



LEYTE STATE UNIVERSITY

6521-A Visca, Baybay, Leyte, Philippines

Office of the Secretary of the University
and of the Board of Regents

EXCERPT FROM THE APPROVED MINUTES OF THE
15th LSU Board of Regents Meeting
16 March 2004 * LNU, Tacloban City

Owner-Contractor Agreement Between
Leyte State University and the AOG Contractor

Board Resolution No. 31, s. 2004


Approving the Owner-Contractor Agreement between the Leyte State University and the AOG Construction, effective upon Board approval.

BOARD ACTION: **APPROVED**

Date : 16 March 2004

ATTACHMENT: **X**

Certified True and Correct:


DANIEL M. TUDTUD JR.
Board Secretary

cc: OVPAF - en 4/29
DA - Gm 4/29
ODA - Gm 4/29



LEYTE STATE UNIVERSITY

6521-A Visca, Baybay, Leyte, Philippines

Office of the University President

16 March 2004


The Honorable Chairman and
Members of the LSU Board of Regents

Ladies/Gentlemen:

I am hereby endorsing the “**Owner-Contractor Agreement**” between the Leyte State University and AOG Construction. The Bids and Awards Committee of the University is recommending the award for the construction of the Information Technology (IT) building to the AOG Construction.

I am, therefore, recommending the same **FOR CONFIRMATION** by the Board of Regents.

Very truly yours,

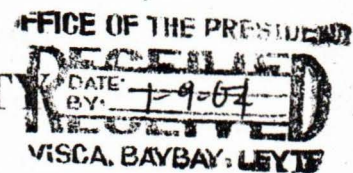

PACIENCIA P. MILAN
President

BOARD ACTION : _____
DATE : 16 March 2004



LEYTE STATE UNIVERSITY

Visca, Baybay, Leyte 6521-A
Philippines



December 29, 2003

MEMORANDUM:

FOR: The University President
LSU, Visca, Baybay, Leyte

RE: Recommendation to Award the Construction of the Information
Technology Building to AOG Construction

The Bids and Awards Committee conducted a public bidding for the construction of Information Technology Building on December 22, 2003 at the Conference Room of the Office of the Vice President for Administration and Finance, LSU, Visca, Baybay, Leyte.

Six (6) construction firms were prequalified to participate the bidding but only four bidders had finally submitted their bid proposals. Finding that all the required documents in the technical envelope were complete, the BAC proceeded the opening of the bid proposals.

The bid offers were summarized as follows:

1. AOG Construction	P5,767,498.19
2. Yakal Construction	5,815,163.96
3. Morales Engineering Works	5,930,265.83
4. ZMS Construction	5,940,000.00

The bid offers were observed to be higher than the approved budget which was only P5 million. Engr. N. Israel explained that this is expected because the scope of work provided to the bidders was extensive and the prices of the construction materials were too low. This is the reason why the Architect was requested to provide a revised program of work with a much reduced scope and current pricing of materials. The revised scope of work submitted by the Architect unfortunately arrived late and were not received by the bidders on time.

OWNER : LEYTE STATE UNIVERSITY (LSU)
ADDRESS : Visca, Baybay, Leyte
PROJECT : CONSTRUCTION OF INFORMATION TECHNOLOGY BLDG.
(PHASE I)
SUBJECT : Owner-Contractor Agreement

AGREEMENT:

This Agreement made and entered into in Baybay, Leyte, Philippines, this 29th day of December, 2003, by and between:

The LEYTE STATE UNIVERSITY (LSU), an institution of higher learning established under Pres. Decree No. 470 as amended by Pres. Decree No. 700, and converted into a university by virtue of R.A. 9158, with principal office at Visca, Baybay, Leyte, duly represented by its President, DR. PACIENCIA P. MILAN, hereinafter referred to as the OWNER;

-and-

AOG CONSTRUCTION, with business address at Ormoc City, duly represented by its Proprietor, Engr. ERIC C. CODILLA, hereinafter referred to as the CONTRACTOR;

