



## REQUEST FOR EXPRESSION OF INTEREST AND PROPOSAL

Pursuant to 2016 Revised Implementing Rules and Regulations (IRR) of the Republic Act (RA) 9184 otherwise known as Government Procurement Reform Act, the Housing and Urban Development Coordinating Council (HUDCC), through the General Appropriation Act for the year 2016 intends to apply the following amounts being the Approved Budget for the Contract (ABC) inclusive of appropriate government taxes is inviting bidder/s for the Hiring of Consulting Services for Land Survey projects:

Location	Area (in hectares)	Minimum lots to be Generated	ABC (Php)
Camp O'Donnel, Tarlac	4.3	225	450,000.00
Samal, Davao	1.8006	100	200,000.00

The objectives of the projects are to conduct subdivision survey works and to prepare the corresponding subdivision plan as well as the establishment on the ground of the boundaries of the property in accordance with the locational plan/map to be provided by the Mechanized Infantry Division (IMD), Philippine Army (PA) for Camp O Donnel, Tarlac and the Local Government Unit (LGU) of Samal, Province of Davao City. for Samal, Davao.

Interested bidder/s are required to submit one copy of original and two (2) duplicate copies of eligibility documents, technical and financial proposals compliant with RA 9184 for each land survey project. The mode of procurement to be adopted by HUDCC is through Small Value Procurement.

Attached herewith are the Terms of Reference of the two (2) land survey projects. The deadline for submission is on or before 23 November 2016, 8:00 A.M. to 5:00 P.M. at the 9<sup>th</sup> Floor, BDO Plaza, 8737 Paseo De Roxas, Makati City addressed to the Chairman of the Technical Working Group.

**ENGR. LUISITA MAY MONJAY**

Chairman

Technical Working Group

9<sup>th</sup> Floor BDO Plaza, 8737 Paseo De Roxas  
Makati City

The HUDCC reserves the right to reject any and all bids, annul the bidding process, or not award the contract at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.

  
**ASEC. CLARENCE PASCUAL**

Chairman, Bids and Awards Committee

16 November 2016

# TERMS OF REFERENCE

**PROJECT: CONSULTING SERVICES (LAND SURVEYOR) FOR THE SUBDIVISION SURVEY COVERED BY PRESIDENTIAL PROCLAMATION NO. 676 S. OF 2004 SITUATED IN SITIO MAAG, BARANGAY PEÑAPLATA, ISLAND GARDEN CITY OF SAMAL, PROVINCE OF DAVAO DEL NORTE, ISLAND OF MINDANAO**

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## 1. GENERAL BACKGROUND

The Housing and Urban Development Coordinating Council (HUDCC) is mandated under Memorandum Order No. 74 (s. 2002) to formulate and adopt certain guidelines and implement post-proclamation activities in the areas proclaimed as socialized housing sites.

Towards this end, the HUDCC has been allocated funds under the annual General Appropriations Act (GAA) for the conduct of subdivision survey of proclaimed lands in order to fast-track the disposition thereof to the actual occupants and other beneficiaries.

On 20 July 2004, President Gloria M. Arroyo issued Presidential Proclamation No. 676, S. 2004 entitled **"RESERVING FOR MAAG RESETTLEMENT SITE A PARCEL OF LAND SITUATED IN SITIO MAAG, BARANGAY PEÑAPLATA, ISLAND GARDEN CITY OF SAMAL, PROVINCE OF DAVAO DEL NORTE, ISLAND OF MINDANAO,"**

Desirous of expediting the completion of the process of land disposition to its landless constituents pursuant to PP 676, reserving for Maag Resettlement situated in Sitio Maag, Barangay Peñaplata, Island Garden City of Samal, Province of Davao del Norte, recently made formal representations with the HUDCC for the funding and implementation of the survey works for the 1,8006 hectares of the proclaimed site estimated to generate more or less 100 individual home lots. Hence, this Project.

The HUDCC has approved the above fund request of the Island Garden City of Samal and is now in the process of procuring the consulting services contractor (land surveyor) pursuant to Republic Act No. 9184 and its revised Implementing Rules and Regulations (IRR) and the Philippine Bidding Documents prescribed by the Government Procurement Policy Board (GPPB).

The Local Inter-Agency Committee (LIAC) created pursuant to Presidential Proclamation No. 676, S. 2004 and through the request of Honorable Mayor Al David T. Uy of Island Garden City of Samal, Province of Davao del Norte, has authorized the HUDCC to engage the services of a land surveyor for the conduct of subdivision survey on the 1.8 hectares portion of the proclaimed site covered by said proclamation situated in Sitio Maag, Barangay Peñaplata, Island Garden City of Samal, Province of Davao del Norte.

Further, in the said request, the LGU of Island Garden City of Samal committed to extend full support to the HUDCC and its consulting services contractor (land surveyor) to ensure the expeditious conduct and execution of the survey works at the proclaimed site, and the said LGU assumed the function of being the official repository of the survey results and approved subdivision plan, preserving the concrete cylindrical monuments of the surveyed lots and undertaking to replace the lost/uprooted ones, if any.

2. **OBJECTIVE.** - The Project has for its principal objective the conduct of subdivision survey works and preparation of the corresponding subdivision plan for the portion

covered by Presidential Proclamation No. 676, s. 2004, situated within the Island Garden City of Samal, Province of Davao del Norte as well as the establishment on the ground of the boundaries of the said property in accordance with the locational plan/map to be provided by the LGU of IGACOS.

