs are intended to be consistent with and in furtherance of the policies of Guam's building and subdivision laws and regulations and existing GWA Rules and Regulations relating to the provision of public water and sanitary sewer facilities in conjunction with the development of land.

Section 3. Authority

These Guidelines are adopted by the Commission pursuant to 12 G.C.A. § 12015.5, enacted into law by Public Law 26-164, and amended by Public Law 29-133, and the Commission's inherent authority. The provisions of these Guidelines shall not be construed to limit the power of GWA to utilize other methods authorized under Guam law or pursuant to other GWA powers to accomplish the purposes set forth herein, either in substitution for or in conjunction with these Guidelines. Additional policies, not inconsistent with these Guidelines, may be developed by a Resolution of the GWA Governing Board to implement and administer the requirements hereunder.

Section 4. Definitions

The following definitions shall apply under these Guidelines:

"Affordable Housing System Development Charge" or **"AHSDC"** means the SDC made available to any person who constructs, or causes to construct, affordable homes as their primary residence or for an immediate family member where the total cost of the home and lot does not exceed $210,000, pursuant to Section 19 of these Guidelines.

"Amortized System Development Charge" or **"ASDC"** means the amortized SDC made available to all residents building a single family dwelling, regardless of income, pursuant to Section 19 of these Guidelines.

"**Assessment**" means the determination of the amount of the maximum SDC per service unit which can be imposed by GWA on new development pursuant to these Guidelines.

"Capital Improvement" means either a water or sanitary sewer facility to be owned and operated by or on behalf of GWA, and involving assets greater than or equal to $5,000.00 and/or will extend the life of an existing GWA asset.

"Commission" means the Guam Public Utilities Commission.

"Facilities Expansion" means either a water facility expansion or a sanitary sewer facility expansion or the construction of any new facility designed to expand the water or sewer system for future customers. Pursuant to § 12015.5, both uses above can include system repairs servicing existing customers but which also provide additional capacity to the system that can be used to accommodate new users. For the purposes of determining the capital amount recoverable from SDCs only that portion of a water or sanitary sewer facility's capital costs incurred to accommodate new users shall be eligible for inclusion in the SDC.

"Governing Board" means the Guam Consolidated Commission on Utilities or its legal successor.

"Island Water and Sewer Infrastructure Development Fund" means the fund created under 12 G.C.A. § 12015.5(c) and administered by GWA into which all SDC revenues shall be deposited. The use of all funds so deposited shall require advance approval from the Commission. A full accounting of the receipts and expenditures into and from the Fund shall be filed annually for Commission review and approval.

"Land Use Assumptions" means the projections of population and employment growth and associated changes in land uses and densities adopted by GWA, as may be amended by GWA's Governing Board from time to time, upon which the SDC Capital Improvement plan is based or as contained in any Guam Master Plan or other water or sanitary sewer improvement plan that is used by GWA for the same purpose and approved by the GWA Governing Board for such use.

"New Development" means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of land which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity and which requires either the approval of the Guam Land Use Commission (GLUC), adherence to Guam's subdivision laws and regulations, the issuance of a building permit or a substantial change in the demand or loading of such project through an existing connection to GWA's water or sanitary sewer system, respectively.

"Offset"' means the amount of the reduction of the applicable SDC designed to fairly reflect the value of area-related facilities provided by a developer pursuant to Guam's development regulations or requirements. An offset requires approval by the General Manager, in accordance with the SDC Financial Offset Policy.

"Offsite" means outside the boundaries of the property for which a new development is proposed.

"Plan Approval" means the point at which the applicant has complied with all conditions of approval set by the GLUC and/or the applicant has undertaken all steps to receive the approval by GWA that are a prerequisite to the issuance of a building permit (and can include conditions that are required by GWA after the building permit has been issued).

"Recoupment" means the imposition of an SDC to reimburse GWA for capital improvements which GWA has previously put in place that has sufficient capacity to serve new development and new capital improvements for the purpose of serving new development.