WITNESSETH:

WHEREAS, a public bidding was conducted on December 22, 2003 at the Office of the Vice President for Administration & Finance Conference Room, LSU, Visca, Baybay, Leyte for the Construction of the Information Technology Building;

WHEREAS, the Bids and Awards Committee recommended to the University President that the project shall be awarded to AOG CONSTRUCTION, its offer being the most advantageous to the Philippine Government;

WHEREAS, time is of the essence of this contract;

NOW, THEREFORE, for and in consideration of the foregoing premises and of the terms and covenants hereinafter specified, the parties hereto have signed and hereby agree as follows:

ARTICLE I – CONTRACT DOCUMENTS

THAT the Invitation to Bid, General Conditions and Specification, Contractor's Proposal, Notice of Award and Notice to Proceed, all of which are hereto attached and hereby expressly made integral part of the contract in so far and they have not been modified or not inconsistent with the terms and conditions hereof.

ARTICLE II – SCOPE OF WORK

THAT the CONTRACTOR shall in accordance with the provisions of and subject to the conditions contained in the documents referred to in Article I hereof, *with a provision that this construction activity belongs to Phase I, with boundaries at GRIDLINE A-J*, and in consideration of the sum of money hereinafter stated shall fully and faithfully perform all labor, furnish the needed materials and equipment and perform labor and services necessary to complete the Construction of Information Technology Bldg. located at the Leyte State University, Visca, Baybay, Leyte, as per plan and specifications of the OWNER, except the following deletions on the scope of work:

1. Spiral staircase
2. Ramp
3. Architectural works
 - a. Interior painting (Wall & Slab Soffit)
 - a.1 Technical laboratory 1 – Ground floor
 - a.2 Software laboratory – Ground floor
 - a.3 Instrumentation unit – Ground floor
 - a.4 Stockroom – Ground floor
 - b. Doors
 - b.1 D1
 - b.2 D2
 - b.3 D3
4. Electrical works
 - a. Lighting Fixtures & Devices
 - a.1 Luminaire (2x36W T8, fluorescent batten, surface mount)
 - a.2 Luminaire (18W compact fluorescent, recessed down)
 - a.3 Wiring Devices (Two-gang, 15A, 230V)
 - a.4 Wiring Devices (Convenience outlet

ARTICLE III – TIME OF COMPLETION

The work to be performed by the CONTRACTOR under this contract shall commence after ten (10) calendar days upon receipt and acceptance of the Notice to Proceed from LSU by the CONTRACTOR. The construction of Information Technology Building shall be completed within Two Hundred Forty (240) calendar days including Saturdays, Sundays and holidays. Should the CONTRACTOR refuse or otherwise fail to complete the work stipulated herein, the CONTRACTOR agrees to pay the LEYTE STATE UNIVERSITY as liquidated damages an amount equal to One Tenth of One Percent (.10%) of the total contract sum for each calendar day of delay until the work is completed and accepted by the LSU or when the LSU takes over the project by Administration or relets it to other Contractor until such time as the LSU may reasonably secure the completion of the works. Such amount shall be deducted from any money due or which may become due the Contractor under the contract and/or collect such liquidated damages from the Performance Bond of the Contractor or Contractor's Surety whichever is convenient to the OWNER VISCA.

ARTICLE IV – THE CONTRACT SUM

The OWNER LSU for and in consideration of the faithful and satisfactory fulfillment of the contract by the CONTRACTOR in accordance with the terms and conditions of all contract documents and subject to the deduction herein provided, shall pay to the

CONTRACTOR in Philippine Currency the sum of FIVE MILLION THREE HUNDRED NINETY FIVE THOUSAND PESOS ONLY (P5,395,000.00). and/or its own expenses, any defect or defects of materials or workmanship which make itself/themselves evident within one (1) year from the date of completion of the work.