**3. SCOPE OF SERVICES.** - The Services of the CONSULTANT shall cover the following:

- 3.1 Research and computations using available technical records (i.e., surveys and titles) pertinent to the subject properties to be surveyed, and those adjoining properties that may be used for checking purposes;
- 3.2 Preparation of all relocation plans and lot technical descriptions of the subject properties that conform to the parcellary scheme;
- 3.3 Running a control traverse covering the entire survey area in accordance with the standards of the Revised Manual for Land Surveys in the Philippines (MLSP);
- 3.4 Establishment of Primary and Secondary Control Stations with the aid of Global Positioning System (GPS) and/or Electronic Total Stations, and reflect all necessary data in the corresponding traverse computations;
- 3.5 Monumenting and Sketching of control points and boundary corners, subject to inspection by the HUDCC, using the specification for Forest Boundary Monuments i.e. Permanent Major Boundary Monuments (Major boundary corners) and Permanent Intermediate Monuments (Intermediate boundary corners) as described in the revised MLSP;
- 3.6 Conduct of verification and relocation surveys to determine the actual metes and bounds of the subject property based on the approved survey plans;
- 3.7 Conduct of subdivision and/or consolidation and relocation survey/s of the subject properties;
- 3.8 Preparation of survey return including traverse computation, boundary computation and lot data computations with soft Copies;
- 3.9 Preparation of Cadastral Maps, Case Boundary Index Maps, plotting/printing of Cadastral Maps and BBM including the lists of lot and Alpha Lists of Claimants;
- 3.10 Submission of the required survey returns to the concerned DENR-LMS for its approval, provided that the HUDCC has cleared in writing such submittal. Amendments required by the DENR-LMS shall be duly complied with and reflected in the survey returns by the CONSULTANT; and
- 3.11 Submission to the HUDCC of the approved survey returns together with the electronic data of the plans, lot data computations, technical descriptions generated, and other pertinent documents.

**4. BIDDING STRATEGY**

- 4.1 Bidding will be conducted through open competitive bidding under Small Value Procurement procedures using a non-discretionary "pass/fail" criterion as specified in the Revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184 (RA 9184), otherwise known as the "Government Procurement Reform Act."

- 4.2 Bidding is restricted to Filipino citizens or sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens pursuant to Republic Act No. 5183 and subject to Commonwealth Act No. 138.
5. **OBLIGATIONS OF THE CONSULTANT.** - The responsibilities of the CONSULTANT are as follows:
- 5.1 The CONSULTANT shall complete the Scope of Services and fulfill all its obligations under the Terms of Reference (TOR) and contract by using its technical expertise and adhering to the highest professional and industry standards;
- 5.2 The CONSULTANT shall exercise all reasonable skill, care, diligence and prudence in the discharge of the duties agreed to be performed and shall always work in the best interest of the HUDCC;
- 5.3 The services shall be provided by the CONSULTANT in accordance with the instructions or directions of the HUDCC at any time before its completion. The CONSULTANT shall conduct weekly consultations with the HUDCC in relation to the undertaking of its responsibilities;
- 5.4 The CONSULTANT shall designate its Project Team Leader acceptable to the HUDCC and shall authorize the same to act and bind the CONSULTANT on all aspects of the services, and to execute the same in accordance with the terms and conditions of the pertinent Agreement and conformably with accepted engineering practices and standards;
- 5.5 The CONSULTANT shall be fully responsible for the technical quality of all its actions, survey plans, reports, lot data computations and other related documents forming part of its submittal requirements herein. The review made by the HUDCC shall not release the CONSULTANT from such responsibility it being understood that the consultant has been hired for its expertise;
- 5.6 The CONSULTANT shall be responsible for the timeliness of responses and submittals in accordance with the agreed work schedules. The CONSULTANT shall furnish the HUDCC weekly progress reports and any such information relative to the services and the Project as the HUDCC may, from time to time, reasonably request;
- 5.7 For the completion of the Scope of Services, the CONSULTANT is authorized to procure the necessary materials, labor, equipment, supplies and other requirements and pay for the other incidental expenses, provided that all such expenses shall be charged to the agreed contract price;
- 5.8 The CONSULTANT shall be responsible for providing all manpower, tools, materials, supplies, equipment and related paraphernalia required in the prosecution of the Services; and
- 5.9 The CONSULTANT shall, at its expense and with the use of appropriate survey equipment, perform the above Scope of Services in strict compliance with this set of TOR, contract documents, and relevant government laws, orders, regulations and ordinances.
6. **SUBMISSION OF REPORTS.** - The following reports and documents shall be prepared and submitted by the CONSULTANT to the HUDCC:

- 6.1 **Inception Report** – Within five (5) calendar days from the issuance of the Notice-to-Proceed (NTP), the CONSULTANT shall submit to HUDCC an Inception Report in two (2) copies, outlining its appreciation of the services required, the procedures and methodologies it shall adopt and the detailed program of work it shall follow for the proper execution of the services;
- 6.2 **Preliminary Survey Report** – Within ten (10) calendar days from the submission of the Inception Report, the CONSULTANT shall submit a Preliminary Report in two (2) copies, containing the field notes, complete control traverse computations, and the subdivision schemes;
- 6.3 **Monthly Progress Report** – Thereafter, the CONSULTANT shall submit monthly progress reports of the work accomplished consistent with the scope of the Project;
- 6.4 **Draft Final Survey Report** – Within fifteen (15) calendar days from the submission of the Preliminary Survey Report, the CONSULTANT shall submit to HUDCC the Draft Final Survey Report, which includes a narrative report of the surveys conducted, monumenting works and the complete survey returns of the Project;
- 6.5 **Final Survey Report** – Within fifteen (15) calendar days from receipt of the HUDCC's official comments and written clearance on the survey returns in the Draft Final Survey Report, the CONSULTANT shall submit the Final Survey Report which includes the original certified true copies of the survey returns as approved by the DENR-LMS. The Survey Returns shall include the following:
  - 6.5.1 Two (2) sets of the survey plans approved by the DENR-LMS on reproducible Mylar sheets and blue prints (certified true copies);
  - 6.5.2 Certified True Copies of the Technical Descriptions of the survey plans. This shall be in three (3) copies including the originals (certified true copies);
  - 6.5.3 Field notes, traverse computations, lot data computations, and lot location plans with vicinity map;
  - 6.5.4 A narrative report of the survey with descriptions of the boundary monuments of the properties and the control points used in the survey;
  - 6.5.5 Primary control points approved by NAMRIA; and
  - 6.5.6 Electronic data of the plans, lot data computations and technical descriptions generated.

