

JOINT VENTURE AGREEMENT

**DAGUPAN CITY WATER DISTRICT
AND
PAMANA WATER CORPORATION**

December 4, 2020

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JOINT VENTURE AGREEMENT

Know all men by these presents:

This Agreement made and executed by and between:

Dagupan City Water District, a government owned and controlled corporation created pursuant to Presidential Decree No. 198 as amended, with principal business address at New Administrative Bldg., Tambac District, Dagupan City, Pangasinan, herein represented by its General Manager, Rizaldy T. Mandap, duly authorized by resolution of the board of directors, a copy of which is attached as **Annex "A"**, hereinafter referred to as the **"DCWD"**,

-and -

Pamana Water Corporation, a corporation duly organized and existing under Philippine laws with principal office address at No. 900 D. Romualdez St., Paco, Manila, represented herein by its President, Omar B. Dayao, and by its Chief Operations Manager, Roberto M. Umali, Jr. duly authorized by resolution of the board of directors certified under oath by its corporate secretary, a copy of which is attached as **Annex "B"**, hereinafter referred to as **"PAMANA"**

DCWD and PAMANA are singularly referred to as a "Party" and collectively referred to as the "Parties".

Witnesseth:

Whereas, DCWD, pursuant to Presidential Decree No. 198, as amended, otherwise known as the Provincial Water Utilities Act of 1973, is responsible for the provision of water supply in the JV Area comprised of thirty-one (31) barangays;

Whereas, PAMANA submitted on August 20, 2020 an unsolicited JV Proposal pursuant to the JV Guidelines to undertake the JV Project with DCWD, for the financing, development, rehabilitation, expansion, operation and maintenance of the water distribution system in the JV Area;

Whereas, pursuant to the JV Guidelines, the Parties conducted a series of in-depth negotiations on the purpose, terms and conditions, scope and implementation arrangements, as well as all legal, technical, and financial aspects of the JV Project, thereby coming up with a JV Proposal, copy of which is attached as **Annex "C"**;

Whereas, PAMANA's proposal containing its legal, technical and financial proposals was negotiated with DCWD's Joint Venture Selection Committee (JVSC). A copy of the Detailed Negotiations Report is attached as **Annex "D"**;

Whereas, pursuant to the JV Guidelines, the JV Proposal was subjected to competitive challenge/selection process;

Whereas, pursuant to the JV Guidelines, the Project in the JV Area was awarded to PAMANA. A copy of the Notice of Award is attached as **Annex "E"**;

Now, therefore, for and in consideration of the foregoing premises and the terms and conditions hereinafter set forth, the Parties agree as follows:



SECTION 1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

- 1.1.1 **Appropriate Project Return (APR)** - shall mean the project's real (i.e. not adjusted for inflation) weighted average cost of capital return set at a maximum of twelve percent (12%) or as may be set by appropriate government regulatory body (hereinafter referred to as "Established Rate").
- 1.1.2 **Basic Tariff** - shall mean the tariff charged to consumers for water supply services, excluding bulk water charges, but including Valued Added Tax (VAT) and all other taxes and fees required by law to be indirectly passed on to consumers and including all adjustments made thereon, such as those provided in Section 8.2 hereof, those resulting from Detailed Review, those mandated by the appropriate regulatory authorities, and those due to changes in Consumer Price Index (CPI) and Producer Price Index (PPI).
- 1.1.3 **Closing Date** - shall mean the date when the parties shall sign the JV Agreement, to be held within thirty (30) days from receipt by PAMANA of the Notice of Award or on such earlier or later date as may be agreed upon by the parties.
- 1.1.4 **Commencement Date** - shall mean the day determined by the parties after receipt by PAMANA of the Notice to Proceed issued by DCWD to start operations of the DCWD.
- 1.1.5 **Concession Rights** - shall mean the rights granted to PAMANA as provided under Section 3 hereof.
- 1.1.6 **Consumer** - shall mean (i) as of the date hereof, any customer of DCWD or (ii) thereafter, any customer of PAMANA, for the supply of water in the JV Area.
- 1.1.7 **Consumer Price Index or "CPI"** - shall mean, for any year, the Consumer Price Index for that year published by the Philippine Statistics Authority or such successor index as the parties may agree pursuant to Section 8.3.1
- 1.1.8 **CPI Adjustment** - shall have the meaning given to the term in Section 8.3 hereof.
- 1.1.9 **DCWD** - shall mean the Dagupan City Water District, a government-owned and controlled corporation created pursuant to P.D. 198, as amended
- 1.1.10 **DCWD Board of Directors** - shall mean the members of the Board of Directors of DCWD duly appointed pursuant to P.D. 198, as amended acting as a Board pursuant to its by-laws.
- 1.1.11 **DCWD Covered Areas** - shall mean the areas within the JV Area that currently enjoys Water Supply Service from DCWD consisting of thirty-one (31) barangays.
- 1.1.12 **DCWD Facilities** - shall mean all properties, plants and equipment owned by DCWD and used by DCWD in operations in the joint venture area prior to the Commencement Date of the Agreement, the exclusive use of these assets were contributed by DCWD to the joint venture project, pursuant to Section 2.7.1 hereof.
- 1.1.13 **DCWD Functions** - shall be as described in Section 2.5.2

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- 1.1.14 **Detailed Review** - shall be the review to be done in accordance with Section 8.4 hereof.
- 1.1.15 **Detailed Review Period** - shall mean the period wherein the DCWD shall conduct a Detailed Review being on the last year of the Five-year Performance Period as described in Section 8.4.1 hereof.
- 1.1.16 **Event of Default** - shall mean the events stated in Sections 12.1 and 12.2 hereof.
- 1.1.17 **Expiration Date** - shall mean the end of the twenty-five (25) year term of the Agreement, or any extension or renewal thereof.
- 1.1.18 **Expiration Payment** - shall mean the amounts of the Accounts Receivable, expected ROI and such other amount due to PAMANA as determined by the parties at the Expiration Date of the Agreement as provided under Section 13.2 and 13.3 hereof.
- 1.1.19 **Financial Model** - shall refer to the financial representation of the JV Project's actual historical performance and projected future operations used to determine the required tariff adjustment in order to provide the APR set in accordance with this Agreement.
- 1.1.20 **Financing Agreements** - shall mean such agreement/s as may be entered between PAMANA and its lenders in respect of credit facility or facilities provided to the former to assist in the implementation of the Agreement.
- 1.1.21 **Five-Year Performance Period** - shall have the meaning given to the term in Section 8.4.1.
- 1.1.22 **Initial Tariff** - shall mean the tariff being imposed by DCWD to its consumers at Closing Date.
- 1.1.23 **Joint Venture (JV)** - shall mean the Joint Venture embodied in this Agreement.
- 1.1.24 **JV Area** - shall mean the concession area of DCWD, i.e., the City of Dagupan consisting of thirty-one (31) barangays.
- 1.1.25 **JV Share** - shall have the meaning to the term given under Section 2.8.2 hereof.
- 1.1.26 **JV Guidelines** - shall mean the 2013 Revised NEDA Guidelines and Procedures for Entering into Joint Venture Agreements between Government and Private Entities dated 3 May 2013 issued by the National Economic and Development Authority pursuant to Section 8 (Joint Venture Agreements) of Executive Order No. 423 dated 30 April 2005.
- 1.1.27 **JV Project** - shall mean the financing, development, rehabilitation, expansion, operation, maintenance, renovation and upgrading of the water facilities/water distribution system in the JV Area to be undertaken by PAMANA for a period of twenty-five (25) years, renewable for another twenty-five (25) years as provided in the Agreement.
- 1.1.28 **JV Proposal** - shall mean the unsolicited proposal submitted by the PAMANA to DCWD, in accordance with the JV Guidelines, to undertake the Joint Venture project.

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- 1.1.29 **LWUA** - shall mean the Local Water Utilities Administration created under P.D. 198 as amended.
- 1.1.30 **Notice of Intention to Pre-terminate** - shall mean the notice issued by a party notifying the other party of the former's intention to terminate/exit from this Agreement.
- 1.1.31 **Notice to Proceed** - shall mean the notice issued by DCWD to PAMANA that it may commence operating the DCWD Facilities.
- 1.1.32 **Performance Bond** - shall have the meaning to the term given in Section 6.3 hereof.
- 1.1.33 **Pre-termination Date** - shall mean the effective date of valid pre-termination due to an event of default or unforeseen change in circumstances after a pre-termination process, pursuant to Section 12 hereof.
- 1.1.34 **PAMANA Facilities** - shall mean all properties, plants and equipment owned and operated by PAMANA in the joint venture area, the exclusive use of such assets are contributed by PAMANA for the purpose of the JV Project, pursuant to Section 2.7.2 hereof.
- 1.1.35 **Rewards and Penalties Framework** - shall have the meaning to the term given in Section 8.4.6 hereof.
- 1.1.36 **Succeeding Operator** - Any such entity, whether a private entity or a government instrumentality, that will operate the Water Supply System and/or provide Water Supply Services in a portion of or the entire JV Area at any time after the pre-termination, expiration or termination of this Agreement, as applicable.
- 1.1.37 **Term** - shall mean twenty-five (25) years from the Commencement Date, renewable for another twenty-five (25) years as provided in Section 11 hereof.
- 1.1.38 **Transition Period** - shall mean a period of forty-five (45) days reckoned from Closing Date or such shorter or longer period reckoned from Closing Date as may be mutually agreed upon by the parties, during which PAMANA shall be allowed to conduct its thorough review and checking of all aspects of the business of DCWD.
- 1.1.39 **Water Supply Services** - shall mean the supply and distribution of piped-in potable water and other related services to consumers in the JV Area.
- 1.1.40 **Water Supply System** - shall mean all water supply and distribution facilities and waterworks, including production and other wells, pumps, pumping stations and pump houses, reservoirs, water mains, pipes, and all water distribution and transmission facilities, land, buildings, and other appurtenant properties, plants and equipment used to provide Water Supply Services to the JV Area.

1.2 Interpretation

The Annexes to this Agreement shall form an integral part hereof and references to Annexes shall be Annexes to this Agreement unless otherwise stated.

The headings of Sections to this Agreement are inserted for convenience or reference only and shall not in any way affect the interpretation of this Agreement.

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References to any party or person referred to in this Agreement include references to its respective successors and permitted assigns.

The words "include", "includes", and "including" shall always be construed as if followed by the words "without limitation"

SECTION 2. THE CONTRACTUAL JOINT VENTURE

2.1. Establishment of the Contractual Joint Venture

The Parties hereby establish the contractual Joint Venture pursuant to the JV Guidelines to undertake the development of the JV Project.

The Parties further agree that their relationship shall be governed by Philippine laws and principles applicable to a contractual Joint Venture.

- 2.1.1 The relationship of the Parties shall be one of joint venture partners.
- 2.1.2 The Parties have entered into this Agreement with the intention that it shall operate between them with fairness and without the detriment to the interest of any of them on the basis of a relationship involving mutual trust, good faith and confidence and on the understanding that each one has the right to participate in the conduct of the Joint Venture pursuant to Sections 2.6 and 2.7 of this Agreement and the right to participate in the profits pursuant to Section 2.10 of this Agreement.
- 2.1.3 The right of the Parties to bind the Joint Venture and one another, under the principle of mutual agency, shall be pursuant to the explicit provisions of this Agreement, in accordance with the Parties' respective functions, rights, and obligations as enumerated hereunder, and subject to the exceptions, limitations, and indemnifications provided in this Agreement.
- 2.1.4 The Parties agree to meet on the 15th day of the first month of every quarter and at any reasonable time upon prior written notice by one Party to the other to discuss the JV Project and all aspects thereof.

2.2. Business Name

Each Party shall use their respective business names for purposes of performing their respective functions as described in this Agreement.

2.3. Business Objective

The **GENERAL OBJECTIVE** of the JV Project is primarily to attain the highest possible level of water supply services for, as far as feasibly possible, one hundred percent (100%) of water consumers in the JV Area.

The **SPECIFIC OBJECTIVES** of the JV Project are as follows:

1. To develop new/additional sustainable water sources to meet long-term water demand;
2. To reduce and maintain distribution losses (Non-Revenue Water) to national or industry acceptable levels;

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3. To expand service coverage within the existing barangays utilizing and improving DCWD Facilities.
4. To ensure, as far as feasibly possible, uninterrupted twenty-four (24) hour water supply to connected consumers;
5. To ensure that water supplied to consumers comply with prevailing standards on drinking water quality under Philippine National Standards for Drinking Water;
6. To mitigate tariff impact to Consumers;
7. To maintain good and harmonious relationship with water consumers at all times through their improved satisfaction level.
8. To protect the environment by ensuring responsible use of groundwater resources, promoting utilization of surface water and providing sound management and protection of watershed, in strict compliance to Republic Act No. 11039 or the Expanded National Integrated Protected Areas System (NIPAS) Act of 2018.
9. To assure security of tenure and maintain harmonious work relations, no DCWD absorbed employee regardless of status (permanent, casual, Contract-Of-Service, job order) shall be removed from service for the duration of the contract period, except for cause and after due process.
10. As a matter of policy, no retrenchment, right- sizing, downsizing or any other scheme of removing employees shall be implemented for the duration of the contract period, whether directly or through association or contract with an agency.

