



PROJECT: Procurement for the Design and Construction of Kindergarten, Elementary and Secondary School Buildings and Technical Vocational Laboratories for Last Mile Schools CY 2021

CONTRACT NO.: 2021-AdmS4(006)-BI-CB-013a-C209

CONTRACT AGREEMENT

THIS AGREEMENT made and entered into this 25th day of Jan 2022 by and between **DEPARTMENT OF EDUCATION**, located at DepEd Complex, Meralco Avenue, Pasig City, Philippines, represented herein by its Secretary, **LEONOR MAGTOLIS BRIONES**, as per Department Order No. 023, s. 2021 (hereinafter referred to as "**DepEd**"); and **WERR CORPORATION INTERNATIONAL IN JOINT VENTURE WITH BANCAL CONSTRUCTION AND SUPPLY**, represented herein by its Authorized Managing Officer, **JOEL M. BUTARAN**, with office address at M252 Sagapan Zone V, Iba, Zambales, Philippines (hereinafter referred to as "**WERR CORP JV BANCAL**").

DepEd and **WERR CORP JV BANCAL** are collectively called "**PARTIES.**"

WHEREAS, **DepEd**, is desirous that **WERR CORP JV BANCAL** execute the design and construction of Kindergarten, Elementary and Secondary School Buildings and Technical Vocational Laboratories for Last Mile Schools CY 2021 (hereinafter called "**the Works**"), and **DepEd** has accepted the bid of **WERR CORP JV BANCAL** for Lot 1 in the sum of **PHILIPPINE PESOS THREE HUNDRED THIRTEEN MILLION, NINE HUNDRED FOUR THOUSAND, SIX HUNDRED SEVENTY-NINE AND 19/100 (PhP 313,904,679.19) ONLY**, (hereinafter called the "**Contract Price**") for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to;
2. The following documents as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be attached, deemed to form, and be read and construed as integral part of this Agreement, to wit:

FELITO DASH
 WERR CORP JV BANCAL's Witness

JOEL M. BUTARAN
 WERR CORP JV BANCAL

LEONOR MAGTOLIS BRIONES
 DepEd Complex, Pasig City, Philippines

LEONOR MAGTOLIS BRIONES
 Department of Education


FELDO DASLC
WERR CORP JV BANCAL's Witness


JOEL M. BUTARAN
WERR CORP JV BANCAL


ENGR. A. M. A. BALLEGAARD
Chief, DepEd-EFD


LEONOR MAGTOLIS BRIONES
Department of Education

- i. Philippine Bidding Documents (PBD);
 - a. Drawings/Plans;
 - b. Specifications;
 - c. Bill of Quantities;
 - d. General and Special Conditions of the Contract; and
 - e. Bid Bulletin Nos. 1 and 2 dated 14 September 2021 and 7 October 2021, respectively.
- ii. **WERR CORP JV BANCAL'S** bid, including the Eligibility Requirements, Technical and Financial Proposals, and all other documents or statements submitted;
- iii. Performance Security;
- iv. Notice of Award of Contract and **WERR CORP JV BANCAL'S** conforme thereto; and
- v. Other contract documents required by existing laws and/or DepEd in the PBD. **WERR CORP JV BANCAL** agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, Variation Order, and Warranty Security, shall form part of the Contract.

3. **WERR CORP JV BANCAL** shall post a Performance Security within ten (10) calendar days from receipt of the Notice of Award in the form and amount prescribed therein. The performance security shall be posted in favor of **DepEd**, and shall be forfeited in the event it is established that **WERR CORP JV BANCAL** is in default of any of its obligation under this contract. The performance security shall be in force and effect until the issuance by **DepEd** of a Certificate of Final Acceptance.

WERR CORP JV BANCAL shall execute the Works contemplated in this Contract within **one hundred fifty (150) calendar days** from the date of receipt of the Notice to Proceed (NTP), and in accordance with the following periods in connection to the Completion of the Design and Construction of Works:

- i. Pre-Detailed Engineering Design -14 calendar days from receipt of the Notice to Proceed;
- ii. Detailed Design - 30 calendar days from approval of the Design Development Drawing; and
- iii. Construction - 90 calendar days from the issuance of the notice to commence work, but in any case, completion should not be later than May 31, 2022.

5. The Works, including all materials and equipment used, under this Contract should conform to and comply with the standards mentioned in Section V. Special Conditions of the Contract and Section VI. Technical Specifications of the Bidding Documents.

6. In case **WERR CORP JV BANCAL** encounters condition(s) delaying completion of Works, **WERR CORP JV BANCAL** shall promptly notify **DepEd** in writing of such condition(s) and any request for work suspension and/or contract completion period extension shall be promptly done in writing as soon as circumstances for such requests have become apparent. **WERR CORP JV BANCAL** must provide sufficient proof to support any request for work suspension and/or contract completion period extension.

7. The **Contract Price** shall be paid to **WERR CORP JV BANCAL** in accordance with the following disbursement, accounting and auditing procedures:

7.1. An advance payment not exceeding fifteen percent (15%) of the Contract Price, to be made in lump sum or, at the most, two (2) installments, shall be paid upon **WERR CORP JV BANCAL'S** written request, and only upon the submission to and acceptance by **DepEd** of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by **DepEd**.