7. **PROJECT DURATION.** - The Project shall be completed within **Forty-Five (45)** calendar days after the issuance of the Notice to Proceed (NTP) in accordance with the following schedule:

SCOPE OF WORK	SCHEDULE
1. Relocation Survey	2 calendar days
2. Structural Survey	2 calendar days
3. Approval of Subdivision Scheme	6 calendar days
4. Subdivision Survey and Monumenting	5 calendar days
5. DENR-LMS Approval of the Subdivision Plan and Survey Returns	30 calendar days

8. **APPROVED BUDGET FOR THE CONTRACT.** - The HUDCC, using its appropriation for subdivision survey under the 2014 GAA, intends to apply a portion thereof in the amount not exceeding **TWO HUNDRED SIXTEEN THOUSAND PESOS (Php 200,000.00)** which represents the lots generated in accordance with the proposed schematic subdivision plan, inclusive of contingency and government tax as the Approved Budget for the Contract (ABC). In case the number of generated home lots will vary by  $\pm 25\%$  of the expected generated lots, the contract price will be the same. Bids received in excess of the ABC shall be automatically rejected at the opening of the Financial Proposal.
9. **MANNER OF PAYMENT.** - In consideration of the full amount and satisfactory performance of the serviced rendered by the CONSULTANT, the HUDCC shall pay the CONSULTANT in accordance with the following schedule:

Particulars	Payment (in %)
A. Upon submission and approval by the HUDCC of the Inception Report and execution of boundary of Relocation Survey and Structural Survey	15
B. Upon submission and approval of draft Subdivision Scheme and execution of subdivision survey, monumenting and positioning of three stations as required by DENR-LMS Manual	15
C. Upon inspection and confirmation by the HUDCC of the property boundary monuments	15
D. Upon submission of the approved survey returns to the HUDCC	25
E. Upon compliance by the CONSULTANT with all the requirements stipulated in the Contract	30
<b>TOTAL</b>	<b>100</b>

10. **TECHNICAL AND DATA ASSISTANCE TO BE PROVIDED BY HUDCC.** - The HUDCC shall provide the CONSULTANT with all available pertinent documents, information and technical assistance necessary for the execution and performance of the services.
- 10.1 The HUDCC shall designate its Project Representative and Technical Inspection Team who shall act with the authority of and bind the HUDCC on all aspects of the services herein required and who shall examine, evaluate and respond promptly, after consultation with the HUDCC whenever necessary, to the CONSULTANT's reports and submitted data;
- 10.2 The HUDCC shall promptly communicate to the CONSULTANT any decisions on the latter's reports and submittals;
- 10.3 The HUDCC shall evaluate and issue clearance on the parcellary or subdivision schemes prepared by the CONSULTANT;
- 10.4 The HUDCC Inspection Team shall inspect the monuments of boundary corners established by the CONSULTANT;
- 10.5 Upon review and approval of the survey returns prepared by the CONSULTANT, the HUDCC shall issue the necessary clearance for the submission of the said survey returns to the DENR-LMS; and
- 10.6 The HUDCC Inspection Team shall evaluate the output submitted by the CONSULTANT and HUDCC to issue the corresponding payment in accordance

with the agreed payment schedule, subject to the CONSULTANT's periodic fulfillment of its obligations under the Contract.

**11. MINIMUM QUALIFICATIONS OF THE CONSULTANT. -** The CONSULTANT must have the following minimum qualifications:

- 11.1 It should be a reputable firm with at least ten (10) years of business operation in Geodetic Surveying Works;
- 11.2 It should have undertaken at least twenty (20) projects for the last ten (10) years which are similar in nature with the project being put on bid by the HUDCC.
- 11.3 Its key personnel who shall work for the project must meet the minimum qualifications set forth under Section 12 hereof.

**12. KEY PERSONNEL TO BE ASSIGNED TO THE PROJECT. –** The HUDCC requires the CONSULTANT to have the following key personnel who shall work for the Project:

Personnel/Minimum Qualifications	Responsibilities
<b>a. Project Manager</b> [should be licensed Geodetic Engineer with at least ten (10) years experience in Geodetic Surveying works]	<p>The Project Manager shall be responsible in the overall supervision of the Project Team and in the management and organization of the Project.</p> <p>As the lead personnel, the Project Manager shall ensure that the Project objectives are met and the deliverables of the CONSULTANT are carried out accordingly.</p> <p>The Project Manager shall also be in charge of the following activities:</p> <ul style="list-style-type: none"> <li>• Finalization of the Subdivision Scheme;</li> <li>• Leading the Project Team in all meetings and workshops;</li> <li>• Leading the Project Team in the presentation of reports to the HUDCC and to other concerned agencies;</li> <li>• Planning and control of all Project activities;</li> <li>• Review and quality control of data and reports; and</li> <li>• Providing other technical inputs necessary in the preparation of the Consolidation-Subdivision plans.</li> </ul>
<b>b. Two (2) Sr. Geodetic Engineers</b> [should be licensed Geodetic Engineers with at least five (5) years experience in Geodetic Surveying works]	<p>The Sr. Geodetic Engineer shall serve as the Survey Party Chief who will supervise the survey field work and data processing.</p> <p>The Sr. Geodetic Engineer shall also be in-charge of the following:</p> <ul style="list-style-type: none"> <li>• Processing of field data;</li> <li>• Leading the survey team in the field activities;</li> <li>• Preparation of field reports;</li> <li>• Ensuring that the survey activities are within the survey standards; and</li> <li>• Preparation of the complete survey returns.</li> </ul>

<b>c. Two (2) Instrument Men</b> [should be graduates of engineering course with at least five (5) years experience in Geodetic Surveying works]	The Instrument Man shall be responsible for the setting up, use and collection of survey data and maintenance of surveying equipment used in the Project.  The Instrument Man shall be tasked to do the following field activities: <ul style="list-style-type: none"> <li>• Establishment of Project control Networks;</li> <li>• Relocation of lot boundaries; and</li> <li>• Setting and monumenting of lot boundaries and control stations.</li> </ul>
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13. **MINIMUM EQUIPMENT REQUIREMENT.** - The CONSULTANT should have its own or rented surveying equipment and accessories such as:

13.1 Electronic or manual survey equipment; and

13.2 Survey equipment accessories.

14. **SHORTLISTING OF PROSPECTIVE BIDDERS.** - The shortlist shall consist of at most five (5) prospective bidders who will be entitled to submit bids. The criteria and rating system for shortlisting are as follows:

CRITERIA	RATING
1. Relevant experience of the Consultant	40%
2. Qualification of the key personnel to be assigned to the Project	30%
3. Equipment	20%
4. Current workload relative to capacity	10%
Total	100%

The CONSULTANT(s) must pass the required minimum score of seventy per cent (70%) to be shortlisted.