2.3.1 PAMANA shall submit to the DCWD its first Five-Year Business Plan before the Commencement Date of the JV Project. The Business Plan for succeeding five-year phases shall be submitted by PAMANA to DCWD a year before the commencement of the next five-year phase. DCWD shall review and approve the Business Plan not later than three (3) months before the beginning of the next phase.

2.4 Management and Operational Control of the Joint Venture

2.4.1. DCWD shall:

- (i) By mutual agreement with PAMANA, establish policies of the Joint Venture and set service obligations and targets of PAMANA;
- (ii) By mutual agreement with PAMANA, set tariff in accordance with the provisions of Section 8 of this Agreement, and
- (iii) Review and monitor performance of PAMANA annually to determine PAMANA's compliance with its service obligations and targets as well as its obligations under the Agreement. DCWD shall submit its review of PAMANA service obligations and targets within sixty (60) days after the end of each annual performance period. Findings of failures on any of the service obligations and targets should be acted upon and remedied by PAMANA within sixty (60) days without prejudice to forfeiture of its Performance Bond.

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- 2.4.2. Except for DCWD functions enumerated in Section 2.5 .2 hereof and as may otherwise be expressly provided in this Agreement or subsequently agreed by the Parties, PAMANA, as operator, contractor and JV Partner of DCWD, shall have management, operational and financial control of the Joint Venture, and all business operations, transactions and activities connected with and related to the JV Project shall be undertaken in the name of PAMANA.
- 2.4.3. PAMANA, to secure the best terms for the JV, is authorized to enter into Financing Agreements as it may deem necessary and/or desirable to obtain financing for the PAMANA Facilities to be used in the JV Project, with prior written consent of DCWD, provided that the rights of the DCWD under Sections 13.1 and 12.5 to the transfer of all rights, title and interest in PAMANA Facilities at termination or pre-termination are not impaired. PAMANA shall also ensure that the delivery of services should not be prejudiced and DCWD's operations will not be hampered throughout the JV period.

The Financing Agreements shall be subject to compliance with applicable laws and requirements, if any, of the Bangko Sentral ng Pilipinas (BSP), or financing institution concerned. Further, no Financing Agreement entered into by PAMANA shall extend beyond the term of this Agreement and DCWD Facilities or any part thereof shall not be used as collateral or security in any Financing Agreements entered into by PAMANA. Provided, further that such Financing Agreements shall be the sole liability of, for the exclusive account of, and shall be paid for by PAMANA. Provided, finally, that PAMANA contribution to the Joint Venture shall be computed based on total project cost to PAMANA without regard to source of funding.

2.5 Functions of the Parties

- 2.5.1 PAMANA is designated as the operator, contractor, and JV Partner of DCWD in the JV Area. It shall perform the following functions:
- i. Finance, develop, rehabilitate, improve, operate, and maintain all Water Supply System of DCWD in the JV Area. As such, it will act as facilities Operator and Asset Manager;
 - ii. Bill and collect Tariff from consumers within the JV Area and for this purpose test, mount, dismount, and remount, connect, disconnect, and/or reconnect water meters within its jurisdiction;
 - iii. Submit reports and remit JV Share to DCWD as agreed in the JV Agreement; and
 - iv. Such other functions as may be required of PAMANA as operator in the JV Area and in order to fulfill PAMANA's Service Obligations
 - v. PAMANA shall submit quarterly operational highlights of the JV activities. DCWD in coordination with PAMANA shall conduct annually review and monitor the accomplishment of the JV Project's objectives and compliance with set service obligations and targets. Accordingly, DCWD shall impose rewards and/or penalties in accordance with a Rewards and Penalties Framework to be designed by the Parties within one (1) year after the Commencement Date.

DCWD shall exercise such other functions that may not be delegated under Presidential Decree No. 198 (PD 198), as amended.

2.5.2 DCWD shall have the following functions:

- i. **Strategic Planning and Policy Setting** - in coordination with PAMANA, DCWD will set service obligations and targets of PAMANA during the Detailed Review Period and shall establish policies in order to ensure that PAMANA meets its service obligations and targets.
- ii. **Asset Management Supervision** - DCWD shall have the authority to inspect, at reasonable hours, the condition of DCWD Facilities and PAMANA Facilities in order to determine whether said assets are kept in good condition and to enforce compliance measures upon PAMANA to make good its obligation with respect to the management of these assets.
- iii. **Customer Relations** - DCWD shall have the authority to entertain complaints regarding water service and enforce compliance measures upon PAMANA to resolve said complaints. DCWD shall likewise undertake all activities pertaining to customer relations such as information dissemination, public consultations, and the like.
- iv. **Tariff Setting** - Tariff shall be set by mutual agreement of the parties. PAMANA will prepare the documentation and it will be implemented by resolution of the DCWD Board of Directors for the approval by the appropriate regulatory agency in accordance with the provisions of Section 8 hereof.
- v. **Performance Review and Monitoring** - The DCWD shall, prior to the 5-year periodic review, subject to Board approval, conduct annual preliminary review and evaluation with the private proponent to monitor the accomplishment of the JV Project's objectives and compliance with set service obligations and targets. Accordingly, DCWD Board of Directors, shall be authorized to impose rewards and/or penalties in accordance with a Rewards and Penalties Framework described in Section 8.4.8 hereof.

DCWD shall exercise such other functions that may not be delegated under PD No. 198, as amended.

2.6 Parties to the Contractual Joint Venture

The parties to the contractual Joint Venture shall be the Parties to this Agreement, or any subsidiary, successor, or assignee of PAMANA, subject to the approval of DCWD, which approval shall not be unreasonably withheld. Provided that PAMANA may, at any time upon the commencement of this Agreement, form a wholly owned consortium corporation for the purpose of the JV Project, in which case, said wholly owned consortium corporation shall immediately substitute PAMANA as a party to this Agreement and to the contractual joint venture upon written notice to and approval of DCWD. PAMANA shall guarantee all the technical, legal and financial obligations under the JVA of its subsidiary.

2.7 Contributions of the Parties

- 2.7.1. DCWD's primary contribution to the Joint Venture is the exclusive right to use the DCWD Facilities and the Concession Rights to provide Water Supply and/or

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operate the Water Supply in the JV Area.

These assets have a net book value of **One Hundred Forty-Nine Million Six Hundred One Thousand Sixteen Pesos and 42/100 (P149,601,016.42)** as of **June 2020**. Payment of the unpaid portion of the loans acquired to finance the assets of DCWD to LWUA in the amount of **P14,777,627.51** (as of November 27, 2020) and to DBP in the amount of **P74,735,975.43** (as of December 4, 2020) shall be advanced by PAMANA subject to its right to recover its advances from the tariff rate increases pursuant to Section 8 hereof. The latest Statements are attached as **Annexes "F" and "G"**. PAMANA shall assume full responsibility over the LWUA and DBP loans immediately upon signing hereof and shall pay them within a period not exceeding Ninety (90) days from receipt of the Notice to Proceed or the updated Statements of Account from LWUA and DBP, whichever is earlier.

DCWD's adjoining parcels of land with an aggregate area of 4,276.00 square meters, more or less, located at Brgy. Tambac, Dagupan City covered by Transfer Certificates of Title (TCT) Nos. T-58721, T-58722, T-58723, T-58724, T-58725, T-72984, T-58713, T-58716, T-58714, T-58715, T-72928, T-72983, T-58717, T-58718, T-58719, T-62677 and T-58727 of the Register of Deeds of Dagupan City, including Lot 1667 F-3-D and the 3-storey Administrative Building/Office covered by Tax Declaration Nos. 29-213-1 and 29-214-1, erected on portions of said parcels of land, shall be leased to PAMANA during the entire term of this Agreement, and any extension or renewal thereof, at a monthly rental of **Two Hundred Forty Thousand Pesos (P240,000.00)** exclusive of Value Added Tax (VAT) and subject to Expanded Withholding Tax (EWT). Simultaneous with the signing of this Agreement, the parties shall execute a Contract of Lease in substantially the form hereto attached as **Annex "H"**.

- 2.7.3. DCWD may increase its contribution to the Joint Venture by investing in additional assets and contributing the usufruct of the same to the Joint Venture, subject to such terms and conditions as may be mutually agreed upon by the Parties hereunder, such as the additional JV Share to be granted to DCWD as a result of the increase in contribution or the corresponding reduction in tariff due to the resulting reduction in expenses to be shouldered by PAMANA.
- 2.7.3. PAMANA's primary contribution to the Joint Venture is the capital investment and expertise in the JV Project in the JV Area, which it shall introduce as provided in its JV Proposal ("**Annex C**") or in phases during the entire term of this Agreement, This capital investment amounts to **One Billion Eighty Million Thirty Nine Thousand Pesos (P1,080,039,000.00)**.

2.8 JV Share

- 2.8.1. PAMANA shall be entitled to the profits and shall bear all losses from the operation of the Joint Venture/JV Project.
- 2.8.2. DCWD, regardless of losses from the operation of the Joint Venture/JV Project, shall be entitled to a JV Share of **Twelve percent (12%) of the Annual Gross Income** which in no case shall be less than the annual gross income of DCWD for the calendar year 2019 in the amount of Two Hundred Two Million Six Hundred Three Thousand Nine Hundred Twenty Five Pesos (P202,603,925.00), as shown in the audited financial statement, a copy of which is attached as **Annex "I"**.

2.9 Assets of the Joint Venture

Assets of the Joint Venture shall consist of the DCWD Facilities and the PAMANA Facilities that may be brought in by PAMANA into the Joint Venture.

- i. DCWD Facilities - Legal title to all DCWD Facilities shall be retained by DCWD. DCWD Facilities shall be immediately turned over by PAMANA to DCWD at Pre-Termination Date or Expiration Date. In the event DCWD is declared insolvent by creditors, PAMANA shall continue to have access to these assets and its usage governed by this Agreement.
- ii. PAMANA Facilities - Legal title to PAMANA Facilities shall be in the name of PAMANA during the term of this Agreement. In case of Pre-Termination where DCWD is the party in default, or at Expiration or Termination, all amounts due to PAMANA pursuant to this Agreement shall have been paid by DCWD or the Succeeding Operator in compliance with Sections 12.5 A. and 13 hereof.

SECTION 3. GRANT OF RIGHTS

Subject to the terms and conditions of this Agreement, DCWD hereby designates and appoints PAMANA as its JV Partner for the exercise of rights provided in this Agreement, and grants to PAMANA the sole and exclusive right to finance, develop, rehabilitate, expand, improve, operate, and maintain the Water Supply System as well as to provide Water Supply in the JV Area including, but not limited to, the right to bill and collect Tariff from Consumers for Water Supply and the right to operate and rehabilitate the Water Supply.

In case of decommissioning of DCWD Facilities, it should be done with the prior approval of the DCWD Board of Directors. In case of decommissioning of PAMANA Facilities, only prior notice is required.

SECTION 4. PAYMENTS TO DCWD

4.1 Payment of JV Share

4.1.1. PAMANA shall pay DCWD the amounts stated in 2.8.2.

The JV Share represents the amount necessary to defray the costs of operating the remaining business and affairs of DCWD. Such JV Share may be adjusted, subject to the agreement of the Parties for any actual, reasonable, and documented budgetary changes and/or changes in CPI, provided that the changes above should have been made applicable to Tariff as well.

The JV Share is not for the purpose of PAMANA's acquisition of any license from DCWD to charge and/or bill and collects Tariff from Consumers for Water Supply Services but such grant represents DCWD's primary contribution to the Joint Venture as clearly stated in Section 2.7.1 of this Agreement.

PAMANA shall assume full responsibility over the LWUA and DBP loans immediately upon signing hereof and shall pay them within a period not exceeding Ninety (90) days from receipt of the Notice to Proceed or the updated

Statements of Account from LWUA and DBP, whichever is earlier. DCWD shall treat such payments as additional JV Share of PAMANA.

4.2 Remittances and Delays

- 4.2.1. PAMANA shall pay DCWD on a quarterly basis not later than the 7th day of the first month of every quarter.
- 4.2.2. Failure to pay any of the amount discussed hereunder on their scheduled due dates, except in cases when the due date falls on a Saturday, Sunday or a non-working Holiday, without justifiable causes, shall be a PAMANA Event of Default and shall entitle DCWD to two percent (2%) of the performance bond, and in no case shall delivery of the amount be delayed for more than fifteen (15) days. The Performance Bond shall be replenished within sixty (60) days from payment if the amount is reduced by fifty percent (50%).