"Sanitary Sewer Facility" means an improvement for providing sanitary sewer service, including but not limited to land or easements, treatment and pre-treatment facilities, lift stations or force mains. Sanitary sewer facility excludes sanitary sewer lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by subsequent users of the facilities. Sanitary sewer facilities exclude site-related facilities.

"Sanitary Sewer Facility Expansion" means the expansion of the capacity of any existing sanitary sewer facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing sanitary sewer facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

"SDC Capital Improvements Plan" means either a water or sanitary sewer improvements plan formulated by GWA adopted or revised pursuant to this Article, including but not limited to, the GWA five-year Capital Improvements Plan, the GWA Master Plan as it may be amended from time to time by GWA's Governing Board, and any capital improvement plan approved by the Governing Board. The SDC Capital Improvements Plan refers to the aggregation of capital improvements or facility expansions and the associated costs programmed for all service areas for a particular category of capital improvements or facility expansions which may be financed in whole, or in part, through SDCs.

"Service Area" means either the area currently served by GWA or the area which GWA has agreed to serve as evidenced by the signature of an authorized representative from GWA on a building permit.

"Service Unit" means the applicable standard units of measure shown on the conversion table in the SDC Capital Improvements Plan as defined herein which can be converted either to three-fourths inch (3/4") water meter equivalents, as the context indicates, which serves as the standardized measure of consumption, use or generation attributable to the

new unit of development. Service units may also be referred to as Equivalent Residential Units.

"Site-Related Facility" means an improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or sanitary sewer facilities to serve the new development, and which is not included in the SDC Capital Improvement Plan and for which the developer or property owner is solely responsible under subdivision laws or other applicable regulations (including GWA's).

"Subdivision" means an improved land divided or proposed to be divided into two or more divisions of land for the purpose of sale, lease, rental, transfer or title to or interest in any or all of such divisions, including resubdivisions, as approved by the Territorial Land Use Commission pursuant to GAR, Title 28, Chapter 2, Article 1 § 2102(61).

"System Development Charge," means a one-time impact fee or charge assessed by GWA on each user who is for the first time connecting property into GWA water or wastewater system, or to each builder if the density of development on the existing connection is increased pursuant to these Guidelines in order to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new development. SDCs **do not include** the dedication of rights-of-way or easements for such facilities nor the construction of improvements by the developer thereon. SDCs also do not include line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development regardless of type.

"Temporary Use" means any connection made by any person or entity for an activity not required to obtain a building permit that lasts for any period less than six (6) months. The uses contemplated herein includes but are not limited to, village fiestas, carnivals, public events or private uses where the activity has been sanctioned by the Government of Guam.

"Water Facility" means an improvement for providing water service, including but not limited to land or easements, water treatment facilities, water supply facilities or water distribution lines. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by subsequent users of the facilities. Water facility excludes site-related facilities.

"Water Facility Expansion" means the expansion of the capacity of any existing water facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing water facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

Section 5. Applicability

The provisions of these Guidelines apply to all "new development" as defined in Section 4 above aside from Temporary uses.

Section 6. SDCs as Condition of Development Approval

No application for new development shall be approved by GWA without assessment of SDCs pursuant to these Guidelines, and no building permit shall be issued unless the applicant has paid the SDCs with the exception of single family dwellings for which the SDC may be paid prior to initial occupancy pursuant to Public Law 32-075. With respect to new development eligible for the ASDC, a building permit may be issued if the applicant has paid the initial charge required under Section 19 of these Guidelines.

Section 7. Adoption of GWA's Capital Improvements Plans

The current GWA Capital Improvements Plan, as currently stated in the GWA Master Plan, was adopted by GWA's Governing Board on March 13, 2007, via Resolution No. 11 - FY2007. The current Plan will be updated and amended and new improvement plans adopted by GWA as it deems necessary, to include projects slated for SDC funding.