15. **EVALUATION PROCEDURE.** - In order to determine the CONSULTANT with the Highest Rated Bid, HUDCC shall conduct an evaluation of bids using the Quality Cost Based Evaluation (QCBE) Procedure in which the Technical and Financial Proposals of the bidders shall be considered. The Technical and Financial Proposals shall be given the corresponding weights as follows:

PROPOSALS	PERFECT SCORE
Technical Proposals	70%
Financial Proposal	30%
Total	100%

16. **BID SECURITY.** - All bids shall be accompanied by a bid security, payable to HUDCC concerned as a guarantee that the successful bidder shall, within (10) calendar days from receipt of the notice of award, enter into contract with the HUDCC and furnish the performance security required in Section 39 of the IRR, except when Section 37.1 of the IRR allows a longer period. Failure to enclose the required bid security in the form and amount prescribed herein shall automatically disqualify the bid concerned.



<b>FORM OF BID SECURITY</b>	<b>AMOUNT OF BID SECURITY</b> (Not less than the required Percentage of the ABC)
a. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Two percent (2%)
b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security	Five Percent (5%)
d. Bid Securing Declaration duly notarized	

17. **PERFORMANCE SECURITY.** - To guarantee the faithful performance by the winning CONSULTANT of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the HUDCC and in no case later than the signing of the Contract.

- 17.1 The performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity (HUDCC) in an amount not less than the required percentage of the total contract price in accordance with the following schedule:

<b>FORM OF PERFORMANCE SECURITY</b>	<b>AMOUNT OF PERFORMANCE SECURITY</b> (Equal to Percentage of the Total Contract Price)
a. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Five percent (5%)
b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

- 17.2 The Performance Security shall be forfeited in favor of the HUDCC should the CONSULTANT fail to fulfill any of its obligations under the TOR or the Contract. Additional penalties may also be imposed upon the CONSULTANT for such failure.

- 17.3 The following shall form part of the Performance Security: "the right to institute action on the penal bond of any individual, firm, partnership, corporation and association supplying labor or material for the prosecution of the work is hereby acknowledged and confirmed.

18. **CONFIDENTIALITY.** - The CONSULTANT warrants the full confidentiality of all the information gathered for the consultancy contract with the HUDCC, unless the latter

indicates the contrary. The CONSULTANT shall not disclose any information disclosed for the purpose of the Services. After the completion of the contract, all materials, data and other related documents provided must be returned to the HUDCC.

The CONSULTANT shall not be engaged by any person or entity whose business or interests are against the interest of the HUDCC. This prohibition shall subsist for a period of two (2) years after the expiration of the contract.

19. **STANDARD OF SERVICES.** – The CONSULTANT shall fulfill its obligations under the agreement by using its technical expertise and according to the best-accepted professional and industry standards. The CONSULTANT shall exercise all reasonable skill, care, diligence, and prudence in the discharge of the duties agreed to be performed and shall always work in the best interest of the HUDCC. To attain these, the CONSULTANT shall provide personnel with sufficient qualifications and experience to ensure the full and satisfactory accomplishment of the required services/undertakings.

The services shall be conducted by the CONSULTANT in accordance with the instructions or directions made or to be made by the HUDCC at any time before its completion. The CONSULTANT shall conduct regular consultation with the HUDCC in relation to the undertaking of its responsibilities under the Contract Agreement.

20. **CONFLICT OF INTEREST.** - The CONSULTANT and its key staff, who may be directly or indirectly associated with non-consulting firms that may have interest in or bias towards any HUDCC project, shall agree to limit their role to that of consultants and will disqualify themselves and their affiliates from bidding for products and services to any HUDCC project.

21. **SUBCONTRACTING.** - Subcontracting by the CONSULTANT shall not be allowed.

**22. GENERAL TERMS AND CONDITIONS**

- 22.1 **Independent Contractor.** - The contract of the CONSULTANT with the HUDCC is strictly and solely that of an independent contractor and no employer-employee relationship is hereby created or shall arise between the CONSULTANT or his employees or agents and the HUDCC by reason or as consequence hereof. As such, the HUDCC shall not be liable for any damage, injury or death caused to the CONSULTANT's employees and agents or third persons.

- 22.2 **Alterations and Additional Works.** - Revisions or additional works that becomes necessary due to the errors or fault of the CONSULTANT or those which are necessary to comply with the requirements of the AGREEMENT shall be done by the CONSULTANT at no additional cost to the HUDCC. Nevertheless, any variation of additional work items not included in the foregoing but which are proximate, appropriate and necessary shall be subject to and covered by separate agreement pursuant to Republic Act No. 9184 and its Implementing Rules and Regulations (IRR).

The HUDCC may, at any time, by written notice to the CONSULTANT, issue additional instructions, make changes or alterations in the Scope of Services or direct the omission of works included in the Scope of Services. If such instructions, changes or alterations require extra services on the part of the CONSULTANT, then both parties shall mutually agree upon the corresponding compensation for the same pursuant to RA 9184 and its IRR.

- 22.3 **Delay: Extension of Time: Force Majeure: Liquidated Damages.** - Any delay on the agreed completion date from failure of performance by either of the Party shall not constitute a default hereunder nor shall give rise to any claim if such delay or failure is wholly attributable to acts of God, any act of sabotage, war, armed invasion, revolution,

insurrection, blockage, riot, declaration of national emergency, industry-wide strike, or any other cause beyond the reasonable control of either Party, or which cannot be avoided by the CONSULTANT or the HUDCC despite the exercise of due diligence.

Within ten (10) days from the occurrence of such event, the Party affected shall notify in writing the other Party of such event of force majeure and of the obligations or part of the works the performance of which is affected by such force majeure. Immediately after such notification, the Parties shall meet to discuss and agree on the appropriate steps/measures to be taken to minimize the effect(s) of the force majeure: provided that the Party affected shall be entitled to an extension of the contract of time for the number of days of the delay incurred by reason of the causes above mentioned.

The CONSULTANT shall also be liable for damages for the delay and shall pay the HUDCC liquidated damages, not by way of penalty, in an amount equal to one-tenth (1/10) of one percent (1%) of the cost of delayed or unperformed portion of the services for everyday of delay until such services are finally performed and accepted by the HUDCC.