SECTION 5. SERVICE OBLIGATIONS OF PAMANA

5.1. Service Obligations

- 5.1.1 **Service Coverage** - PAMANA shall provide Water Supply to as many Consumers in the JV Area as practicable by providing Water Supply Services to all connected Consumers in the DCWD Covered Areas and by making additional connections sufficient to meet the coverage targets set out in the JV Proposal.
- 5.1.2 **Provision of Continuous Water Supply to all Connected Consumers** - PAMANA shall ensure, as far as feasibly possible, that all connected Consumers will enjoy uninterrupted 24-hour water supply, subject to interruptions due to reasonable causes as may be mutually determined by the Parties and, when possible, upon forty-eight (48) hours' prior notice except in emergency cases or fortuitous events.
- 5.1.3 **Drinking Water Standards** - The PAMANA shall continue to ensure that the water supplied to Consumers complies with the standards set by the Philippine National Standards for Drinking Water of 2007 (PNSDW) or with such prevailing standards on drinking water quality issued by the Department of Health or such other governmental agency of the Philippines that is tasked with issuing such standards.

The parties shall develop a Water Safety Plan (WSP) pursuant to Department of Health (DOH) Administrative Order (AO) No. 2014-0027 or the "National Policy on Water Safety Plan for All Drinking-Water Service Providers" and submit the same to the DOH for approval.

- 5.1.4 **Customer Service** - PAMANA shall always provide acceptable customer service to its Consumers and strictly comply with the DCWD's Customer Service Handbook and updated every Detailed Review Period. The Customer Service Handbook contains, among other things, timeline for responding to consumer inquiries/complaints, notices for interruption in water supply, procedure on bills payment and rules on disconnection.

Within one (1) year from Commencement Date or earlier, the parties shall develop further or improve their own Citizen's Charter to be posted at the main entrance of their offices or at the most conspicuous place, and shall include the following

details: a) checklist of requirements for each type of application/request; b) the procedure to obtain a particular service; c) the person/s responsible for each step; d) the maximum time to conclude the process; e) the document/s to be presented by the customer, if necessary; f) the amount of fees, if necessary; and, g) the procedure for filing complaints. A public assistance/complaints desk shall also be established.

- 5.1.5 **Compliance with KPIs** - In order to mitigate tariff impact to Consumers, PAMANA shall ensure that Key Performance Indicators (KPI's) as provided in the Schedule attached as **Annex "H"**, and as agreed upon by the Parties, shall be consistently complied by the Parties. Any update or adjustment prior to the scheduled Detailed Review shall be subject to agreement of the Parties.

The Non-Revenue Water (NRW) Monitoring Program shall comply with the minimum NRW standard set by LWUA.

The service obligations shall be subject to the approval of tariff increases indicated herein or arrived at in accordance with the tariff setting mechanism provided in this Agreement; or the issuance by the proper government authorities of the necessary permits and approvals to enable PAMANA to perform its service obligations, such as, but not limited to, water permits; or changes in circumstances that affect the performance of such service obligations, such as, but not limited to, changes in projections for population growth or demand.

Negligence or deliberate failure, or refusal of PAMANA to meet any of the Key Performance Indicators (KPIs) and other service obligations enumerated above on the dates or during the periods agreed upon may entitle PAMANA to forfeit 10% of the Performance Bond pursuant to Section 5.3 of this Agreement.

- 5.1.6 **International Standard Organization (ISO) Certification** - PAMANA shall assist DCWD in its endeavor to maintain and renew its ISO Certification on Quality Management System (ISO 9001-2015).
- 5.1.7 **Watershed Management and Protection Program** - PAMANA shall support DCWD in its environmental protection and watershed management program about the development, protection and management of the JV areas' watershed, water resources and protected areas in relation to the JV Project. All activities of the JV Project targeted towards achieving its business objectives shall be conducted in strict compliance with Republic Act (RA) No. 11038 or the "Expanded National Integrated Protected Areas System (NIPAS) Act of 2018".

The service obligations shall be subject to the approval of tariff increases indicated herein or arrived at in accordance with the tariff setting mechanism provided in this Agreement; or the issuance by the proper government authorities of the necessary permits and approvals to enable PAMANA to perform its service obligations, such as, but not limited to, water permits; or changes in circumstances that affect the performance of such service obligations, such as, but not limited to, changes in projections for population growth or demand.

5.2. Revisions to Service Obligations

During the Detailed Review Period, the parties shall determine whether changes to Service Obligations of PAMANA are in order based on the Business Plan submitted by PAMANA. The revised Service Obligations as agreed upon by the parties shall take effect on the first day of the Five-Year Performance Period immediately succeeding the Detailed Review Period.

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Changes to Service Obligations are in order if required tariff increases did not materialize, or the necessary permits and approvals are not issued, or changes in circumstances affecting the performance of such service obligations take place. Provided, such changes shall not materially affect the Key Performance Indicators (KPIs).

5.3. Penalty for Failure to Comply with Service Obligations

- 5.3.1. The DCWD shall, within one month after each anniversary date of the Commencement Date, issue a report on PAMANA's compliance with any or all of the service obligations enumerated in Section 5.1 of this Agreement during the one year period preceding such anniversary date (for service obligations under Sections 5.1.3, 5.1.4, and 5.1.6 as applicable) and/or as of such anniversary date (for service obligations under Sections 5.1.1, 5.1.2, and 5.1.5 as applicable).
- 5.3.2. PAMANA shall have ninety days (90) days from receipt of the written notice to cure its deficiency in the performance of its service obligations as noted by the DCWD or to provide the DCWD with justifications for such deficiency. However, deficiencies in the performance of its service obligation under Section 5.1.3 shall be cured and rectified immediately upon written notice.
- 5.3.3. Failure of PAMANA to cure said deficiency or provide justifications for such deficiency to the satisfaction of the DCWD shall entitle DCWD to, immediately after the 90-day period, impose a penalty on PAMANA for the latter's failure to perform any or all of its service obligations, which penalty shall be equivalent to two percent (2%) of the Performance Bond through the forfeiture of said amount.
- 5.3.4. The Performance Bond shall be renewed by PAMANA in full amount within sixty (60) days after it has been reduced for payment of penalty as provided in this Section 5.3.3.
- 5.3.5. For the avoidance of doubt, the imposition of a penalty for PAMANA's failure to perform any service obligation except remittance of DCWD's JV Share, shall not be oftener than once a year.
- 5.3.6. In the event that the deficiency is clearly not rectifiable within a period of one year, as determined by the DCWD upon recommendation of PAMANA, PAMANA will be allowed, after penalties are imposed, to submit its best scenario case on a catch up plan on service obligations within a reasonable period to be specified by the DCWD. The catch-up plan shall be subject to the approval of the DCWD which approval shall not be unreasonably withheld. As soon as the catch-up plan is approved by the DCWD, the new service obligations shall be made applicable.

SECTION 6. OTHER OBLIGATIONS OF PAMANA

6.1. Taxes

- 6.1.1. **Taxes/Charges on the Execution of this Agreement** – PAMANA shall be responsible for all documentary stamp taxes and such other taxes and charges arising from the execution of this Agreement and such other agreements and instruments executed pursuant to this Agreement. However, these shall form part of PAMANA's recoverable expenses that are considered in the computation of tariff.

- 6.1.2. **Taxes/Charges on the Operation of the Joint Venture** - PAMANA shall be responsible for all income and withholding taxes, franchise tax, customs and import duties, real property taxes on PAMANA Facilities, business tax, and other forms of statutorily imposed taxes and charges arising from its operation of the Joint Venture. However, these shall form part of PAMANA's recoverable expenses which are considered in the computation of tariff, except income and franchise taxes, which are for the account of and to be shouldered by PAMANA.
- 6.1.3. **Taxes/Charges for the Transfer of Property** - DCWD shall be responsible for any and all taxes, costs and expenses for the transfer and registration of PAMANA Facilities in its name at the Expiration or Termination of the JV Term.
- 6.1.4. **Value Added Tax (VAT) on the Operation of the Joint Venture** - PAMANA shall increase tariff to pass on the applicable VAT to the consumers and remit the same to the BIR, as provided by law.

For the avoidance of doubt, the term "initial tariff" means the tariff imposed by DCWD as of Closing Date.

- 6.1.5. **Taxes on the Operation of DCWD** - DCWD shall only shoulder taxes and charges on its activities that specifically pertain to its own operations, such as its receipt of JV Share and the functions of the DCWD and the Board of Directors as enumerated in this Agreement.
- 6.1.6. **Repairs to DCWD Assets** - All reasonable costs and expenses relative to any necessary repairs and maintenance to DCWD Assets contributed to the JV Activity listed in the attached **Annex "F"** hereof shall be borne by PAMANA.

6.2. Insurance

PAMANA shall, at its own cost, obtain and maintain in force sufficient insurance cover in such amounts and in such form as are reasonably customary in the industry.

For DCWD Facilities, Insurance shall be obtained from the Government Service Insurance System (GSIS) and DCWD shall be named as the irrevocable beneficiary under policies pertaining thereto.

If the DCWD Facilities be lost or destroyed by reason of the risks insured against, DCWD shall restore them to their original state prior to the loss. In case the insurance proceeds are insufficient, the party at fault shall be liable to pay the excess amount needed to restore the DCWD Facilities.

6.3. Performance Bond

- 6.3.1. Prior to the Closing Date and every Commencement Date Anniversary, as the case may be, PAMANA shall deliver a Performance Bond to DCWD in order to guarantee proper and timely performance of the following obligations: (a) payment of JV Share, (b) performance of Service Obligations.
- 6.3.2. The Performance Bond shall be based on the Project cost per phase, provided that the amount is sufficient to cover the annual JV Share, as projected in the Financial Model or as required under the JV Guidelines, whichever is higher.

- 6.3.3. The Performance Bond shall be renewed not later than the 30th day of January of the fourth (4th) year of every 5-year phase and may be adjusted for changes in projections.
- 6.3.4. In the event DCWD makes a call and collects against the Performance Bond under this Agreement, PAMANA shall replenish the Performance Bond within thirty (30) days if amount is reduced by fifty percent (50%).
- 6.3.5. Sixty (60) days from Expiration Date, unless there is any accrued liability under the Performance Bond, DCWD shall undertake with due expedition such action as PAMANA may reasonably request to assist PAMANA in procuring the release of the Performance Bond which remains outstanding.

6.4. Development of Water Safety Plan

The JV Parties shall comply with Department of Health (DOH) Administrative Order (AO) N0. 2014-0027 or the National Policy on Water Safety Plan for all drinking water service providers.

6.5. Reporting Obligations

- 6.5.1. **Report on Service Obligations** - In order for the DCWD to timely monitor the compliance of PAMANA with its Service Obligations, PAMANA shall prepare and submit a report to the DCWD of its compliance with its Service Obligation within sixty (60) days after the end of each calendar year in such form and having such data as the DCWD may require, but nothing will prevent the parties from adopting a more frequent reporting schedule for proper monitoring and evaluation of PAMANA's fulfillment of its service obligations.
- 6.5.2. **LWUA and City Health Office Reportorial Requirements** - PAMANA shall, every 15th day of each month, submit to the DCWD the required data sheet, in the format and information required by LWUA and the City Health Office.
- 6.5.3. **Financial Information** - Not later than every 15th of May, PAMANA shall submit to the DCWD its financial statements for the JV Project accompanied by a schedule of revenues, operating expenses, capital expenditures, and changes in working capital, except to the extent that such details are proprietary in the reasonable opinion of PAMANA.

6.6. Condition of Assets upon Turn-over to DCWD

Upon the pre-termination and PAMANA is the party in default or the termination or expiration of this Agreement, PAMANA shall ensure that all assets of the Joint Venture to be turned-over to DCWD in accordance with Sections 12.5 A. and 13 hereof shall be compliant with the existing operational standards of LWUA or the appropriate regulatory agency at the time the turn-over shall take place.

SECTION 7. OBLIGATIONS OF DCWD

7.1. Cooperation with PAMANA

Subject to the provisions of this Agreement, DCWD undertakes to use its best efforts to ensure that PAMANA shall be able to perform its obligations under this Agreement.

DCWD shall, at no extra cost to PAMANA, offer all reasonable assistance to PAMANA, in making all necessary applications and in carrying out all other necessary acts at the requisite time and in requisite form to obtain and maintain such Approvals as may be necessary for PAMANA to perform its obligations under this Agreement.

SECTION 8. TARIFF

8.1. General Principles

- 8.1.1. Tariffs shall ensure that all project costs are recoverable during the Joint Venture Term, earning a reasonable rate of return on investment equal to the Appropriate Project Return (APR) set for the relevant period. The rate of return and tariff implemented should consider the rate ceiling implemented by LWUA with respect to low income groups.
- 8.1.2. Notwithstanding any provision under this section, only reasonable, prudent, legitimate, and efficient costs shall be recognized as recoverable cost from Tariffs per guidelines of the appropriate regulatory government agency.