7.2. **WERR CORP JV BANCAL** may submit a request for progress payment for every completed school building package (turn-key). At least ten percent (10%) of the number of recipient school must be turned-over to **DepEd** to be eligible for every progress payment. Every progress payment shall be subjected to a ten percent (10%) retention money to be released after the issuance of the Certificate of Final Acceptance. **WERR CORP JV BANCAL** may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to Government, provided that the project is on schedule and is satisfactorily undertaken.

7.3. Progress payment shall be adjusted by deducting the amount in the recoupment of the advance payment contemplated in Clause



FELIX DASSA
WERR CORP JV BANCAL's Witness



JOEL M. BUTARAN
WERR CORP JV BANCAL


ENGR. A. MARCELO W. MANSAN
Chief, DepEd-EFD



LEONOR MAGTOLIS BRIONES
Department of Education

7.1 above to as much as amounting to 15% and an additional retention money amounting to 10% of the progress billing.

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WERR CORP JV BANCAL's Witness
8. **WERR CORP JV BANCAL** shall be liable for liquidated damages for the delay in its performance of the Contract in an amount equal to one-tenth (1/10) of one percent (1%) of the cost of the unperformed portion for every day of delay. **DepEd** shall deduct the liquidated damages from any money due or which may become due to **WERR CORP JV BANCAL**, or collect from any of the securities or warranties posted by **WERR CORP JV BANCAL**, whichever is convenient to **DepEd**. Payment of liquidated damages shall not affect **WERR CORP JV BANCAL'S** liabilities. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the Contract Price, **DepEd** may rescind or terminate the contract, without prejudice to other courses of action and remedies available under the circumstances.

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JOEL M. BUTARAN
WERR CORP JV BANCAL
9. In case **WERR CORP JV BANCAL** fails to undertake the repair works required under Section 62.2.2 of the Revised IRR of RA No. 9184, **DepEd** shall forfeit its performance security, subject its property(ies) to attachment or garnishment proceedings, and perpetually disqualify it from participating in any public bidding.

9.1 The Warranty Against Structural Defects/Failures, except that occasioned on force majeure, shall be fifteen (15) years from the date of issuance of the Certificate of Final Acceptance by **DepEd**.

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ANGEL M. SELLER
WERR CORP JV BANCAL
Chief, DepEd-EFD
10. The Parties shall make every effort to resolve amicably and by mutual consultation any and all disputes or differences arising between the parties in connection with the implementation of the Agreement. Should such dispute not be resolved amicably, it shall be submitted to arbitration in the Philippines according to the provisions of Presidential Decree No. 242 and Executive Order No. 292. Provided, however, that by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in accordance with governing laws on the day and year first above written.


LEONOR MAGTOLIS BRIONES
Department of Education

SIGNED, SEALED AND DELIVERED BY:


LEONOR MAGTOLIS BRIONES
Secretary
Department of Education



JOEL M. BUTARAN
Authorized Representative
WERR CORP JV BANCAL

SIGNED IN THE PRESENCE OF:


ATTY. ANNELISE P. BRANGAN
DepEd's Witness
Chief, DepED-EFD


FELITO DASIS
WERR CORP JV BANCAL's Witness

CERTIFIED FUNDS AVAILABLE: ₱313,904,679.19


CHOLITA F. TIONG
Accountant IV
OIC, Chief Accountant

MA. RHUNNA L. CATALAN
Chief Accountant

REPUBLIC OF THE PHILIPPINES)
Taguig City, METRO MANILA) S.S

ACKNOWLEDGMENT

BEFORE ME, a Notary Public in and for Taguig City,
Philippines, this 25 JAN 2022 day of _____ 20__ personally appeared:

NAME **GOVERNMENT ISSUED ID**
(Number, Issued On, Issued By)

LEONOR MAGTOLIS BRIONES
Department of Education

JOEL M. BUTARAN
WERR CORP JV BANCAL

PRC # 0085933 valid until 01/01/24
LTO DL # C06-02-017259 until 01/01/22

Known to me and to me known to be the same persons who executed the foregoing instrument and acknowledge to me that the same is the free and voluntary act and deed of the entities which they respectively represent.

The foregoing instrument is a CONTRACT consisting of six (6) pages (exclusive of attachments), including this page on which this acknowledgment is written and signed by the parties hereto and their instrument witness on the left-hand margin of each and every page hereof.

WITNESS MY HAND AND SEAL on the date and place first above written.

Doc. No. 460;
Page No. 95;
Book No. XIX;
Series of 2022

NOTARY PUBLIC

RUEL CLAUDIO A. AMBUY
Appointment No. ~~69~~ (2021-2022); Until Dec. 31, 2022;
Notary Public for and in Taguig City
AT Yuchengco Centre
26th & 25th Streets, BGC, Taguig City 1630, MM
Attorney's Roll No.: 45023
MCLE Certificate of Compliance No. VI-0024910 (up to 04/14/22)
PTR No. A-5063687 - 01/04/21 - Taguig City
IBP No. 135572 - 12/18/20 - RSM (for 2021)

FJ
FELITO DASIG
WERR CORP JV BANCAL's Witness

[Signature]
JOEL M. BUTARAN
WERR CORP JV BANCAL

[Signature]
ENGR. AMABLE SYMBIAN
Ch. Sec. EFD

[Signature]
LEONOR MAGTOLIS BRIONES
Department of Education