Section 8. Approval of the SDCs

The water and wastewater SDCs set forth in Schedule I were adopted by the Consolidated Commission on Utilities on October 13, 2009 via CCU Resolution No. 01 - FY2010 as provided under 12 G.C.A. § 12015.5(b).

Section 9. Service Area

GWA's service area is where GWA currently serves its customers or where it has agreed to serve future customers as evidenced by the signature of an authorized GWA official on a building permit.

Section 10. SDC Calculations

The American Water Works Association has established guidelines for the development of SDCs for water service in their M-1 manual on Water Fees and Related Charges. There are two generally accepted methodologies that are suggested; (1) the equity method, also known as the "buy-in" method; and (2) the "incremental" method. GWA's Governing Board has chosen to implement a "hybrid" of these two methods for several reasons, including but not limited to the following:

(1) The method results in a reasonable and equitable fee to new water customers; and

(2) The method achieves the financial objectives of the Board.

The equity or "buy-in" method achieves equity between new and existing customers in the investment of ratepayer capital into the water and wastewater systems. This approach assesses new customers a charge to approximate the average equity of the existing customers. With the equity method the new and existing customers share equally in the costs of current system and in new facilities.

The "incremental" method is similarly designed to achieve equity between new and existing customers by requiring that new customers pay for the additional capital investments needed to serve new customers. The "hybrid" method integrates into one SDC the capital due from new customers to fund new capital investment for growth while achieving equity between new and existing customers for their use of existing water and wastewater facilities. Under all methods, customers are assessed SDCs based on the size of the water meter needed to serve the customer's demand. Larger meters have the capacity to use more system assets; thus, a higher charge is necessary to establish equity between large and small users of the system. An equivalent unit of service is used to determine the fee for each meter size. Meter sizes are expressed in terms of equivalent meters, based on the relative capacity of the various meter sizes. Larger meters are assessed the SDC based on a ratio of the larger meter's capacity to the equivalent unit's capacity. An equivalent unit is defined as a ¾" water meter service

The SDCs due for the new development shall be collected prior to or at the time of issuance of the building permit (with the exception of single family dwellings for which the SDC may be paid prior to initial occupancy) or prior to or at the time of connection to the GWA's water or sanitary sewer system if no building permit is required.

Following the filing and acceptance of an application for a building permit or the request for connection to GWA's water or sanitary sewer system, GWA shall compute the SDCs due for the new development in the following manner:

1. The amount of each SDC due shall be determined based on the number of meters and service units required by the new development or expanded by an existing development, per Schedule I below.

2. If appropriate, and as condition precedent to connection to GWA's water or sanitary sewer line, GWA may adjust the assessment if the developer has expanded the required number of service units beyond that contained in the original assessment from GWA.

Section 11. **Assessment of SDCs**

A. The approval of any new development shall include, as a condition, the assessment of the SDCs applicable to such development. Assessment shall occur at the time application is made for the building permit or utility connection based upon the engineering plans submitted to GWA for approval, provided that a new assessment may be undertaken by GWA, if for any reason, the plans are modified

in any manner which causes GWA to change the size and/or quantity of the meter(s). All assessments under this provision shall be pursuant to Schedule I below.

B. Following the lapse or expiration of a building permit approval for a particular development, a new assessment shall be made prior to the final approval of a new development on the same tract of land. However, no further assessment shall be charged if there are no changes to the design requiring an increase in meter size and/or quantity for the development, provided that an SDC had been paid and a refund had not been made.

Section 12. Computation and Collection of SDCs

A. All SDCs assessed under the provisions of Section 11 of these Guidelines shall be collected by GWA prior to the issuance of any building permit.

B. The SDCs collected by GWA shall be deposited within two (2) business days into the Island Water and Sewer Infrastructure Development Fund (IWSIDF) which shall be created and administered by GWA as provided in Section 13 of these Guidelines.