Prudent costs are expenditures that are incurred in a discrete, cautious, practical, and careful manner such that these do not deviate in material way service providers having the same business climate and under similar conditions.

Legitimate costs are expenditures that are incurred while carrying out the business of providing water supply. Accordingly, expenses that are not relevant in the provision of water supply in the service area or those that are incurred for projects outside of the JV Area should be ring-fenced and excluded from the computation of tariff.

Efficient costs are expenditures that can achieve the desired results with the minimum use of resources, time, and effort.

Expenses that are not recoverable or not included in Tariff computation are income taxes, withholding taxes, penalties, interest charges on late payments, bad debts and franchise tax.

Income taxes levied on PAMANA in relation to its operation of the JV pursuant to this JVA shall not be considered as cost or expense in the computation of tariff and shall therefore be excluded in the computation of tariff unless specifically and expressly provided otherwise by a ruling from the Supreme Court or the appropriate regulatory agency and/or law.

- 8.1.3. Substantial and procedural requirements for approval of tariffs of water districts, as specified in Sections 37 and 63 of P.D. No. 198, as amended and Letter of Instruction 700 dated June 1, 1978, are complied.

8.2. Tariff Rates

The parties agree that Tariff Rates shall be in accordance with the following schedule:

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Year	Rate
Year 1	No increase
Year 2	12% VAT
Year 3	30%, inclusive of VAT
Year 6	30%, inclusive of VAT
Year 11	25%, inclusive of VAT
Year 16	18%, inclusive of VAT
Year 21	10%, inclusive of VAT

The increase in tariff shall be applicable for all blocks and consumer categories.

8.3 Adjustment due to Changes in Consumer Price Index and Power Price Index

8.3.1 Subject to the approval of the appropriate government regulatory body, effective on the 1st year anniversary of the Commencement Date and thereafter, an automatic percentage adjustment in Total Tariff and Basic Tariff equal to: (i) the change in the consumer price index (CPI) and (ii) the change in applicable power price index (PPI) as published by the Philippine Government and made available through <http://www.census.gov.ph/business/price-indices/cpi-index>, may be implemented. The relevant CPI shall be the relevant monthly index for All Items, as referenced from Table 1. Monthly Consumer Price Index for All Income Households in the Philippines by Commodity Group (2006=100). The relevant PPI shall be the relevant monthly index for Housing, Water, Electricity, Gas, and other Fuels as referenced from Table 1. Monthly Consumer Price Index for All Income Households in the Philippines by Commodity Group (2006=100). Should the above index be replaced or cease to be published, the Parties agree to utilize such new Index as may be published, preferably by the Philippine Government, to represent the cost of living in All Income Households in the Philippines.

8.3.2 Adjustment from changes in Regional CPI and PPI shall be automatic and shall consist of a multiplier applied to the Tariff for each consumer category calculated as follows:

Multiplier = 70% X [(CPI current divided by CPI last Year)] + 30% X [(PPI current divided by PPI last Year)]

8.3.3 The DCWD Board shall be notified of the adjustment from changes in CPI and PPI one month prior to its automatic implementation. The said adjustment shall become operative within seven (7) days after posting in a public place in accordance with Section 63 of P.D. No. 198, as amended.

8.4 Detailed Review

8.4.1 The DCWD shall conduct a Detailed Review on the last year of the Five (5) Year Performance Period to include annual monitoring. For the avoidance of doubt, the first Five (5) Year Performance Period commences on the Commencement Date and ends on the day before the fifth (5th) year anniversary of the Commencement Date. The next Five- Year Performance Review Period commences on the fifth (5th) anniversary of the Commencement Date and ends on the day before the tenth (10th) anniversary of the Commencement Date, and so on and so forth.

- 8.4.2 For each Detailed Review, PAMANA shall submit a Business Plan covering the Joint Venture Term, updated as necessary to reflect prevailing and expected conditions, and which shall include proposed adjustments to the Tariff, determined in accordance with the terms of this Agreement. Projections in the Business Plan shall be prepared in constant Philippine Pesos as of the first year of the succeeding Five-Year Performance Period. Past years' historical numbers shall be adjusted using the relevant actual Consumer Price Indices and restated to Philippine Pesos as of the first year of the succeeding Five-Year Performance Period. Business Plan should be submitted before the commencement of the 6th year, 10th year and so on. The Business Plan shall be reviewed, revised and approved by DCWD and shall become the basis of the JV Project's plans and programs for the next Five-Year Performance Period.
- 8.4.3 The DCWD shall review actual historical performance of PAMANA and determine the accuracy of declared revenues, the reasonableness, prudence and efficiency of declared CAPEX and OPEX, including proper treatment of input and output VAT and other taxes, in order to determine projections to be used in succeeding periods. In case of conflict, parties may appoint independent auditor on the matter.
- 8.4.4 The DCWD shall assess the revised assumptions for accuracy of projected revenue, for reasonableness, prudence and efficiency of projected CAPEX and OPEX, including proper treatment of input and output VAT and other taxes, in order to determine necessary adjustments to be made to projections in prior period.
- 8.4.5 Thereafter, the proposed Tariff adjustment shall be evaluated, confirmed or otherwise determined using the Business Plan submitted by PAMANA to the DCWD at Closing Date, such that PAMANA will be able to recover all investments in the JV Project using APRs set until the end of the Term of the Joint Venture.
- 8.4.7 Adjustment to Tariff shall be submitted to the appropriate regulatory body for further review and approval.
- 8.4.8 In case an adjustment to Tariff has been approved by the appropriate regulatory body, the DCWD Board shall order publication of Tariff, as adjusted. The said Tariff, as adjusted shall become operative within seven (7) days after posting in a public place in accordance with Section 63 of P.D. No. 198, as amended.
- 8.4.9 The Detailed Review on Tariff Adjustment shall follow the timeframe set forth below:

Item	Month
Submission of Formal Petition for Review and Proposed Business Plan and Financial Model by PAMANA	End of First Month
Detailed Review by DCWD and Finalization of Business Plan to Arrive at an Indicative Tariff & Resolution on Adjusted Tariff	Second to Third Month
Posting and Publication of Petition, Public Hearings on Indicative Tariff	Fourth Month
Review by the Appropriate Regulatory Body	Fifth to Eleventh Month
Publication of Approved Adjustments, if any	Twelfth Month
Implementation	Seventh day after Publication

- 8.4.10 The tariffs established under this Agreement shall be subject to review by and appeal to appropriate regulatory authorities.

SECTION 9. TRANSITIONAL ARRANGEMENTS

9.1 Separation or Retirement of DCWD Employees

- 9.1.1 Prior to Closing Date, DCWD shall offer its present employees to resign or retire subject to payment of their separation or retirement pays based on the following computation:

Basic Salary plus ₱2,000 multiplied by the number of years
in service upon entry to DCWD multiplied by 2.5

- 9.1.2 Funds for the payment of the separation and retirement pays of the employees who accept DCWD's offer shall be provided for by PAMANA.
- 9.1.3 Depending on its manpower requirements, PAMANA may hire the employees who resigned or retired as new probationary employees or consultants/independent contractors.
- 9.1.4 The employees who did not resign or retire shall be automatically absorbed by PAMANA without diminution of benefits and disruption of length of service. Upon signing an amended employment contract where PAMANA is their new employer, they shall be paid a one-time responsive economic assistance plan based on the following computation:

Basic Salary plus ₱2,000 multiplied by the number of years
in service upon entry to DCWD multiplied by 100%

- 9.1.5 No DCWD absorbed employee regardless of status (permanent, casual, Contract-Of-Service, job order) shall be removed from service for the duration of the contract period, except for cause and after due process. No retrenchment, right-sizing, downsizing or any other scheme of removing employees shall be implemented for the duration of the contract period, whether directly or through association or contract with an agency.

9.2 Operations during the period from Closing Date to Commencement Date

From Closing Date until Commencement Date, DCWD shall conduct its business and operations in the usual and ordinary course and in a manner consistent with past best practice. Thus, DCWD and the Retiring Employees shall agree in writing, copy furnished PAMANA, that their resignation or retirement shall be effective on Commencement Date.

During the transition period, DCWD shall not undertake any new loans, procure any major capital expenditures, employ new personnel, or otherwise make any decision that would substantially affect DCWD operations and finances without prior disclosure and concurrence of PAMANA.

9.3 DCWD Other Liabilities

Upon signing hereof and the receipt of the Notice to Proceed, PAMANA shall assume full responsibility and pay within a period not exceeding Ninety (90) days from receipt of the Notice to Proceed or the updated Statements of Account from LWUA and DBP, whichever is earlier, the unpaid portion of the loans of DCWD which it acquired to finance its assets, in the aggregate amount of **Eighty Nine Million Five Hundred Thirteen Thousand Six Hundred Two Pesos and 94/100 (₱89,513,602.94)** as of November 27, 2020 (LWUA) and December 4, 2020 (DBP) **Annexes "F" and "G"**, subject to PAMANA's right to recover its advances from the tariff rate increases pursuant to Section 8 hereof.

All other liabilities of DCWD existing prior Closing Date and not enumerated in Statements attached as **Annexes "F" and "G"** shall be for the sole account of DCWD.

In the event that PAMANA discovers that DCWD has unpaid loans or liabilities other than the amount stated in Schedule attached as Annex "D" and PAMANA is forced to pay them to prevent disruption of operations, the amount paid by PAMANA shall be considered as a loan extended to DCWD by PAMANA and shall be deducted from DCWD's JV Share, on terms agreed by the parties until fully paid.

9.4 DCWD Revenues/Receivables

DCWD shall retain the right to all revenues accruing prior to Commencement Date.

DCWD shall furnish PAMANA a certified list of its accounts receivables not later than Closing Date and the Parties shall determine a cut-off date. Upon Commencement Date, PAMANA shall have the right to collect, using DCWD original receipts, all accounts receivables of the DCWD and shall remit to DCWD such amounts collected thereon. DCWD shall, in turn, pay PAMANA three percent (3%) of amounts collected for accounts that have been outstanding for sixty (60) days and more.

9.5 DCWD Inventory

Within fifteen (15) days after issuance of Notice of Award, DCWD shall have furnished PAMANA with a schedule of its inventory on hand as of that date and the cost of each inventory item. At Closing Date, PAMANA shall inform DCWD of the inventory items that PAMANA intends to use in its operations. PAMANA shall be given a period to conduct its due diligence on these inventory items to determine which can be used in its operation. These inventories shall form part of the contribution of DCWD. DCWD shall deliver these inventory items without cost to PAMANA.

9.6 DCWD Facilities

Prior to consummation of negotiations, DCWD shall have furnished PAMANA with an inventory of all the DCWD Facilities, an asset condition report, a pipe network map and assessment, and a PPE maintenance report, all certified correct for the relevant date. At Closing Date, DCWD shall certify that there has been no material change in the reports as of even date.