- 22.4 **Ownership of Reports and Documents.** - The reports, drawings, documents and materials compiled or prepared in the course of the performance of the Services are and shall remain the absolute properties of the HUDCC and shall not be used by the CONSULTANT for purposes unrelated to the contract without the prior written approval of the HUDCC.
- 22.5 **Representations and Warranties.** - The Parties hereby represent and warrant that no government official has benefitted directly or indirectly from this Contract. The Parties warrant that they have not offered or given, and will not offer or give to any employee, agent or representative of either Party, any gratuity, with a view toward securing any business from one another, or influencing such persons with respect to terms, conditions or performance of any contract with each other.
23. **IMPLEMENTATION CLAUSE.** - In the implementation of the survey works, survey design and subdivision plan on the property covered by the subject Presidential Proclamation, the HUDCC will engage the consulting services of a land surveyor in accordance with the procurement rules provided for under the Government Procurement Reform Act or Republic No. 9184 and its Revised Implementing Rules and Regulations (IRR).

# TERMS OF REFERENCE

**PROJECT: CONSULTING SERVICES (LAND SURVEYOR) FOR THE SUBDIVISION SURVEY COVERED BY PRESIDENTIAL PROCLAMATION NO. 1144 S. OF 2015 SITUATED IN MECHANIZED INFANTRY DIVISION (MID), CAMP O'DONNELL, MUNICIPALITY OF CAPAS, PROVINCE OF TARLAC**

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## 1. GENERAL BACKGROUND

The Housing and Urban Development Coordinating Council (HUDCC) is mandated under Memorandum Order No. 74 (s. 2002) to formulate and adopt certain guidelines and implement post-proclamation activities in the areas proclaimed as socialized housing sites.

Towards this end, the HUDCC has been allocated funds under the annual General Appropriations Act (GAA) for the conduct of subdivision survey of proclaimed lands in order to fast-track the disposition thereof to the actual occupants and other beneficiaries.

On 28 October 2015, President Benigno Simeon C. Aquino III issued Presidential Proclamation No. 1144 "AMENDING PROCLAMATION NO. 813 (S. 1991) WHICH RESERVED A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITY OF CAPAS, PROVINCE OF TARLAC, ISLAND OF LUZON AS RESETTLEMENT SITE OF THE MT. PINATUBO VICTIMS BY SEGREGATING A PORTION OF THE LAND EMBRACED THEREIN AND DECLACATING THE SAME OPEN FOR DISPOSITION FOR SOCIALIZED HOUSING PURPOSES OF THE LIGHT ARMOR DIVISION, PHILIPPINE ARMY (LAD-PA), NOW MECHANIZED INFANTRY DIVISION (MID);"

Desirous of expediting the completion of the process of land disposition to its landless constituents pursuant to PP 1144, the Mechanized Infantry Division, Philippine Army (MID,PA), through its Staff Judge Advocate/Real Estate Officer, recently made formal representations with the HUDCC for the funding and implementation of the survey works 4.3-hectare portion of the proclaimed site estimated to generate more or less 225 individual home lots. Hence, this Project.

The HUDCC has approved the above fund request of the Municipality Government of Capas and is now in the process of procuring the consulting services contractor (land surveyor) pursuant to Republic Act No. 9184 and its revised Implementing Rules and Regulations (IRR) and the Philippine Bidding Documents prescribed by the Government Procurement Policy Board (GPPB).

The Local Inter-Agency Committee (LIAC) created pursuant to Presidential Proclamation No. 1144, S. 2015, has adopted LIAC Resolution No. 1 series of 2016 dated October 5, 2016 authorizing the HUDCC to engage the services of a land surveyor for the conduct of subdivision survey on the 4.3-hectare portion of the proclaimed site covered by said proclamation situated in the Municipality of Capas, Province of Tarlac.

Further, in the said Resolution, the LIAC and the Mechanized Infantry Division, Philippine Army (MID, PA) committed to extend full support to the HUDCC and its consulting services contractor (land surveyor) to ensure the expeditious conduct and execution of the survey works at the proclaimed site, and the said MID,PA assumed the function of being the official repository of the survey results and approved

subdivision plan, preserving the concrete cylindrical monuments of the surveyed lots and undertaking to replace the lost/uprooted ones, if any.

2. **OBJECTIVE.** - The Project has for its principal objective the conduct of subdivision survey works and preparation of the corresponding subdivision plan for the portion covered by Presidential Proclamation No. 1144, s. 2015, situated within the Municipality of Capas, Province of Tarlac as well as the establishment on the ground of the boundaries of the said property in accordance with the locational plan/map to be provided by the MID, PA.
3. **SCOPE OF SERVICES.** The Services of the CONSULTANT shall cover the following:
  - 3.1 Research and computations using available technical records (i.e., surveys and titles) pertinent to the subject properties to be surveyed, and those adjoining properties that may be used for checking purposes;
  - 3.2 Preparation of all relocation plans and lot technical descriptions of the subject properties that conform to the parcellary scheme;
  - 3.3 Running a control traverse covering the entire survey area in accordance with the standards of the Revised Manual for Land Surveys in the Philippines (MLSP);
  - 3.4 Establishment of Primary and Secondary Control Stations with the aid of Global Positioning System (GPS) and/or Electronic Total Stations, and reflect all necessary data in the corresponding traverse computations;
  - 3.5 Monumenting and Sketching of control points and boundary corners, subject to inspection by the HUDCC, using the specification for Forest Boundary Monuments i.e. Permanent Major Boundary Monuments (Major boundary corners) and Permanent Intermediate Monuments (Intermediate boundary corners) as described in the revised MLSP;
  - 3.6 Conduct of verification and relocation surveys to determine the actual metes and bounds of the subject property based on the approved survey plans;
  - 3.7 Conduct of subdivision and/or consolidation and relocation survey/s of the subject properties;
  - 3.8 Preparation of survey return including traverse computation, boundary computation and lot data computations with Soft copies;
  - 3.9 Preparation of Cadastral Maps, Case Boundary Index Maps, plotting/printing of Cadastral Maps and BBM including the lists of lot and alpha lists of claimants;
  - 3.10 Submission of the required survey returns to the concerned DENR-LMS for its approval, provided that the HUDCC has cleared in writing such submittal. Amendments required by the DENR-LMS shall be duly complied with and reflected in the survey returns by the CONSULTANT; and
  - 3.11 Submission to the HUDCC of the approved survey returns together with the electronic data of the plans, lot data computations, technical descriptions generated, and other pertinent documents.
4. **BIDDING STRATEGY**
  - 4.1 Bidding will be conducted through open competitive bidding under Small Value Procurement procedures using a non-discretionary "pass/fail" criterion as

specified in the Revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184 (RA 9184), otherwise known as the "Government Procurement Reform Act."