C. In the case of a new assessment done for the reapplication of an expired building permit with paid SDCs, any applicable additional SDCs shall be collected.

D. Whenever the property owner of a development proposes to increase the number of service units requiring an increase in meter size and/or quantity, the additional SDCs collected for such new service units shall be assessed at the time the new application is filed in the same manner as required for an original building permit.

Section 13. Establishment of Accounts and Disbursements

A. The Chief Financial Officer for GWA shall establish an account for the IWSIDF as required under 12 G.C.A. § 12015.5(d). All SDCs collected under these Guidelines shall be deposited in said account.

B. GWA shall select the banking institution licensed on Guam that provides the best rates for deposit in relation to its fee structure and which also provides an opportunity for GWA to invest the funds into short-term guarantee investment contracts or other such investments with no penalty. The rates for such deposits shall be reviewed annually.

C. Fees to the bank to service the IWSIDF shall be agreed upon by GWA and the lending institution selected by GWA to hold such funds.

D. GWA shall ensure that the banking institution provides an annual report of on all transactions on the IWSIDF to the Commission and monthly reports to GWA.

E. Interest earned on the account shall be considered funds of the account and shall be used solely for the capital improvement projects provided for under these Guidelines.

F. Disbursement of funds shall be authorized by GWA at such times as are reasonably necessary to carry out the purposes and intent of these Guidelines, provide that such withdrawals must have been authorized by the Commission in accordance with 12 G.C.A. § 12015.5.

G. All SDCs collected by GWA shall be expended within a reasonable period of time, not to exceed ten (10) years from the date the SDCs were deposited into the account.

H. Execution of a design or construction contract by GWA shall be considered to be expenditure of funds of the account.

I. GWA shall maintain and keep financial records for all SDCs collected and for all expenditures made under these Guidelines. The records of the account for which the SDCs are deposited shall be open for public inspection and copying during ordinary business hours. GWA may assess fees for copying services in accordance with the Guam Sunshine Act of 1999.

Section 14. Use of Proceeds of SDC Accounts

The SDCs collected by GWA pursuant to these Guidelines may be used to finance or to recoup all or a portion of the costs of any capital improvement or facility expansion identified in GWA's applicable capital improvements plan, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the SDC capital improvements plan who is not an employee of the political subdivision. SDCs may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of GWA to finance such capital improvements or facilities expansions or renovations.

Section 15. Refunds

A. Any SDC or portion thereof collected pursuant to these Guidelines, which has not been expended within the service area within ten (10) years from the date full payment was received by GWA, shall be refunded, upon application, to the record owner of the property at the time the refund is paid; or if the fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the average fee of interest earned on the deposited funds.

B. All amounts collected under these Guidelines shall be considered expended on a first-in, first out basis.

C. If a refund is due and a portion of an assessed amount has been expended, GWA shall pro-rate the refund by subtracting the amount expended from the total paid and then adding the interest earned on the unexpended amount in the same manner as in Section 2980A above.

D. If the building permit for a new development for which an SDC has been paid has expired, and a modified or new application has not been filed, GWA shall, upon written application, refund the amount of the SDCs to the applicant. If no such application is made within 5 years from the date the permit has expired, no application for refund may be made.

Section 16. Updates to Plan and Revision of SDCs

A. GWA shall update its SDC Capital Improvement Plan in accordance with a schedule set by the GWA board. Regardless of whether such plans are modified, GWA shall at a minimum present annual requests for capital expenditures from the IWSIDF pursuant to 12 G.C.A. § 12015.5(c).

B. The Governing Board, with the approval of the Commission, may amend the tables in Schedule I if it deems it necessary.