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SECTION 10. CONDITIONS PRECEDENT

10.1 In General

The obligations of the Parties under this Agreement are subject to the satisfaction at or prior to Closing Date of the following conditions:

- i. No order, statute, rule, regulation, executive order, injunction, stay decree or restraining order shall have been enacted, entered, promulgated or enforced by any court of competent jurisdiction or governmental or regulatory authority or instrumentality having jurisdiction over the matter that restrain, prohibits or declares illegal the consummation of the transactions contemplated herein.
- ii. No action, suit, injury or proceeding shall have been instituted or threatened by any governmental or regulatory authority or instrumentality having jurisdiction over the matter that seeks to restrain, prohibit or declare illegal the consummation of the transaction contemplated herein;
- iii. All approvals required to be obtained from, and all notices, declarations, reports or filings required to be made with, any governmental or regulatory authority or instrumentality in connection with the consummation of the transactions contemplated herein, shall have been made or obtained;

10.2 Conditions to Obligations of DCWD

The obligations of DCWD to effect the transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing Date of the following additional conditions, unless such conditions are waived by DCWD:

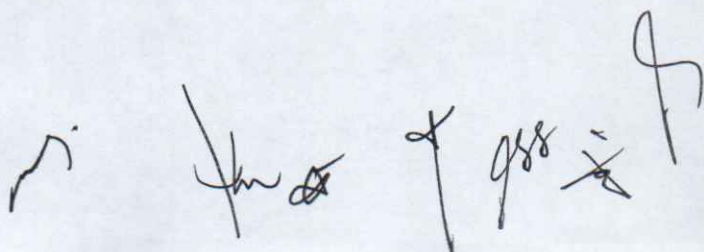
- (i) PAMANA shall have performed in all material respects the obligations required under this Agreement to be performed by it at or prior to the Closing Date;
- (ii) The representations and warranties of PAMANA contained herein are true and correct in all material respects at and as of the Closing Date as if made at and as of such date except to the extent that a different time is specifically stated in any such representation and warranty;
- (iii) Certificate shall have been delivered to DCWD by PAMANA dated as of the Closing Date, from a duly authorized officer of PAMANA to the effect that the representations and warranties of PAMANA contained in this Agreement are true and correct in all material respects as of the Closing Date;
- (iv) Original Copy of the Secretary's Certificate certifying that a resolution is adopted by the Board of Directors of PAMANA authorizing the execution, delivery and performance of this Agreement shall have been delivered to DCWD by PAMANA as of Closing Date;

10.3 Conditions to Obligations of PAMANA

The obligations of PAMANA to effect the transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing Date of the following additional conditions, unless such conditions are waived by PAMANA:

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- (i) DCWD shall have performed in all material respects the obligations required under this Agreement to be performed by it at or prior to the Closing Date;
- (ii) The representations and warranties of DCWD contained herein are true and correct in all material respects at and as of the Closing Date as if made at and as of such date except to the extent that a different time is specifically stated in any such representation and warranty;
- (iii) A certificate shall have been delivered to PAMANA by DCWD, dated as of the Closing Date, from a duly authorized representative of DCWD to the effect that the representations and warranties of DCWD contained in this Agreement are true and correct in all material respects as of the Closing Date;
- (iv) Certified true copies of resolutions adopted by the Board of Directors of DCWD authorizing the execution, delivery and performance of this Agreement shall have been delivered to PAMANA by DCWD as of Closing Date;
- (v) A favorable opinion on the legality and enforceability of this Agreement shall have been issued by the Office of the Government Corporate Counsel and delivered to PAMANA on Closing Date;
- (vi) Certification as to the concurrence of the appropriate regulatory body or bodies on the application of the tariff setting mechanism contained herein to the JV Project shall have been issued;
- (vii) The following documents shall have been delivered by DCWD to PAMANA as of Closing Date:
 - a. Historical and Current Data on the following Operational Aspects - production of wells, water quality, billed volume, customer list, service levels;
 - b. Historical and Current Data on the following Financial Parameters - audited financial statements, accounts receivables with aging, accounts payable with aging, guarantees and deposits on hand, including meter deposits;
 - c. Historical and Current Data on the following Technical Parameters - property, plant, and equipment (PPE) inventory with condition report, PPE maintenance report, pipe network map and assessment (3 years)
 - d. List of Assets
 - e. List of Liabilities to be absorbed by PAMANA
 - f. List of Accounts Receivable
 - g. Notice of Award has been issued by DCWD to PAMANA;



- (viii) Proof of written notice to all DCWD creditors of the existence of this Agreement;

SECTION 11. TERM OF THIS AGREEMENT

The term of this Agreement shall be twenty-five (25) years, commencing on the fifth (5th) day after the issuance of a Notice to Proceed to PAMANA (the Commencement Date), renewable for another twenty five (25) years, under such terms and conditions as may be agreed upon by the parties.

The parties shall agree on the terms of the renewal of this Agreement at least five (5) years prior the expiration of the initial twenty-five (25) year-term.

SECTION 12. PRE-TERMINATION OF AGREEMENT

12.1 Pre-termination by DCWD for PAMANA Event of Default

Each of the following, if not caused by a default of DCWD under this Agreement or Force Majeure shall, if not cured within the period permitted, be considered as a PAMANA Event of Default which shall entitle DCWD to issue a Notice of Intention to Pre-terminate:

- i. The commencement of any action for the dissolution or liquidation of PAMANA except for the purposes of amalgamation or reconstruction on terms approved in advance by DCWD in writing;
- ii. The occurrence of a material breach by PAMANA of its obligations, representations and warranties under this Agreement, which has continued un-remedied for a period of ninety (90) days or extension thereof as maybe agreed by both parties after receipt of official written notice from DCWD. For the avoidance of doubt, a material breach shall be of a kind or to a degree that, in the reasonable opinion of the DCWD Board would jeopardize the provision of Water Supply Services to the JV Areas.
- iii. Any representation or warranty made by PAMANA in this Agreement proving to have been materially incorrect when made, such that PAMANA's ability to perform its obligations under this Agreement is materially and adversely affected.
- iv. If PAMANA assigns, novates or otherwise transfers this Agreement, or any part hereof, to any third party other than in accordance with Section 18.7. Any such purported assignment, novation or transfer would be null and void and of no legal effect;
- v. PAMANA ceases to carry on the whole of its business or threatens to cease substantial part of its business or disposes of all or substantially all of its assets as will result in its incapacity to observe or perform its obligations under this Agreement.
- vi. There is a Change of Control of the PAMANA during the Project Period which, in the reasonable opinion of the DCWD, amounts to an effective abandonment of the Agreement;

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- vii. Failure to comply with any of the conditions in the Notice of Award.

12.2 Pre-termination by PAMANA for DCWD Event of Default

Each of the following, if not caused by a default of PAMANA under this Agreement or Force Majeure shall, if not cured within the period permitted, be an DCWD Event of Default which shall entitle PAMANA to issue a Notice of Intention to Pre-terminate:

- i. Any failure by DCWD to take reasonable action within six (6) months from date of submission of PAMANA's proposed Five (5)-Year Business Plan and tariff adjustment; except that, if upon submission of DCWD's Approved Tariff Adjustment to the appropriate regulatory body the latter withholds, fails to issue a favorable review or approval, or otherwise revokes DCWD's Approved Tariff Adjustment within six (6) months, the same shall be a ground for a revision of PAMANA's 5-year business plan.
- ii. A material breach by DCWD of any of its obligations under this Agreement which has continued un-remedied for ninety (90) days after written notice thereof has been given to it by PAMANA. For the avoidance of doubt, a material breach shall be of a kind or to a degree that will prevent PAMANA from carrying out its responsibilities under this Agreement; and
- iii. Any representation or warranty made by DCWD in this Agreement proving to have been materially incorrect when made such that DCWD's ability to perform its obligations under this Agreement is materially and adversely affected.

12.3 Unforeseen Change of Circumstances

The rights and obligations of the parties set out in this Agreement represent the parties' positions relative to each other on the basis of the circumstances existing at the date hereof and on the basis of the common view the parties have of the way those circumstances shall develop until the end of the Term of this Agreement. The parties agree and acknowledge that neither seeks to benefit unduly from any unforeseen development of circumstances that occurs. Accordingly, the parties hereby declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interest of either of them and agree to jointly defend their respective interests as set out in this Agreement. If in the course of performance of this Agreement or as a result of any change in law or in the interpretation or administration thereof, or any change in assumptions, circumstances or financial conditions from those existing at the time this Agreement was entered into, or inability of either party without fault or negligence on its part to fulfill certain commitments provided under this Agreement, unfairness to any party is disclosed or anticipated or the financial viability of this Agreement is adversely affected, then the parties shall use their best endeavors to agree upon such action, execute supplemental or amendatory agreements or enter into alternative arrangements as may be necessary or equitable to remove the cause or causes of the same.

If the parties have failed to reach a mutual solution within ninety (90) days of the commencement of such discussions, either party may issue a Notice of Intention to Pre-terminate.

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12.4 Pre-termination Procedure

Any Notice of Intention to Pre-terminate shall specify the materially adverse action, Unforeseen Change of Circumstances, PAMANA Event of Default, or DCWD Event of Default as applicable. Following the issuing of a Notice of Intention to Pre-terminate, the parties shall enter into discussions, to agree on mutually satisfactory terms on which to continue or pre-terminate this Agreement. If the parties have failed to reach a mutual solution within one hundred twenty (120) days, the Parties shall submit the issue to arbitration as stated in Section 17 of this Agreement.

12.5 Consequences of Pre-Termination

A. Transfer of rights, title and interest to the PAMANA Facilities

In case of Pre-termination and PAMANA is the party in default, the PAMANA Facilities shall be transferred to DCWD without any obligation on the part of DCWD to pay for the value thereof.

In case DCWD is the party in default, DCWD shall pay PAMANA the value of the PAMANA Facilities in the amount equal to its depreciated replacement cost plus a percentage thereof representing PAMANA's implied real weighted average cost of capital reckoned as of date of submission of JV Proposal. Payment may be made either through (1) a lump sum payment delivered to PAMANA not later than 90 days after the Pre-termination, (2) through the delivery to PAMANA within thirty (30) days of a Promissory Note guaranteeing the payment within one (1) year of the Pre-Termination with interest thereon at twelve percent (12%) per annum, or (3) the succeeding operator to assume payment to PAMANA following the same formula as (1) or (2).

Pending full payment of the value of the PAMANA Facilities, the PAMANA Facilities existing as of the Pre-termination Date shall remain with PAMANA and PAMANA shall have the right to charge reasonable amounts for the use of the PAMANA Facilities by DCWD and other customers the total amount of which shall in no case be less than the annual straight-line depreciation of PAMANA's assets using replacement costs as of pre-termination date.

For purposes of determining the depreciated replacement cost of PAMANA Facilities, as applicable, the Parties shall jointly appoint an independent auditor, the costs of which shall be shared equally by the Parties.

B. Payment of JV Loan Balance

In case of Pre-termination and PAMANA is the party in default, the JV Loan Balance shall be paid by PAMANA until the succeeding operator assumes operations. In case DCWD is the party in default, they shall solely assume payment of the then outstanding JV Loan Balance. Payment may be made either through (1) a lump sum payment delivered to PAMANA not later than 90 days after the Pre-termination, (2) through the delivery to PAMANA within thirty (30) days of a Promissory Note guaranteeing the payment within 1 year of the Pre-Termination with interest thereon at twelve percent (12%) per annum, or (3) through the succeeding operator to assume payment to PAMANA following the same formula as (2).

C. Selection of Succeeding Operator

The obligation to arrange for the selection of a succeeding operator as well as the payment of all related costs in the selection process shall be borne by the party in default.

- 12.6 No pre-termination of this Agreement shall relieve the defaulting Party of its liabilities and obligations hereunder and the non-defaulting Party may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligations, conditions or undertakings under this Agreement, and the rights given hereunder shall be in addition to all other remedies available to the Parties either at law, in equity or otherwise for the breach of this Agreement.
- 12.7 For the avoidance of doubt, PAMANA's obligation for the payment of JV Share and Additional JV Share shall cease to exist as of pre-termination date.

SECTION 13. EXPIRATION OF THE AGREEMENT

13.1 Transfer of Assets upon Termination - At Expiration Date, the parties hereby agree that PAMANA shall transfer all its rights, title and interest in PAMANA Facilities to DCWD, free from all liens and encumbrances provided that PAMANA has fully recovered reasonable cost and the APR thereto pursuant to Section 8 hereof. Towards this end, PAMANA shall provide a list of all its Facilities which will be contributed to the Joint Venture.

13.2 In the event that 60 days after Expiration Date PAMANA has not received such amounts it is entitled to receive from the accounts receivable pursuant to the provisions of this Agreement, PAMANA shall be paid an Expiration Payment equal to or not lesser than ninety percent (90%) of any such unrecovered amount expressed in current prices.

For purposes of determining unrecovered amounts other than accounts receivable, the Parties shall jointly appoint an independent auditor, the costs of which shall be shared equally by them.

13.3 Payment of Expiration Payment shall be made by DCWD to PAMANA through a lump sum payment delivered to PAMANA not later than sixty (60) days after the Expiration Date.

SECTION 14. CONFIDENTIALITY

Each of the parties, their employees, third party contractors, auditors, professionals, consultants and agents shall hold in confidence all documents and other information whether technical or commercial supplied to it by or on behalf of the other party relating to the financing, design, construction, insurance, operation, maintenance and management of the Joint Venture in the course of this Agreement, and shall not publish or otherwise disclose or use the same for its own purposes other than as may be required by the laws of Philippines or to perform its obligations under this Agreement. This Section shall not apply to information:

Handwritten signatures and initials at the bottom of the page, including a large signature on the right and several smaller initials or marks on the left and center.

- i. Already in the public domain otherwise than by breach of this Agreement;
- ii. Already in the possession of the receiving party before it was received from the other party in the course of this Agreement and which was not obtained under any obligation of confidentiality; or
- iii. Obtained from a third party who is free to divulge the same and which was not obtained under any obligation of confidentiality.

SECTION 15. LIABILITY AND INDEMNIFICATION

15.1 Cross Indemnity

Each party shall indemnify, defend and hold harmless the other party from and against, all liabilities, damages, losses, expenses and claims of any nature whatsoever for any injury and for damage to or loss of any property arising out of or in any way connected with the indemnifying party's performance of this Agreement and any violation of its representations and warranties, except to the extent that such injury, damage or loss is attributable to a negligent or intentional act or omission of the party seeking to be indemnified.