- 4.2 Bidding is restricted to Filipino citizens or sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens pursuant to Republic Act No. 5183 and subject to Commonwealth Act No. 138.

5. **OBLIGATIONS OF THE CONSULTANT.** - The responsibilities of the CONSULTANT are as follows:

- 5.1 The CONSULTANT shall complete the Scope of Services and fulfill all its obligations under the Terms of Reference (TOR) and contract by using its technical expertise and adhering to the highest professional and industry standards;
- 5.2 The CONSULTANT shall exercise all reasonable skill, care, diligence and prudence in the discharge of the duties agreed to be performed and shall always work in the best interest of the HUDCC;
- 5.3 The services shall be provided by the CONSULTANT in accordance with the instructions or directions of the HUDCC at any time before its completion. The CONSULTANT shall conduct weekly consultations with the HUDCC in relation to the undertaking of its responsibilities;
- 5.4 The CONSULTANT shall designate its Project Team Leader acceptable to the HUDCC and shall authorize the same to act and bind the CONSULTANT on all aspects of the services, and to execute the same in accordance with the terms and conditions of the pertinent Agreement and conformably with accepted engineering practices and standards;
- 5.5 The CONSULTANT shall be fully responsible for the technical quality of all its actions, survey plans, reports, lot data computations and other related documents forming part of its submittal requirements herein. The review made by the HUDCC shall not release the CONSULTANT from such responsibility it being understood that the consultant has been hired for its expertise;
- 5.6 The CONSULTANT shall be responsible for the timeliness of responses and submittals in accordance with the agreed work schedules. The CONSULTANT shall furnish the HUDCC weekly progress reports and any such information relative to the services and the Project as the HUDCC may, from time to time, reasonably request;
- 5.7 For the completion of the Scope of Services, the CONSULTANT is authorized to procure the necessary materials, labor, equipment, supplies and other requirements and pay for the other incidental expenses, provided that all such expenses shall be charged to the agreed contract price;
- 5.8 The CONSULTANT shall be responsible for providing all manpower, tools, materials, supplies, equipment and related paraphernalia required in the prosecution of the Services; and
- 5.9 The CONSULTANT shall, at its expense and with the use of appropriate survey equipment, perform the above Scope of Services in strict compliance with this

set of TOR, contract documents, and relevant government laws, orders, regulations and ordinances.

6. **SUBMISSION OF REPORTS.** - The following reports and documents shall be prepared and submitted by the CONSULTANT to the HUDCC:
- 6.1 **Inception Report** – Within five (5) calendar days from the issuance of the Notice-to-Proceed (NTP), the CONSULTANT shall submit to HUDCC an Inception Report in two (2) copies, outlining its appreciation of the services required, the procedures and methodologies it shall adopt and the detailed program of work it shall follow for the proper execution of the services;
  - 6.2 **Preliminary Survey Report** – Within ten (10) calendar days from the submission of the Inception Report, the CONSULTANT shall submit a Preliminary Report in two (2) copies, containing the field notes, complete control traverse computations, and the subdivision schemes;
  - 6.3 **Monthly Progress Report** – Thereafter, the CONSULTANT shall submit monthly progress reports of the work accomplished consistent with the scope of the Project;
  - 6.4 **Draft Final Survey Report** – Within fifteen (15) calendar days from the submission of the Preliminary Survey Report, the CONSULTANT shall submit to HUDCC the Draft Final Survey Report, which includes a narrative report of the surveys conducted, monumenting works and the complete survey returns of the Project;
  - 6.5 **Final Survey Report** – Within fifteen (15) calendar days from receipt of the HUDCC's official comments and written clearance on the survey returns in the Draft Final Survey Report, the CONSULTANT shall submit the Final Survey Report which includes the original certified true copies of the survey returns as approved by the DENR-LMS. The Survey Returns shall include the following:
    - 6.5.1 Two (2) sets of the survey plans approved by the DENR-LMS on reproducible Mylar sheets and blue prints (certified true copies);
    - 6.5.2 Certified True Copies of the Technical Descriptions of the survey plans. This shall be in three (3) copies including the originals (certified true copies);
    - 6.5.3 Field notes, traverse computations, lot data computations, and lot location plans with vicinity map;
    - 6.5.4 A narrative report of the survey with descriptions of the boundary monuments of the properties and the control points used in the survey;
    - 6.5.5 Primary control points approved by NAMRIA; and
    - 6.5.6 Electronic data of the plans, lot data computations and technical descriptions generated.
7. **PROJECT DURATION.** - The Project shall be completed within Forty-Five (45) calendar days after the issuance of the Notice to Proceed (NTP) in accordance with the following schedule:

SCOPE OF WORK	SCHEDULE
1. Relocation Survey	2 calendar days
2. Structural Survey	0 calendar days
3. Approval of Subdivision Scheme	6 calendar days
4. Subdivision Survey and Monumenting	7 calendar days
5. DENR-LMS Approval of the Subdivision Plan and Survey Returns	30 calendar days

8. **APPROVED BUDGET FOR THE CONTRACT.** - The HUDCC, using its appropriation for subdivision survey under the 2014 GAA, intends to apply a portion thereof in the amount not exceeding **Four Hundred Fifty Thousand Pesos (PhP 450,000.00)** which represents the lots generated in accordance with the proposed schematic subdivision plan, inclusive of government tax as the Approved Budget for the Contract (ABC). In case the number of generated home lots will vary by  $\pm 25\%$  of the expected generated lots, the contract price will be the same. Bids received in excess of the ABC shall be automatically rejected at the opening of the Financial Proposal.
9. **MANNER OF PAYMENT.** - In consideration of the full amount and satisfactory performance of the serviced rendered by the CONSULTANT, the HUDCC shall pay the CONSULTANT in accordance with the following schedule:

Particulars	Payment (in %)
A. Upon submission and approval by the HUDCC of the Inception Report and execution of boundary of Relocation Survey and Structural Survey	15
B. Upon submission and approval of draft Subdivision Scheme and execution of subdivision survey, monumenting and positioning of three stations as required by DENR-LMS Manual	15
C. Upon inspection and confirmation by the HUDCC of the property boundary monuments	15
D. Upon submission of the approved survey returns to the HUDCC	25
E. Upon compliance by the CONSULTANT with all the requirements stipulated in the Contract	30
<b>TOTAL</b>	<b>100</b>

10. **TECHNICAL AND DATA ASSISTANCE TO BE PROVIDED BY HUDCC.** - The HUDCC shall provide the CONSULTANT with all available pertinent documents and technical information necessary for the execution and performance of the services.
- 10.1 The HUDCC shall designate its Project Representative and Technical Inspection Team who shall act with the authority of and bind the HUDCC on all aspects of the services herein required and who shall examine, evaluate and respond promptly, after consultation with the HUDCC whenever necessary, to the CONSULTANT's reports and submitted data;
- 10.2 The HUDCC shall promptly communicate to the CONSULTANT any decisions on the latter's reports and submittals;
- 10.3 The HUDCC shall evaluate and issue clearance on the parcellary or subdivision schemes prepared by the CONSULTANT;
- 10.4 The HUDCC Inspection Team shall inspect the monuments of boundary corners established by the CONSULTANT;



- 10.5 Upon review and approval of the survey returns prepared by the CONSULTANT, the HUDCC shall issue the necessary clearance for the submission of the said survey returns to the DENR-LMS; and
- 10.6 The HUDCC Inspection Team shall evaluate the output submitted by the CONSULTANT and HUDCC to issue the corresponding payment in accordance with the agreed payment schedule, subject to the CONSULTANT's periodic fulfillment of its obligations under the Contract.
11. **MINIMUM QUALIFICATIONS OF THE CONSULTANT.** - The CONSULTANT must have the following minimum qualifications:
- 11.1 It should be a reputable firm with at least ten (10) years of business operation in Geodetic Surveying Works;
- 11.2 It should have undertaken at least twenty (20) projects for the last ten (10) years which are similar in nature with the project being put on bid by the HUDCC.
- 11.3 Its key personnel who shall work for the project must meet the minimum qualifications set forth under Section 12 hereof.
12. **KEY PERSONNEL TO BE ASSIGNED TO THE PROJECT.** - The HUDCC requires the CONSULTANT to have the following key personnel who shall work for the Project:

Personnel/Minimum Qualifications	Responsibilities
a. <b>Project Manager</b> [should be licensed Geodetic Engineer with at least ten (10) years experience in Geodetic Surveying works]	<p>The Project Manager shall be responsible in the overall supervision of the Project Team and in the management and organization of the Project.</p> <p>As the lead personnel, the Project Manager shall ensure that the Project objectives are met and the deliverables of the CONSULTANT are carried out accordingly.</p> <p>The Project Manager shall also be in charge of the following activities:</p> <ul style="list-style-type: none"> <li>• Finalization of the Subdivision Scheme;</li> <li>• Leading the Project Team in all meetings and workshops;</li> <li>• Leading the Project Team in the presentation of reports to the HUDCC and to other concerned agencies;</li> <li>• Planning and control of all Project activities;</li> <li>• Review and quality control of data and reports; and</li> <li>• Providing other technical inputs necessary in the preparation of the Consolidation-Subdivision plans.</li> </ul>

<b>b. Two (2) Sr. Geodetic Engineers</b> [should be licensed Geodetic Engineers with at least five (5) years experience in Geodetic Surveying works]	The Sr. Geodetic Engineer shall serve as the Survey Party Chief who will supervise the survey field work and data processing.  The Sr. Geodetic Engineer shall also be in-charge of the following: <ul style="list-style-type: none"> <li>• Processing of field data;</li> <li>• Leading the survey team in the field activities;</li> <li>• Preparation of field reports;</li> <li>• Ensuring that the survey activities are within the survey standards; and</li> <li>• Preparation of the complete survey returns.</li> </ul>
<b>c. Two (2) Instrument Men</b> [should be graduates of engineering course with at least five (5) years experience in Geodetic Surveying works]	The Instrument Man shall be responsible for the setting up, use and collection of survey data and maintenance of surveying equipment used in the Project.  The Instrument Man shall be tasked to do the following field activities: <ul style="list-style-type: none"> <li>• Establishment of Project control Networks;</li> <li>• Relocation of lot boundaries; and</li> <li>• Setting and monumenting of lot boundaries and control stations.</li> </ul>

13. **MINIMUM EQUIPMENT REQUIREMENT.** - The CONSULTANT should have its own or rented surveying equipment and accessories such as:

- 13.1 Electronic or manual survey equipment; and  
 13.2 Survey equipment accessories.

14. **SHORTLISTING OF PROSPECTIVE BIDDERS.** - The shortlist shall consist of at most five (5) prospective bidders who will be entitled to submit bids. The criteria and rating system for shortlisting are as follows:

Criteria	Rating
1. Relevant experience of the Consultant	40%
2. Qualification of the key personnel to be assigned to the Project	30%
3. Equipment	20%
4. Current workload relative to capacity	10%
<b>Total</b>	<b>100%</b>

The CONSULTANT(s) must pass the required minimum score of seventy per cent (70%) to be shortlisted.

15. **EVALUATION PROCEDURE.** - In order to determine the CONSULTANT with the Highest Rated Bid, HUDCC shall conduct an evaluation of bids using the Quality Cost Based Evaluation (QCBE) Procedure in which the Technical and Financial Proposals of the bidders shall be considered. The Technical and Financial Proposals shall be given the corresponding weights as follows:

Proposals	Perfect Score
Technical Proposals	60%
Financial Proposal	40%
<b>Total</b>	<b>100%</b>

16. **BID SECURITY.** – All bids shall be accompanied by a bid security, payable to HUDCC concerned as a guarantee that the successful bidder shall, within (10) calendar days from receipt of the notice of award, enter into contract with the HUDCC and furnish the performance security required in Section 39 of the IRR, except when Section 37.1 of the IRR allows a longer period. Failure to enclose the required bid security in the form and amount prescribed herein shall automatically disqualify the bid concerned.