Payment shall be in accordance with the following conditions: posting a GSIS guarantee bond of ten percent (10%) of the total contract amount. In addition, the provisions of Art 1723 of the Civil Code shall be applicable.

a. Monthly payment shall be based upon the work satisfactorily completed as certified by the CONTRACTOR, concurred in by the LSU Resident Engineer/Inspector and supported by a certification of the Physical Plant Office. The application for payments, certification of payments, etc. shall be in accordance with the terms and conditions contained in the General Conditions appended thereto and made integral part hereof. Final payment shall be made upon completion of the work and upon submission by the Contractor of his sworn statement that all taxes due him and all obligations for materials used and labor employed in accordance with this contract have been duly paid.

ARTICLE V. RETENTION MONEY. Progress payments are subject to retention of ten percent (10%) referred to as the "retention money". Such retention shall be based on the total amount due to the Contractor prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of the work as determined by the LSU are completed. If after fifty percent (50%) completed of the work as determined by the LSU is satisfactorily done and on schedule, no additional retention shall be made on the succeeding progress payment, otherwise, the ten percent (10%) retention shall be imposed. The total retention money shall be due for release upon final acceptance of the works.

b. However, after cumulative progress payment to the Contractor amounting to at least fifty percent (50%) of the total contract price, LSU may at the written request of the CONTRACTOR release a portion of the retention money commensurate to the percentage of the work completed as determined by the LSU. Provided, that the CONTRACTOR posts an irrevocable standby letter of credit in favor of LSU to answer and substitute for the purpose of which the ten percent (10%) retention is intended. Any release of any amount of the retention money by LSU is not to be construed as waiver of LSU's right to be indemnified for damage caused by the CONTRACTOR in accordance with the provisions of Art. 20 of the New Civil Code.

The CONTRACTOR shall insure the project at his sole expense with the Government Service Insurance System (GSIS) in the joint name of the OWNER LSU and the CONTRACTOR, as their interest may appear against all losses or damages from any cause whatsoever in an amount not less than the contract price. The insurance shall become effective from the date of execution of the Basic Contract Documents until the works are finally accepted by the LSU. That the insurance premium shall be the account of the CONTRACTOR.

The LSU reserves the right for an additional contract to be awarded to the Contractor for whatever amount the latter is required to perform the same requirement. The Contractor shall be considered subject to the approval of the President of the Philippines and the availability of funds. In case of the contract, the LSU has the right and/or power to take any necessary judicial action by giving written notice to the Contractor to comply strictly with any of the terms of this contract. The Contractor hereby guarantee the works stipulated in this contract and all in the construction as well as workmanship of all its work and any violation of this warranty shall be sufficient ground for the termination of the contract.

The Contractor shall be held responsible for the performance of this contract. Should the OWNER LSU be made liable for any of the Contractor's obligations, the Contractor shall be held responsible for the same. The Contractor shall be held responsible for the performance of this contract. Should the OWNER LSU be made liable for any of the Contractor's obligations, the Contractor shall be held responsible for the same.

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under this contract and shall make good of its own account and/or its own expenses, any defect or defects of materials or workmanship which make itself/themselves evident within one (1) year after the final and full completion of the works by posting a GSIS guarantee bond of ten percent (10%) of the total contract amount. In addition, the provisions of Art. 1723 of the New Civil Code shall also apply to guarantee the work performance of the CONTRACTOR.

ARTICLE VI – PERFORMANCE BOND

In accordance with the Instruction to Bidders and General Conditions of the contract, the CONTRACTOR shall furnish and file per acceptance to LSU a Performance Bond equivalent to ten percent (10%) of the contract price in the form of cash, certified check, cashier's check, manager's check, bank draft or 10% of the contract price in the form of bank guarantee or 30% in the form of surety bond to guaranty the full and faithful performance of this Agreement to answer for any liability that maybe suffered by the LSU resulting from the violation of the CONTRACTOR of labor laws and other laws. PROVIDED, that in the event of the recession or termination of this contract for breach thereof, the bond, at the option of the OWNER LSU shall be automatically forfeited in favor of the OWNER and becomes immediately payable and collectible by LSU, otherwise, the bond shall remain and continue in full force until the aforementioned obligations as to the completion and faithful compliance of the contract, liquidated damages and cost of labor and materials shall have been duly satisfied, discharged, settled and paid by the CONTRACTOR.