15.2 Joint Responsibility

In the event that any loss or damage is caused only in part by the negligent or intentional act or omission of DCWD and in part by the act or omission of PAMANA, each party shall be liable to the other party only in proportion to its relative degree of fault.

SECTION 16. FORCE MAJEURE

The Parties shall not be liable for losses or damages caused by Force majeure. Force majeure shall be limited to acts of God or any event or circumstance, or a combination of events or circumstances, which are unforeseen and beyond the reasonable control of the Parties or which, though for foreseeable, could not have been prevented or avoided by reasonable diligence and which result in either Party being unable to perform, or being delayed in performing, in whole or in part, its obligations under this Agreement. The term "force majeure" as used herein includes but is not limited to, any act of God, fire, flood, storm, earthquake or seismic disturbance, act of war (whether or not declared), and pandemic, act or omission of any court or government agency, act of public enemies of the Republic of the Philippines, sabotage, rebellion, revolution, civil commotion, strike, lockout, boycott or other industrial disturbance or labor dispute, shortage or unavailability of equipment, materials or labor or restriction or limitation upon the use thereof, brownouts extending to more than one (1) day, any event which cannot be insured by any reputable insurance company.

SECTION 17. DISPUTE RESOLUTION

17.1 Amicable Settlement

If any dispute arises in connection with the Agreement, either party may give one hundred twenty (120) days prior written notice to the other party of the same,

whereupon the parties shall meet promptly and in good faith attempt to reach an amicable settlement.

If the parties are unable to settle such dispute within one hundred twenty (120) days from service of such written notice, the dispute may be submitted for arbitration.

17.2 Arbitration

All disputes arising in connection with this Agreement, which are not settled in an amicable manner, shall be finally settled in accordance with Republic Act No. 9285 (Alternative Dispute Resolution Act of 2004) by one (1) arbitrator the appointment of whom shall be sought from the Integrated Bar of the Philippines (IBP) or the Philippine Dispute Resolution Center Inc. (PDRCI). The parties shall mutually agree on the arbitrator so designated by the IBP or the PDRCI.

The arbitration proceedings shall be exclusively held in the City of Manila.

SECTION 18. MISCELLANEOUS PROVISIONS

18.1 Representations and Warranties

Each party hereby represents and warrants that:

- i. It is duly existing pursuant to the laws and regulation of the Philippines;
- ii. It has full corporate power and absolute authority to execute, deliver and perform this Agreement and that its representatives are fully authorized by its Board of Directors to execute, deliver and perform this Agreement;
- iii. It carries on its business in accordance with the applicable laws and regulations of Philippines and, to that party's knowledge, there are no proceedings pending or threatened for the dissolution of that party such as would materially adversely affect that party's performance of its obligations under this Agreement;
- iv. It is fully entitled and capable of entering into the dispute resolution procedures under Section 15 and the decisions, awards and pursuant remedies contemplated thereunder shall be valid and enforceable against that party.

18.2 Primacy of the Agreement

This Agreement shall govern all aspects of, and all contractual relationships relating to, the joint venture as between the parties. The Parties shall ensure that the provisions of all agreements relating to the Joint Venture are consistent with the terms hereof. In the event of conflict between this Agreement and any agreement on a matter affecting the parties, including all questions of interpretation, this Agreement shall prevail.

18.3 Variations in Writing

All additions, changes, modifications, revisions, amendments and variations to this Agreement shall be binding only if in writing and signed by duly authorized representatives of each of the parties.

Four handwritten signatures are visible at the bottom right of the page, corresponding to the parties mentioned in the text.

18.4 Entire Agreement

This Agreement, including the Annexes attached hereto, represents the entire agreement between the parties in relation to the subject matter thereof and supersedes any or all previous agreements or arrangements, whether oral or written, between the parties in respect of the Joint Venture and the Concession Rights or the other contents of this Agreement.

18.5 Separability

If any part or parts of this Agreement are agreed by the parties or declared by any competent tribunal to be invalid, other parts shall remain valid and enforceable.

None of the provisions of this Agreement shall be deemed waived by either party except when such waiver is given in writing. The failure by either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any such provisions or the relinquishment of any such rights in the future.

18.6 Notices

All notices required under the terms and provisions hereof shall be in writing and shall be delivered by telecopy, overnight courier service, certified or registered, first class mail, with postage prepaid, or by personal delivery of written notice as follows:

To PAMANA: Office of the President
No. D. 900 Romualdez St., Ermita, Manila

To DCWD: General Manager
DCWD Admin Building, Brgy. Tambac, Dagupan City

Or to such other address as designated in writing.

All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by telecopy, or on the date seven days after dispatch by certified or registered mail if mailed.

18.7 Assignment of Rights

Either Party may assign its rights and obligations under this Agreement subject to prior written consent which consent of the other party shall not be unreasonably withheld, provided that, the Assignee/s or Transferee/s hereof shall comply with the terms and conditions of this Agreement.

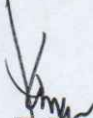
18.8 Applicable Law

This Agreement shall be construed and governed by the laws of the Republic of the Philippines.

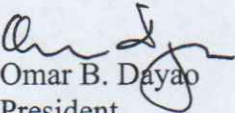
IN WITNESS WHEREOF, the parties have hereunto affixed their signatures this 4th day of December 2020 in the City of Makati, Philippines.


DAGUPAN CITY WATER DISTRICT PAMANA WATER CORPORATION

By:


Rizaldy T. Mandap
General Manager


By:



Omar B. Dayao
President

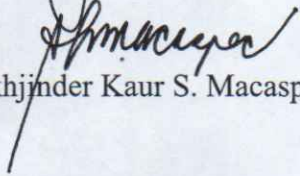

Roberto M. Umali Jr.
Chief Operations Officer

Signed in the presence of


Fortunato G. Operario, Jr.


Caroline G. Exconde


Raul T. Castano

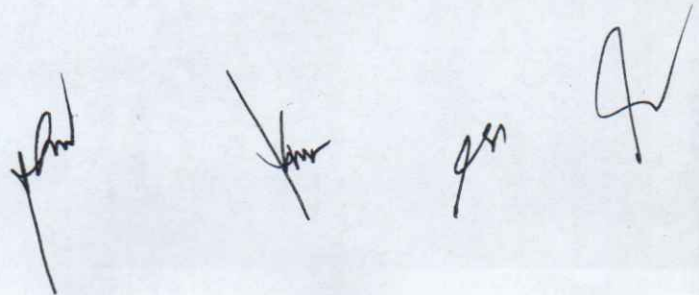

Sukhjinder Kaur S. Macaspac

ACKNOWLEDGMENT

Republic of the Philippines)
City of Makati) Ss.
X-----X

BEFORE ME, a Notary Public for and in the City of Makati this 4th day of December 2020 personally appeared the following with their respective valid identification documents:

<i>Name</i>	<i>Competent evidence of identity</i>
Rizaldy T. Mandap	Philippine Driver's License No. A02-85-00643 Valid until 2022/12/08
Omar B. Dayao	Philippine Passport No. EC6665588, DFA-NCR-South issued on 02/02/2016
Roberto M. Umali Jr.	Unified Multi-Purpose ID CRN-0033-2408093-6



They identified themselves to me through their respective valid identification documents, they are the same persons who executed the foregoing instrument and they acknowledged before me that the same is their free and voluntary act and deed and of the corporations they represent.

This Joint Venture Agreement consists of ___ pages including the Annexes and is signed by the parties and their witnesses on each and every page.

Witness my hand and seal.



RONHEL VINN A. PAPA
APPOINTMENT NO. M-08 (2020-2021)
Notary Public For Makati City
Until December 31, 2021
27th Floor, 88 Corporate Center
141 Sedeno St., Salcedo Village, Makati City
Roll No. 87679
PTR No. 8116707/01-02-2020/Makati City
IBP No. 100392/01-02-2020/ Makati City

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DAGUPAN CITY WATER DISTRICT

New Administrative Bldg., Tambac District
Dagupan City, Pangasinan 2400

BOARD OF DIRECTORS RESOLUTION

SUBJECT : SIGNING AND EXECUTION OF THE JVA

BOARD RESOLUTION NO. 091 – 20

A RESOLUTION ADOPTING AND APPROVING THE RECOMMENDATION OF THE JOINT VENTURE SELECTION COMMITTEE (JV-SC) AND TECHNICAL WORKING GROUP (TWG) ON THE FINAL REVISION OF THE JOINT VENTURE AGREEMENT (JVA) BETWEEN DAGUPAN CITY WATER DISTRICT (DCWD) AND PAMANA WATER CORPORATION IN ACCORDANCE WITH THE RESULT OF THE CONTRACT REVIEW AND OPINION ISSUED BY THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL AND OTHER RECOMMENDATIONS RELATIVE HERETO AND TO AUTHORIZE THE DCWD GENERAL MANAGER ENGR. RIZALDY T. MANDAP AS THE AUTHORIZED SIGNATORY OF DCWD IN THE JVA PURSUANT TO THE PROVISIONS OF THE 2013 REVISED NEDA JV GUIDELINES AND THE AFOREMENTIONED OGCC ISSUANCES

WHEREAS, Board Resolution No. 083-20 dated October 20, 2020 was issued adopting the recommendation of the Joint Venture-Selection Committee (JV-SC) to approve and award the Joint Venture Agreement (JVA) to Pamana Water Corporation (PAMANA) and to authorize the JV-SC Chairperson to issue the Notice Of Award (NOA) to PAMANA in compliance with Section VIII of Annex A of the 2013 Revised NEDA JV Guidelines And Procedures For Entering Into Joint Venture (JV) Agreements Between Government And Private Entities;

WHEREAS, the NOA was issued on October 21, 2020 and was duly received by the authorized representative/s of PAMANA on October 23, 2020 with the following instructions to PAMANA as required by the above 2013 Revised NEDA JV Guidelines:

“Within thirty (30) calendar days from your receipt of this Notice, you are required to provide the Performance Security which may be in the form of cash, certified check, manager’s check, letter of credit, or bank draft/guarantee issued by a reputable local/foreign bank, or a surety bond callable on demand issued by the Government Service Insurance System (GSIS) or an entity duly registered and recognized by the Office of the Insurance Commissioner, or any combination thereof payable to Dagupan City Water District, or as follows:

- a. *Cash, manager’s check, irrevocable letter of credit, bank draft – a minimum of two percent (2%) of the private sector participant’s contribution to the JV activity.*
- b. *Bank Guarantee – a minimum of five percent (5%) of the private sector participant’s contribution to the JV activity.*
- c. *Surety Bond – a minimum of ten percent (10%) of the private sector participant’s contribution to the JV activity.*

The period to comply shall be extendible on reasonable grounds. Failure to provide the performance security shall constitute a ground for cancellation of the award and forfeiture of the proposal security.



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The Signing of the JV Agreement shall be held after compliance to the foregoing conditions and after confirmation of the Office of Government Corporate Counsel (OGCC). "

WHEREAS, PAMANA submitted a Cash, manager's check, irrevocable letter of credit, bank draft in the total amount of TWENTY-ONE MILLION SIX HUNDRED SEVEN THOUSAND EIGHT HUNDRED PESOS (PhP 21,607,800.00) which is two percent (2%) of the private sector participant's contribution to the JV activity amounting to ONE BILLION EIGHTY MILLION THIRTY-NINE THOUSAND PESOS (PhP 1,080,039,000.00), which were duly received by representatives of the JV-SC on November 20, 2020;

WHEREAS, as stated in Section VIII.11 of Annex A of the 2013 NEDA JV Guidelines, "*Prior to the execution of the JV Agreement, the OGCC, DOJ, or other entity prescribed by law/issuances as the statutory counsel of GOCCs, GCEs and GICPs, shall issue the corresponding Counsel's Opinion,*" hence, the JV-SC submitted all tender and pertinent documents relative to the JVA for the review and proper evaluation of the Office of the Government Corporate Counsel (OGCC) on October 27, 2020;

WHEREAS, NEDA issued its observations and opinion on the submitted tender documents in which the DCWD assured the agency that it shall comply with all the requirements stated thereat, including submitting copies of pertinent documents and the signed JVA the execution of the contract;

WHEREAS, Section VIII.10 of Annex A of the 2013 Revised NEDA JV Guidelines states that "*Execution/Approval of the JV Agreement. The authorized signatory(ies) of the winning private sector participant and the Government Entity concerned, shall execute and sign the JV Agreement, within seven (7) calendar days after the Head of the Government Entity notifies the winning private sector participant of its compliance to the conditions or requirements precedent to the execution of the contract as referred to in Section VIII.3 above.*";

WHEREAS, on November 27, 2020 the OGCC issued Contract Review No. 1432 Series of 2020 which has found, after review of the provisions of the draft JVA, that the elements required for the JVA are present in order to validly consider the same as a joint venture partnership between DCWD and PAMANA pursuant to the provisions of the 2013 Revised NEDA JV Guidelines;