Section 17. Agreement for Capital Improvements

Owners of any new development(s) may construct or finance a capital improvement or facility expansion designated in the SDC Capital Improvements Plan or rated under the Utility Line Upgrade Guidance Document as qualifying for SDC funding. An agreement must be entered with GWA prior to the issuance of any building permit for the development. The agreement shall meet GWA's requirements for SDC offsets, shall identify the estimated cost of the improvement or expansion, the schedule for initiation and completion of the improvement or expansion, a requirement that the improvement be designed and completed to GWA standards and such other terms and conditions as deemed necessary by GWA. GWA may require that the capital improvement or facility expansion be bonded in GWA's favor at a minimum of 100%, per GWA's bond policy.

If SDC offsets are included in the agreement, the total cost of the project shall not be less than the cost of the SDC based on an assessment of the development's meter quantity and size, per the SDC Financial Offset Policy.

Section 18. Procedures to Contest SDCs

A. Any person may file a written protest at any time prior to the issuance of a building permit. However, until the protest is resolved as provided herein, no building permit shall issue.

B. All protests shall be prepared in the form prescribed by GWA and be hand-delivered to either GWA's legal counsel or to GWA's General Manager.

C. The written protest shall contain information that GWA may reasonably require, including but not limited to, a detailed summary of the grounds upon which the person is disputing the assessment. The protest must also contain the following information:

1. General description of development, including lot number and village.
2. All approved plans for the development.
3. Appraised value of the land and off-site facilities.
4. Total estimated SDCs that the owner feels is appropriate.
5. Approvals from the GLUC if required by law.
6. Name, address, fax and phone number for owner owner's representative.

D. GWA shall provide a written response to the protest within thirty (30) days following the receipt of such protest which either rejects the protest outright (for cause, deficiency in the protest or other valid reason) or grants an adjustment to the assessed amount. No SDC shall be waived in its entirety if the construction is for "new development" as defined in these Guidelines.

E. If a party is dissatisfied with GWA's response, within 30 days from the receipt of GWA's response, they may file a Petition of Review with the Commission asking the Commission to review GWA's findings. A copy of the Petition must also be filed with GWA on the same date the Petition is filed with Commission.

Section 19. <u>Amortized System Development Charge or ASDC</u>

A. Pursuant to 12 GCA § 12116.5(b), eligible persons constructing or purchasing a single family dwelling intended for their personal residence and/or for immediate family members may be entitled to amortize the cost of the applicable SDCs. The schedule of Amortized System Development Charges is shown on Schedule II attached to these Guidelines. The applicable ASDC shall be added to the monthly GWA bill for the dwelling.

B. A person whose application for an ASDC is denied can file a written protest in the manner provided by Section 18 of these Guidelines, and, if dissatisfied with GWA's response to the protest, file a Petition for Review with the Commission.

C. The ASDC shall not apply to any commercial development or the construction of multi-family dwellings.

D. The ASDC is not transferable. Prior to selling or conveying title to the affected dwelling to any person who is not an immediate family member or who is not himself or herself eligible for an ASDC, a person paying an ASDC shall be

required to pay the entire unpaid balance of the ASDC in full, including any accrued interest, prior to selling or conveying the title. An applicant for an ASDC must sign and acknowledge a Notice, in the form of Schedule III to these Guidelines, evidencing this requirement, as a condition to approval of the application. This statement shall be recorded by GWA. No water or wastewater account shall be transferred to a new owner or occupant of the residence until the balance of the ASDC has been paid in full.

E. Eligible persons hereunder may exercise the option to amortize SDCs but are not required to do so. The option to amortize SDCs hereunder shall not apply to any commercial development or the construction of multi-family dwellings.

F. GWA may terminate water or wastewater service for non-payment of an amortized SDC in accordance with applicable procedures.

Section 20. Affordable Housing System Development Charge or AHSDC

A. Pursuant to 12 GCA § 12116.5(i), any person who constructs, or causes to construct, a home where said structure will be the primary residence for themselves or an immediate family member or with the intent to sell, shall be charged 1.01% for water connections and 1.65% for sewer connections of the actual cost to construct the home and purchase the land in the event the actual total cost is Two Hundred Ten Thousand Dollars ($210,000) or less.