ARTICLE VII – SAFEGUARDS AND WARRANTS

The CONTRACTOR shall provide and do everything necessary to perform its obligations under this contract according to the true intent and meaning of the other contract documents taken together particularly the drawings, plans and specifications, provided that the same shall be inferred therefrom, and should the CONTRACTOR find any discrepancy in the drawings, plans and specifications, he shall immediately refer the same to the Resident Engineer and/or the LSU whose decision shall be followed.

The LSU reserves the right for an additional or increase in the number of laborers or workers assigned to the construction site when in the opinion of the LSU the exigencies of the same require.

The CONTRACTOR shall be considered as an independent CONTRACTOR and as such, he assumes all obligations and liabilities arising out of the Employee's Liability Act and any other laws existing and those enacted thereafter that may affect the rights of the employees or laborers employed in the performance of this contract. Should the OWNER LSU be made liable for any of the Contractor's violation of any labor laws, the CONTRACTOR shall reimburse LSU for whatever amount the latter is required to pay to said laborers and the Performance Bond is also answerable for this contingency.

Notwithstanding any provisions of this contract, the LSU has the right and/or power to terminate the contract without necessity of judicial action by giving written notice to the CONTRACTOR upon his failure to comply strictly with any of the terms of this contract.

The contract hereby warrants that it has not given or promised to give money or gifts to any official or employee of the LSU and/or any other office, agency or instrumentality of the government to secure this contract and any violation of this warranty shall be sufficient ground for the LSU to revoke or cancel the same.

ARTICLE VIII – VENUE OF COURT ACTION


Should any court action be instituted by the LSU or CONTRACTOR arising from this contract, the parties hereby agree that the venue thereof shall be the proper court in the Province of Leyte.

IN WITNESS WHEREOF, the parties to this contract have hereunto affixed their signatures this date in the year, first above given at the bottom of this page and on the entire left margin of all pages of this Agreement.

LEYTE STATE UNIVERSITY

Visca, Baybay, Leyte

By:


PACIENCIA P. MILAN
President
OWNER

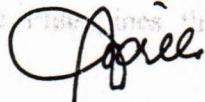
Signed in the presence of:

1. LOURDES B. CANO

AOG CONSTRUCTION

Ormoc City

By:


ERIC C. CODILLA
Contractor

2. ERLINDA S. ESGUERRA

REPUBLIC OF THE PHILIPPINES)
PROVINCE OF LEYTE) S.S.
MUN/CITY OF ORMOC)

BEFORE ME, this 31st day of December, 2003 at ORMOC CITY personally appeared Dr. Paciencia P. Milan with Community Tax Certificate No. 10363405 issued on Jan. 3, 2003 at Baybay, Leyte and Engr. Eric C. Codilla with Community Tax Certificate No. 07992606 issued on Jan. 7, 2003 at Ormoc City, known to me to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free and voluntary act and deed.

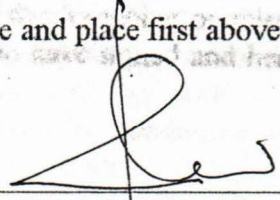
This instrument consisting of five (5) pages including this acknowledgement has been signed by the parties and their witnesses and sealed with my notarial seal.

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

ARTICLE I – CONTRACT DOCUMENTS

THAT the Invitation to Bid, General Conditions, and Contractor's Proposal, Notice of Award and Notice to Proceed, and the Contractor's Agreement to execute the contract, made integral part of the contract in so far as they are not inconsistent with the terms and conditions hereof.

Doc. No. 12
Page No. 03
Book No. 2
Series of 2003.


RUBEN R. DAPAH
NOTARY PUBLIC
UNTIL DECEMBER 31, 2003
PTR NO. 0778699
ISSUED ON 1-03-03, ORMOC CITY
TIN 167-590-149