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WHEREAS, the above Contract Review has found the draft JVA to be in order subject to the comments and suggestions provided in the Contract Review:

1. That the JVA contains representations and warranties as regards the parties authorities to deliver, execute and perform the agreement, the non-existence of cases, proceedings, pending or threatened that would materially and adversely affect the performance of the parties of their obligations under the agreement;
2. That the title of the JVA be revised to include "renovation and upgrading";
3. That in the recital of parties and throughout the draft JVA, Dagupan City Water District should be referred to as "DCWD". And, PAMANA Water Corporation should be referred to as "PAMANA";
4. That in Section 1.1.27, the "renovation and upgrading" of water facilities be included in the project;
5. That Section 2.1 contain provisions affirming and adhering to the principles of JV as a form of partnership;
6. That the OGCC finds the provisions on DCWD's right to infuse additional capital on Section 2.7.3 appropriate;
7. That the provisions on the submission of the Five Year Business Plan before Commencement Date of the JV Project as well as the procedure for the review and approval thereof are provided under Section 2.3.1 on Business Objective;
8. That in Section 2.4.1. (iii), the letter R in the word "review" should be in capital letter;
9. That Section 2.4.3 contains the provision protective of the rights of DCWD;
10. That Section 2.5.2 (v) last paragraph thereof is compliant with the provisions of PD 198, as amended;



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11. That the last sentence of Section 2.6 states the guarantee of PAMANA in case of creation of a wholly owned consortium;
12. That Section 2.7.1 rightfully indicates the latest loan balance of DCWD;
13. That Section 4.2.2 is recommended to be revised as follows:

“Failure to pay any of the amounts discussed hereunder on their scheduled due dates, except in cases when the due date falls on a Saturday, Sunday, or a non-working Holiday, without justifiable cause, shall render PAMANA in default and shall entitle DCWD or 2% of the performance bond but in no case shall delivery amount be delayed for more than fifteen (15) days.”
14. That the last paragraph of Section 6.1.2 provides that income and franchise taxes shall be for the account of PAMANA;
15. That as shown in Section 2.8.2 that the JV Share was set to sufficiently defray the costs of operating the remaining business and affairs of DCWD, it is understood that the DCWD management carefully considered all possible and anticipated aggregate operating expenses to be incurred because funding for the same shall be sourced only from the JV Share, hence, it is the suggestion of the OGCC to ensure that the amount of the JV Share is advantageous to DCWD;
16. That in relation to 6.3.4 last paragraph, Section 4.2.2 pertaining to the performance bond should be replenished if amount is reduced by 50%;
17. That the Key Performance Indicators (KPIs) and Business Efficiency Measures (BEMs) for the duration of the JVA (25 years) should be set and agreed by both parties prior to the commencement of the JV Project as shown in Section 5, Service Obligations of PAMANA;
18. That with regard to Performance Bond in Section 6.4, the DCWD shall determine the form of the performance bond which should be made before the execution of the



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contract, considering that 10% of the performance bond shall be forfeited in case of PAMANA's failure to comply with service obligations as provided under JVA and that both parties should indicate the basis of the amount of the performance bond to be posted in accordance with the Guidelines which shall be based on the amount of project as a whole and not per phase;

19. That there should be a provision on the periodic submission of Financial Statements by PAMANA;
20. That in Section 6.5.1, DCWD should consider increasing the frequency of report by PAMANA in order to give time for DCWD to verify the report and accordingly comply with Section 8 of the 2013 Revised NEDA JV Guidelines (Reporting Requirement to DOF and GCG);
21. That a provision should be added in Section 8.1.2 which should read as:
"Income Tax levied on PAMANA in relation to its operation of the JV pursuant to this JVA shall not be considered as cost or expense in the computation of tariff unless specifically and expressly provided otherwise by a ruling from the Supreme Court or the appropriate regulatory agency and/or law."
22. That in Section 8.1.1, the rate of return and tariff implemented should consider the rate ceiling implemented by LWUA with respect to low income group, i.e., not exceeding 5% of their annual income;
23. That in Section 8.3, the OGCC presumes that the increases in basic tariff are affordable to DWCD's consumers, nonetheless, DCWD should re-compute and evaluate if the tariff increases are deemed affordable;
24. That Section 8.4.2 provides that DCWD shall review, revise and approve the Business Plan and shall become the basis of the JV Project's plans and programs for the Five-Year Performance Period;
25. That in Section 9.1.4, it is suggested that the DCWD should ensure there is no diminution of pay and/or benefits of the employees who will transfer and any ambiguity should be resolved before signing the JVA Agreement;
26. That in Section 9, it should be included as Section 9.1.5 the following provisions:



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"No employee/s of the DCWD by reason of this JVA entered into by the parties shall be removed for the duration of the contract period, except for cause and after due process.

Further, no scheme of removal of employees shall be introduced e.g. right-sizing, downsizing, transfer or floating status and all other unfair labor practices, against DCWD employee/s or those absorbed by agency by reason of this JVA as the case may be."

27. That in Section 12.5, DCWD should ensure that payment of depreciated replacement cost, percentage representing weighted average cost of capital and PAMANA's right to charge for the use of property is not disadvantageous to the District while in the case of pre-termination due to DCWD's fault, PAMANA should bear this business risk;

28. That for clarification purposes, the OGCC recommends to rewrite Section 13.1 as:

"Transfer of Assets upon termination – At Expiration Date, the parties hereby agree that PAMANA shall transfer all its rights, title and interest in PAMANA Facilities to DCWD, free from all liens and encumbrances provided that PAMANA has fully recovered reasonable cost and the APR thereto pursuant to Section 8 hereof."

29. That DCWD and PAMANA should discuss, address and resolve the Commission On Audit's issue on annual depreciation;

30. That in case of Pre-termination or Expiration Date, the parties should agree on who will pay for the taxes, cost and expenses prescribed by law for the transfer of PAMANA Facilities to DCWD;

31. That for employees who will not avail of the retirement package nor transfer to PAMANA, but whose employment and/or job description are no longer necessary to DCWD, it is suggested that PAMANA and DCWD should have an agreement;

32. That the financial and technical aspects of the JVA and the scope of undertakings of the parties are consistent with the negotiations conducted and the recommendations of the DCWD-JVSC and approved by the DCWD Board;



DAGUPAN CITY WATER DISTRICT

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BOARD OF DIRECTORS RESOLUTION

SUBJECT : SIGNING AND EXECUTION OF JVA

BOARD RESOLUTION NO. 091 – 20

A RESOLUTION ADOPTING AND APPROVING THE RECOMMENDATION OF THE JOINT VENTURE SELECTION COMMITTEE (JV-SC) AND TECHNICAL WORKING GROUP (TWG) ON THE FINAL REVISION OF THE JOINT VENTURE AGREEMENT (JVA) BETWEEN DAGUPAN CITY WATER DISTRICT (DCWD) AND PAMANA WATER CORPORATION IN ACCORDANCE WITH THE RESULT OF THE CONTRACT REVIEW AND OPINION ISSUED BY THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL AND OTHER RECOMMENDATIONS RELATIVE HERETO AND TO AUTHORIZE THE DCWD GENERAL MANAGER ENGR. RIZALDY T. MANDAP AS THE AUTHORIZED SIGNATORY OF DCWD IN THE JVA PURSUANT TO THE PROVISIONS OF THE 2013 REVISED NEDA JV GUIDELINES AND THE AFOREMENTIONED OGCC ISSUANCES

33. That the DCWD-JVSC should ensure that corrections, suggestions or revisions to the JVA are incorporated and any ambiguity is duly resolved before signing and execution;
34. That the Certificate of Successful Negotiations and all attachments/annexes should be countersigned by both parties;
35. That the complete name of the signatories of both parties at the bottom portion of the JVA shall be stated together with the names of the witnesses;
36. That an Acknowledgement and Jurat be included in the draft JVA as shown in Page 35 of the Contract Review;
37. That PAMANA must secure a BIR issued tax clearance prior to its signing and/or execution of the JVA in view of the mandatory requirement as prescribed under EO 398 dated 12 January 2005; and
38. That both parties shall attach to the JVA the resolution from their respective Board of Directors of the person authorized to execute the JVA.

WHEREAS, along with the above Contract Review, the OGCC also issued Opinion No. 315, Series of 2020 on the same date with the findings that the contractual obligations/functions of DCWD are not disadvantageous to DCWD or the government, that the financial aspect of the JVA is fair and advantageous to DCWD and the consumers and that the JVA shall constitute legal, valid, and binding obligations and are enforceable according to its terms and conditions among others, to wit:

" OGCC OPINION NO. 315 Series of 2020

X XX

After judicious review of the JVA and submitted documents, it is our opinion that:

1. DCWD, as a government-owned and controlled corporation duly established and organized under Presidential Decree No. 198, as amended, also known as "The Provincial Water Utilities Act of 1973", has the power and authority to carry on its present business, to own properties and assets, to enter into agreements and incur obligations provided for in its charter. **DCWD has the**



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2. *In evaluating the unsolicited proposal, the DCWD – Joint Venture Selection Committee (JVSC) strictly adhered to the procedures prescribed under the 2013 Revised NEDA JV Guidelines. When the JVSC invited other participants for competitive challenge, no interested private proponent signified intention to participate in the competitive challenge as certified to by you as DCWD General Manager Rizaldy T. Mandap and by Mr. Raul T. Castano, JVSC Chairperson.*

Thus, the DCWD-JVSC recommended to the DCWD Board to award the project to PAMANA which recommendation was approved on 20 October 2020 per Board Resolution No. 083-20, Series of 2020.

3. *Further, as certified to by you as the DCWD General Manager and by Mr. Raul T. Castano, JVSC Chairperson, DCWD has no pending litigation, tax claim, proceeding nor dispute or threat against or affecting DCWD or its properties, the adverse determination of which might affect DCWD's financial condition or operation or impair its inability to perform its obligations under the JVA.*
4. *Furthermore, as certified to by you as the DCWD General Manager and Mr. Raul T. Castano, JVSC Chairperson, the contractual obligations/functions of DCWD are not disadvantageous to DCWD or the government. Moreover, with regard to financial aspect of the JVA, the same is fair, and advantageous to DCWD and the consumers.*
5. *We have reviewed the JVA and have expressed our opinion on the specific provisions of the attached Contract Review No. 1432, Series of 2020.*

Subject to our comments and suggestions in the Contract Review No. 1432, Series of 2020, the JVA shall constitute legal, valid, and binding obligations and are enforceable according to its terms and conditions.

This opinion is limited to the foregoing and DCWD's eligibility to enter into the JVA with PAMANA. (Emphasis Supplied)



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BOARD OF DIRECTORS RESOLUTION

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WHEREAS, the JV-SC revised the JVA draft and incorporated the comments, suggestions and opinion of the OGCC in line with its findings based on the review and evaluation of the submitted draft of JVA and other pertinent documents;

WHEREAS, the JV-SC and TWG had also incorporated other inputs, corrections and revisions to the JVA as deemed necessary to ensure that the provisions of the JVA are beneficial

WHEREAS, on December 1, 2020, the JV-SC and TWG submitted to the Board, for their review and evaluation, copies of the said issuances from OGCC and its report with the following recommendations:

1. To adopt and approve, upon thorough review and evaluation, the submitted final revision of the JVA draft in accordance with the suggestions and comments included in the OGCC Contract Review No. 1432, Series of 2020 which are duly incorporated in the JVA;
2. To adopt and approve, upon in-depth study and review, the proposed Five Year Business Plan submitted by PAMANA as recommended by the JV-SC and TWG;
3. To adopt and approve, upon thorough review and evaluation, the submitted Contract Of Lease as agreed by both parties and as included in the Negotiated Terms and JVA and to assign an authorized person to enter into and by this Contract Of Lease with PAMANA; and
4. To issue a resolution with the Board's authorized person to sign and execute the JVA as stated in the aforesaid Contract Review and to authorize the assigned person/s to proceed with the signing and execution of the JVA.