B. GWA shall require reasonable proof to be provided showing that the home will in fact be a primary residence, pursuant to 12 GCA § 12116.5(i)

C. The AHSDC shall not apply to those persons who construct, or cause to be constructed, homes that do not meet the requirements of the Guam Building Code, nor shall the charge apply to persons renovating existing structures.

D. A person whose application for an AHSDC is denied can file a written protest in the manner provided by Section 18 of these Guidelines, and, if dissatisfied with GWA's response to the protest, file a Petition for Review with the Commission.

E. The ASDC shall not apply to any commercial development or the construction of multi-family dwellings.

F. At least once every five years, the Guam Waterworks Authority shall review the Median Household Income for Guam, as published by the HUD Median Income Statistic, and shall then adjust the total cost threshold requirement of the AHSDC, set at $210,000, accordingly.

SCHEDULE I

SCHEDULE OF WATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 x 3/4	$2,126
3/4	$3,190
1	$5,316
1 1/2	$10,632
2	$17,011
3	$34,022
4	$53,160
6	$106,320
8	$170,112
10	$244,536

SCHEDULE OF WASTEWATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 x 3/4	$3,474
3/4	$5,212
1	$8,686
1 1/2	$17,372
2	$27,795
3	$55,590
4	$86,860
6	$173,720
8	$277,952
10	$399,556

SCHEDULE II

AMORTIZED SYSTEM DEVELOPMENT CHARGES

WATER:

INITIAL CHARGE--$500

MONTHLY CHARGE FOR 96 MONTHS (8 YEARS)--$22.58

WASTEWATER:

INITIAL CHARGE--$500

MONTHLY CHARGE FOR 96 MONTHS (8 YEARS)--$41.29

INTEREST AT THE RATE OF 7.5 PERCENT OVER THE EIGHT-YEAR AMORTIZATION PERIOD SHALL BE INCLUDED IN THE MONTHLY AMORTIZED SYSTEM DEVELOPMENT CHARGES.

SCHEDULE III

(SPACE ABOVE LINE FOR RECORDER'S USE ONLY)

NOTICE OF OBLIGATION TO PAY AMORTIZED SYSTEM DEVELOPMENT CHARGE

Notice is hereby given that [Names of Property Owners] ("Owner") was/were eligible for the Amortized System Development Charge ("ASDC") provided for under 12 GCA 12015(b), as amended by Guam P.L. 29-133, or pursuant to Section 20 of the Guam Waterworks Authority SDC Implementation Guidelines, in connection with the construction of a single-family residence on

[Property Description] (the "Property").

The ASDC is not transferable. Pursuant to 12 GCA 120 *15(b),* and Section 20 of the Guam Waterworks Authority SDC Implementation Guidelines, prior to the sale or transfer of the title to the Property to any person other than an immediate family member or a person also eligible to receive the benefit of the ASDC, the entire remaining balance of the ASDC, including any accrued and unpaid interest, must be paid in full.

Date: _____

GUAM WATERWORKS AUTHORITY

BY: _____
NAME: _____
ITS: _____

ACKNOWLEDGED AND AGREED TO:

[OWNER/OWNERS)

_____

_____

ACKNOWLEDGEMENTS

GUAM, U.S.A.)
) **ss:**
CITY OF HAGATNA)

ON THIS _____ day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the _____ of GUAM WATERWORKS AUTHORITY, a Government of Guam agency, whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said corporation, in such capacity, being fully authorized to do so, and for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
(official signature and seal of notary)

GUAM, U.S.A.)
) **ss:**
CITY OF HAGATNA)

ON THIS _____ day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the _____ of GUAM WATERWORKS AUTHORITY, a Government of Guam agency, whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said corporation, in such capacity, being fully authorized to do so, and for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
(official signature and seal of notary)