<b>Form of Bid Security</b>	<b>Amount of Bid Security (Not less than the required Percentage of the ABC)</b>
a. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Two percent (2%)
b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security	Five Percent (5%)
d. Bid Securing Declaration duly notarized	

17. **PERFORMANCE SECURITY.** - To guarantee the faithful performance by the winning CONSULTANT of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the HUDCC and in no case later than the signing of the Contract.

- 17.1 The performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity (HUDCC) in an amount not less than the required percentage of the total contract price in accordance with the following schedule:

<b>Form of Performance Security</b>	<b>Amount of Performance Security (Equal to Percentage of the Total Contract Price)</b>
a. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Five percent (5%)
b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

- 17.2 The Performance Security shall be forfeited in favor of the HUDCC should the CONSULTANT fail to fulfill any of its obligations under the TOR or the Contract. Additional penalties may also be imposed upon the CONSULTANT for such failure.

17.3 The following shall form part of the Performance Security: "the right to institute action on the penal bond of any individual, firm, partnership, corporation and association supplying labor or material for the prosecution of the work is hereby acknowledged and confirmed.

18. **CONFIDENTIALITY.** - The CONSULTANT warrants the full confidentiality of all the information gathered for the consultancy contract with the HUDCC, unless the latter indicates the contrary. The CONSULTANT shall not disclose any information disclosed for the purpose of the Services. After the completion of the contract, all materials, data and other related documents provided must be returned to the HUDCC.

The CONSULTANT shall not be engaged by any person or entity whose business or interests are against the interest of the HUDCC. This prohibition shall subsist for a period of two (2) years after the expiration of the contract.

19. **STANDARD OF SERVICES.** - The CONSULTANT shall fulfill its obligations under the agreement by using its technical expertise and according to the best-accepted professional and industry standards. The CONSULTANT shall exercise all reasonable skill, care, diligence, and prudence in the discharge of the duties agreed to be performed and shall always work in the best interest of the HUDCC. To attain these, the CONSULTANT shall provide personnel with sufficient qualifications and experience to ensure the full and satisfactory accomplishment of the required services/undertakings.

The services shall be conducted by the CONSULTANT in accordance with the instructions or directions made or to be made by the HUDCC at any time before its completion. The CONSULTANT shall conduct regular consultation with the HUDCC in relation to the undertaking of its responsibilities under the Contract Agreement.

20. **CONFLICT OF INTEREST.** - The CONSULTANT and its key staff, who may be directly or indirectly associated with non-consulting firms that may have interest in or bias towards any HUDCC project, shall agree to limit their role to that of consultants and will disqualify themselves and their affiliates from bidding for products and services to any HUDCC project.

21. **SUBCONTRACTING.** - Subcontracting by the CONSULTANT shall not be allowed.

## 22. **GENERAL TERMS AND CONDITIONS**

- 22.1 **Independent Contractor.** - The contract of the CONSULTANT with the HUDCC is strictly and solely that of an independent contractor and no employer-employee relationship is hereby created or shall arise between the CONSULTANT or his employees or agents and the HUDCC by reason or as consequence hereof. As such, the HUDCC shall not be liable for any damage, injury or death caused to the CONSULTANT's employees and agents or third persons.

- 22.2 **Alterations and Additional Works.** - Revisions or additional works that becomes necessary due to the errors or fault of the CONSULTANT or those which are necessary to comply with the requirements of the AGREEMENT shall be done by the CONSULTANT at no additional cost to the HUDCC. Nevertheless, any variation of additional work items not included in the foregoing but which are proximate, appropriate and necessary shall be subject to and covered by separate agreement pursuant to Republic Act No. 9184 and its Implementing Rules and Regulations (IRR).

The HUDCC may, at any time, by written notice to the CONSULTANT, issue additional instructions, make changes or alterations in the Scope of Services or direct the omission of works included in the Scope of Services. If such

instructions, changes or alterations require extra services on the part of the CONSULTANT, then both parties shall mutually agree upon the corresponding compensation for the same pursuant to RA 9184 and its IRR.

- 22.3 Delay: Extension of Time: Force Majeure: Liquidated Damages.** - Any delay on the agreed completion date from failure of performance by either of the Party shall not constitute a default hereunder nor shall give rise to any claim if such delay or failure is wholly attributable to acts of God, any act of sabotage, war, armed invasion, revolution, insurrection, blockage, riot, declaration of national emergency, industry-wide strike, or any other cause beyond the reasonable control of either Party, or which cannot be avoided by the CONSULTANT or the HUDCC despite the exercise of due diligence.

Within ten (10) days from the occurrence of such event, the Party affected shall notify in writing the other Party of such event of force majeure and of the obligations or part of the works the performance of which is affected by such force majeure. Immediately after such notification, the Parties shall meet to discuss and agree on the appropriate steps/measures to be taken to minimize the effect(s) of the force majeure: provided that the Party affected shall be entitled to an extension of the contract of time for the number of days of the delay incurred by reason of the causes above mentioned.

The CONSULTANT shall also be liable for damages for the delay and shall pay the HUDCC liquidated damages, not by way of penalty, in an amount equal to one-tenth (1/10) of one percent (1%) of the cost of delayed or unperformed portion of the services for everyday of delay until such services are finally performed and accepted by the HUDCC.

- 22.4 Ownership of Reports and Documents.** - The reports, drawings, documents and materials compiled or prepared in the course of the performance of the Services are and shall remain the absolute properties of the HUDCC and shall not be used by the CONSULTANT for purposes unrelated to the contract without the prior written approval of the HUDCC.

- 22.5 Representations and Warranties.** - The Parties hereby represent and warrant that no government official has benefitted directly or indirectly from this Contract. The Parties warrant that they have not offered or given, and will not offer or give to any employee, agent or representative of either Party, any gratuity, with a view toward securing any business from one another, or influencing such persons with respect to terms, conditions or performance of any contract with each other.

- 23. IMPLEMENTATION CLAUSE.** - In the implementation of the survey works, survey design and subdivision plan on the property covered by the subject Presidential Proclamation, the HUDCC will engage the consulting services of a land surveyor in accordance with the procurement rules provided for under the Government Procurement Reform Act or Republic No. 9184 and its Revised Implementing Rules and Regulations (IRR).