WHEREAS, the JV-SC and TWG on December 2, 2020 presented and submitted a report to the Board recommending to adopt and approve the final revision of the JVA draft since PAMANA was found compliant with the requirements of Section VIII.3 of Annex A of the 2013 Revised NEDA JV Guidelines by submitting the required performance bond which is in accordance to Item No. 18 of the above OGCC Contract Review and based on the result of the



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A RESOLUTION ADOPTING AND APPROVING THE RECOMMENDATION OF THE JOINT VENTURE SELECTION COMMITTEE (JV-SC) AND TECHNICAL WORKING GROUP (TWG) ON THE FINAL REVISION OF THE JOINT VENTURE AGREEMENT (JVA) BETWEEN DAGUPAN CITY WATER DISTRICT (DCWD) AND PAMANA WATER CORPORATION IN ACCORDANCE WITH THE RESULT OF THE CONTRACT REVIEW AND OPINION ISSUED BY THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL AND OTHER RECOMMENDATIONS RELATIVE HERETO AND TO AUTHORIZE THE DCWD GENERAL MANAGER ENGR. RIZALDY T. MANDAP AS THE AUTHORIZED SIGNATORY OF DCWD IN THE JVA PURSUANT TO THE PROVISIONS OF THE 2013 REVISED NEDA JV GUIDELINES AND THE AFOREMENTIONED OGCC ISSUANCES

evaluation of the OGCC on the JVA draft as stated in Contract Review No. 1432, Series of 2020 and Opinion No. 315, Series of 2020;

WHEREAS, in view of the above, the Board shall assign the authorized signatory of DCWD for the signing and execution of the said contract in compliance with the above-cited provisions and as included in Item No. 36 of the Contract Review;

WHEREAS, upon thorough review and evaluation of the submitted final revision of the JVA draft and upon in-depth study, analysis and deliberation of the above Contract Review and Opinion issued by the OGCC, the Board has found it necessary to take action of the above recommendation of the JV-SC and TWG due to the following findings:

1. That as per evaluation and review of the JV-SC and TWG, PAMANA is compliant with the requirements and conditions precedent to the execution of the contract pursuant to Section VIII.3 of Annex A of the above JV Guidelines and in accordance to the suggestion of the OGCC as per Item No. 18 of the said Contract Review;
2. That the OGCC, being the statutory counsel of DCWD, issued its Contract Review and Opinion finding the JVA draft and the pertinent documents as sufficient and in order subject to the comments and recommendations stated in the said Contract Review which were duly incorporated in the final revision of the JVA draft;
3. That the Board adopts and approves the recommendation of the JV-SC and TWG to approve the prepared and submitted COL as part of the Agreed Negotiated Terms by both parties and as included by the JVA and to assign an authorized representative of the DCWD who shall enter into and by this COL with PAMAN; and
4. That the provisions of the 2013 NEDAR evised JV Guidelines require the Board, being the Head of Government Entity, to authorize signatory/ies to proceed with the signing and execution of the JVA, upon compliance to the above conditions.

NOW, THEREFORE, on joint motion of Vice- Chairman Ramos and Director Siapno-Tada, seconded by Director Sanchez, BE IT



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RESOLVED, as it is hereby resolved, to adopt and approve the recommendation of the JV-SC and TWG on the final revision of the JVA as all the corrections, suggestions or revisions to the JVA are incorporated based on the issued Contract Review No. 1432, Series of 2020 and Opinion No. 351, Series of 2020 and based on the discretion JV-SC and TWG as deemed necessary to be included in the JVA and that any ambiguity has been duly resolved by both parties;

RESOLVED, as It is hereby resolved, to adopt and approve the recommendation of the JV-SC and TWG on the proposed Five Year Business Plan submitted by PAMANA as it was found sufficient, in order, valid and in accordance with the JVA and the above OGCC Contract Review.

RESOLVED, as it is hereby resolved, to approve the submitted and prepared Contract Of Lease as recommended by the JV-SC and TWG upon review and evaluation that the provisions of the contract are sufficient, valid, in order and advantageous for the DCWD and to authorize the Dagupan City Water District General Manager ENGR. RIZALDY T. MANDAP as the authorized representative of the District to enter into by and between this Contract Of Lease with PAMANA.

RESOLVED, as it is hereby resolved, to authorize the Dagupan City Water District General Manager ENGR. RIZALDY T. MANDAP to sign and execute the JVA on behalf of the District and to sign and issue the Notice to PAMANA in line with their compliance to the requirements and conditions as stated in the issued NOA pursuant to Section VIII.10 of Annex A of the 2013 Revised NEDA JV Guidelines.

RESOLVED, as it is hereby resolved, to authorize the DCWD General Manager and the assigned witnesses to proceed with the signing of the JVA based on the agreed scheduled dates for both parties, provided that the aforementioned provisions are duly complied.

RESOLVED, as it is hereby resolved, that in the event that any of the incorporated corrections, suggestions or revisions to the final JVA based on the above OGCC Contract Review and Opinion has been removed, changed, omitted or altered and/or any ambiguity has not been duly resolved by both parties, it shall revoke the implementation and effect of this Resolution and it shall be declared as the inability or failure of PAMANA to enter into contract with DCWD, unless otherwise resolved by both parties in accordance to the aforementioned OGCC issuances and the provisions of the 2013 Revised NEDA JV Guidelines.



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RESOLVED FURTHER, as it is hereby further resolved, to direct the JV-SC and TWG, the General Manager and PAMANA to strictly observe and comply with the provisions of this Resolution, the comments and suggestions of the OGCC Contract Review and Opinion and the provisions of the 2013 Revised NEDA JV Guidelines and all other procedures, rules and regulations relative hereto.

RESOLVED FINALLY, as it is hereby finally resolved, that a copy of this RESOLUTION be furnished to the General Manager for his guidance hereof and to the JV-SC and TWG and authorized representatives of PAMANA for reference and guidance.

APPROVED AND ADOPTED BY MAJORITY OF THE BOARD.

DATE ADOPTED:

December 2, 2020

CERTIFIED CORRECT:

DR. ARLENE G. SANCHEZ

Secretary
In Concurrent Capacity

ATTESTED:

ATTY. LIBERATO C. REYNA JR.

Chairman

(ABSTAINED)

MR. ARMAND ROTH E. DUQUE

Director

MR. RAYMUNDO H. RAMOS

Vice-Chairman

DR. VOLTAIRE EMELIANO SIAPNO-TADA

Director

Regular Meeting
Regular/Special



PAMANA WATER CORPORATION

900 D. Romualdez St., Paco, Manila
Tel. No. (632) 524-9236; Fax No. (632) 524-7452

SECRETARY'S CERTIFICATE

I, Baby Gerlie I. Sacro, Filipino, of legal age, corporate secretary of **PAMANA WATER CORPORATION**, duly organized and existing under Philippine laws with principal office address at No. 900 D. Romualdez St., Paco, Manila, hereby certify that during the special meeting of the Board of Directors held on December 1, 2020 through remote communication, and where a quorum was present, the following resolutions were unanimously approved:

“Whereas, on August 20, 2020, Dagupan City Water District (DCWD) received an unsolicited proposal from Pamana Water Corporation (Pamana) for the financing, improvement, rehabilitation, building, development, expansion, operation, water distribution and maintenance of its water supply.

Whereas, on August 25, 2020, the DCWD Board issued Resolution No. 055-20, Series of 2020, creating the DCWD Joint Venture Selection Committee (JVSC) to evaluate Pamana’s proposal.

Whereas, on 09 September 2020, the DCWD-JVSC conducted its first meeting where Pamana presented its unsolicited proposal. On the same date, the DCWD-JVSC started its evaluation of Pamana’s legal, technical and financial proposal, as well as its eligibility under the 2013 Revised NEDA Guidelines.

Whereas, the DCWD-JVSC conducted a meeting on September 10, 2020 and its Technical Working Group (TWG) on September 11, 2020 to further evaluate Pamana’s proposal and found it eligible to undertake the Joint Venture (JV) Project and that the unsolicited proposal is generally acceptable to DCWD and its consumers. The DCWD-JVSC submitted its Evaluation Report recommending to the Board the acceptance of Pamana’s unsolicited proposal and requested authority to proceed to Stage 2, which is the detailed negotiation on the terms and conditions of the proposed JV activity.

Whereas, on September 15, 2020, the Board issued Resolution No.065-20, Series of 2020, approving the DCWD-JVSC’s Evaluation Report and Recommendation to accept Pamana’s unsolicited proposal and further authorized the DCWD-JVSC to proceed to the negotiation stage.

Whereas, the DCWD-JVSC subsequently held detailed negotiations on 17 and 23 September 2020. And in its JVSC Detailed Negotiation Report, the DCWD-JVSC recommended to the Board the approval of the terms and conditions of the Joint Venture Agreement (JVA) with Pamana.

Whereas, the Board, in Resolution No. 071-20, Series of 2020 dated October 2, 2020, approved the results of the detailed negotiations (Stage 2), more particularly the resulting JVA between DCWD and Pamana, thereby declaring Pamana as the recognized original proponent. It further authorized the JVSC Chairperson to sign the Certificate of Successful Negotiation and instructed the JVSC to proceed with Stage 3 in accordance with the 2013 NEDA JV Guidelines.

Whereas, on October 8, 2020, the DCWD Board by way of Resolution No. 075, Series of 2020, approved the Tender Documents required for the competitive challenge. The same Resolution also directed the JVSC to furnish copies of the entire Selection/Tender Documents, including the draft JVA, to the NEDA, the Department of Finance (DOF) and the Governance Commission for Government-Owned or Controlled Corporations (GCG), and to proceed with the publication of the Invitation to Apply for Eligibility and to Submit Proposal (IAESP).

Whereas, on October 9, 2020, the DCWD-JVSC published the IAESP in the Daily Tribune, a newspaper of general and nationwide circulation. The IAESP was likewise posted in DCWD's website and in the bulletin boards within its premises.

Whereas, on October 16, 2020 deadline, no private proponent was recorded to have expressed interest, nor submitted or complied with the requirements for the Competitive Challenge or purchased the Selection/Tender Documents. Hence, in its "JVSC Report on JV Partner Selection Process and Recommendation to Award," the DCWD-JVSC recommended to the Board the award to Pamana of the project for the financing, development, rehabilitation, expansion, improvement, operation and maintenance of the water supply system of DCWD.

Whereas, on October 20, 2020, the DCWD Board issued Resolution No. 083-20, Series of 2020, approving the DCWD-JVSC Report and Recommendation to award the Project to Pamana.

Whereas, the Office of the Government Corporate Counsel (OGCC) upon initial interview took note of the technical eligibility of Pamana. The DCWD submitted to the OGCC a letter dated November 19, 2020 and attached thereto the Affidavit of Roberto M. Umali, Jr, Pamana's Authorized Representative attesting to its technical eligibility.

Whereas, the OGCC issued Contract Review No. 1432 Series of 2020 dated November 27, 2020, stating that it found DCWD's justification satisfactory, and the following Conclusion: "*Subject to the foregoing comments and as well as NEDA's comments and observations, the draft JVA between DCWD and PAMANA may be given due course. This review covers only the legal provisions of the draft JVA relying on the representation of DCWD that the technical and financial aspects of the JVA are not disadvantageous to the Government.*"

Now, therefore, for and in consideration of the foregoing premises, the Corporation hereby adopts the following resolutions:

Handwritten signatures and initials are present at the bottom right of the page. There are several distinct marks, including what appears to be a large stylized 'J' or 'D' at the top right, and several smaller initials or signatures below it, including one that looks like 'grr' and another 'grr'.

Resolved, that Pamana enter into a Joint Venture Agreement with the DCWD for the financing, development, rehabilitation, expansion, operation, maintenance, renovation and upgrading of the water distribution system in the JV Area comprised of the geographic jurisdiction of Dagupan City, Pangasinan, consisting of thirty-one (31) barangays.

Resolved, further, that in relation to the said Joint Venture Agreement, Pamana lease from the DCWD its adjoining parcels of land with an aggregate area of 4,276.00 square meters, more or less, located at Brgy. Tambac, Dagupan City covered by Transfer Certificates of Title (TCT) Nos. T-58721, T-58722, T-58723, T-58724, T-58725, T-72984, T-58713, T-58716, T-58714, T-58715, T-72928, T-72983, T-58717, T-58718, T-58719, T-62677 and T-58727 of the Register of Deeds of Dagupan City and the 3-storey Administrative Building/Office erected on portions of said parcels of land, under terms and conditions agreed during the detailed negotiations (Stage 2).

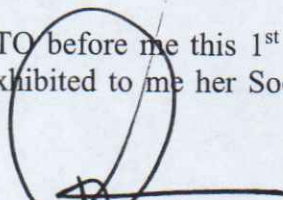
Resolved, finally, that the President, Omar B. Dayao and the Chief Operations Officer, Roberto M. Umali Jr., acting singly or jointly, are hereby designated as authorized officers, representatives and signatories of Pamana to the Joint Venture Agreement, the Contract of Lease and all related and necessary documents.”

In witness whereof, I have hereunto affixed my signature.



Baby Gerlie I. Sacro
Corporate Secretary

SUBSCRIBED AND SWORN TO before me this 1st day of December 2020 at Manila by Baby Gerlie I. Sacro who exhibited to me her Social Security identification card showing SSS No. 33-5424755-8.



CAROLINE G. EXCONDE

Notary Public for the City of Manila
Commission No. 2020-085 until December 31, 2021
Attorney's Roll No. 55392/05-02-2008
IBP No. 099370/12-18-2019/PPLM (for 2020)
PTR No. 9097749/12-18-2019/Manila (for 2020)
MCLE Compliance No. VI-0024755/04-17-19
No. 900 Romualdez St., Paco, Manila

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