GUAM, U.S.A.)
) **ss:**
CITY OF HAGATNA)

ON THIS _____ day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the _____ of GUAM WATERWORKS AUTHORITY, a Government of Guam agency, whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said corporation, in such capacity, being fully authorized to do so, and for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
(official signature and seal of notary)

EXHIBIT B

GUAM WATERWORKS AUTHORITY

SYSTEM DEVELOPMENT CHARGE
FINANCIAL OFFSET POLICY
August 2017

I. PURPOSE

This policy shall provide the requirements and procedure for developers to request a System Development Charge (SDC) financial offset by constructing the offsite water and/or sewer system infrastructure needed to provide utility service to a proposed development without adversely impacting existing customers.

II. DEFINITIONS

"Project" means an offsite sanitary sewer or water facility expansion.

From the SDC Implementation Guidelines:
"Offset" means the amount of the reduction of the applicable SDC designed to fairly reflect the value of area-related facilities provided by a developer pursuant to Guam's development regulations or requirements.

"Offsite" means outside the boundaries of the property for which a new development is proposed.

"Sanitary Sewer Facility Expansion" means the expansion of the capacity of any existing sanitary sewer facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing sanitary sewer facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

"System Development Charge" means a one-time impact fee or charge assessed by GWA on each user who is for the first time connecting property into GWA water or wastewater system, or to each builder if the density of development on the existing connection is increased pursuant to these Guidelines in order to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new development. SDCs **do not include** the dedication of rights-of-way or easements for such facilities nor the construction of improvements by the developer thereon. SDCs also do not include line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development regardless of type.

"Water Facility Expansion" means the expansion of the capacity of any existing water facility for the purpose of serving new development, and may, under certain circumstances, include the

repair, maintenance, modernization or expansion of an existing water facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

III. COVERAGE

A. The following improvements or activities do not qualify for SDC offset, per the SDC definition:
   i. the dedication of rights-of-way or easements,
   ii. the construction of improvements by the developer thereon (on private property), and
   iii. line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development regardless of type.

B. The offsite improvement must meet the definition of Sanitary Sewer Facility Expansion or Water Facility Expansion, in Section 2.0.

C. The financial offset shall include costs associated with asset construction including, but not limited to design, permitting, construction, materials, and testing. Upon GWA's acceptance of the assets, GWA shall be responsible for operation and maintenance costs.

IV. GUIDELINES

A. The developer shall submit engineering plans and an estimate of the total project cost with the financial offset request, for GWA's review and approval. If the estimated cost is less than the SDC assessment (in accordance with Exhibit C, Schedule I of the GWA SDC Implementation Guidelines) then the developer will be required to pay the difference to GWA prior to GWA's approval of the building permit application.

B. Upon completion of the project, the developer shall submit actual costs for GWA's review and approval. If the actual cost is less than the SDC assessment, the developer shall pay the difference to GWA prior to GWA's approval of the development's occupancy permit application.

C. An agreement between GWA and the developer shall be signed to clearly identify the scope of offsite improvements prior to GWA's approval of a building permit application.

D. The developer shall be responsible for
   i. all Federal and Government of Guam permitting requirements and
   ii. all payments for the improvement construction including permitting, materials, and contractor fees.

E. GWA may require the developer to provide a 100% bond for the project, per SDC Implementation Guidelines Section 17.

F. All offsite improvements shall meet GWA design, material, construction, testing and inspection requirements. GWA may require the developer to employ a construction manager who shall, upon completion of construction, submit a construction report to GWA for review and approval.

G. The offsite improvement construction shall be completed and the assets accepted by GWA prior to GWA's approval of the development's occupancy permit.

H. In the case of phased development, the agreement shall identify offsite improvements required to be completed, placed into service, and accepted by GWA prior to occupancy permit approval for each phase of the development.