



BEFORE THE PUBLIC UTILITIES COMMISSION OF GUAM

IN RE: PETITION FOR APPROVAL OF
GWA'S THIRD FIVE-YEAR FINANCIAL
PLAN (BASE RATE INCREASES)

GWA DOCKET 19-08

OFFER OF REBUTTAL TESTIMONY AND EXHIBIT OF BRIAN C. COLLINS

The Department of the Navy (Navy) hereby offers the attached Rebuttal Testimony
and Exhibit of Brian C. Collins on behalf of the Navy.

Dated this 5th day of November 2021.

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Christopher R. Odoca
Assistant Counsel, NAVFAC Marianas

BEFORE THE
GUAM PUBLIC UTILITIES COMMISSION



IN RE: PETITION FOR APPROVAL)
OF GWA'S THIRD FIVE-YEAR)
FINANCIAL PLAN (BASE RATE)
INCREASES))
_____)

GWA Docket 19-08

Rebuttal Testimony and Exhibit of

Brian C. Collins

On behalf of

The United States Department of the Navy

November 5, 2021

BAI
BRUBAKER & ASSOCIATES, INC.

Project 11138

BEFORE THE
GUAM PUBLIC UTILITIES COMMISSION

IN RE: PETITION FOR APPROVAL)
OF GWA'S THIRD FIVE-YEAR)
FINANCIAL PLAN (BASE RATE)
INCREASES))

GWA Docket 19-08

Rebuttal Testimony of Brian C. Collins

1 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A Brian C. Collins. My business address is 16690 Swingley Ridge Road, Suite 140,
3 Chesterfield, MO 63017.

4 Q ARE YOU THE SAME BRIAN C. COLLINS WHO PREVIOUSLY FILED
5 TESTIMONY IN THIS PROCEEDING?

6 A Yes. I filed Direct Testimony on behalf of The United States Department of the Navy
7 ("Navy") with respect to Navy's proposed wastewater rate. Navy represents the
8 Department of Defense and all other Federal Executive Agencies in this proceeding.

9 Q WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

10 A The purpose of my testimony is to respond to Georgetown Consulting Group's
11 ("GCG") panel testimony on behalf of Staff.

12 Q HAVE YOU REVIEWED GCG'S PANEL TESTIMONY?

13 A Yes.



1 **Q WHAT IS GCG'S RECOMMENDATION FOR GUAM WATERWORKS**
2 **AUTHORITY'S ("GWA") REQUESTED FY 2022 REVENUE INCREASE?**

3 **A** GCG recommends no increase in GWA's rates for FY 2022. Based on GCG's pro
4 forma analysis for GWA, it also recommends no increase in GWA's rates for FY 2023
5 and FY 2024.

6 **Q DOES GCG RECOMMEND THAT GWA SUBMIT A FY 2023 RATE FILING IN THE**
7 **EVENT GWA BELIEVES ITS RATES SHOULD BE INCREASED?**

8 **A** Yes. GCG recommends that any FY 2023 rate increase be submitted by GWA in
9 April 2022.

10 **Q DOES GCG SPECIFICALLY ADDRESS IN ITS PANEL TESTIMONY CLASS COST**
11 **OF SERVICE, CLASS REVENUE ALLOCATION, AND RATE DESIGN FOR GWA'S**
12 **PROPOSED WASTEWATER RATES FOR FY 2022?**

13 **A** No. GCG concludes that Navy's recommendation for a cost of service based
14 wastewater rate be denied and addressed in the next GWA rate filing. GCG does not
15 address class rate spread in the event GWA is granted an increase in revenue
16 requirement for FY 2022. GCG also does not address these issues for FY 2023 or
17 FY 2024.

18 **Q TO THE EXTENT GWA IS GRANTED A RATE INCREASE IN THIS PROCEEDING**
19 **FOR FY 2022, DOES GCG HAVE A SPECIFIC RECOMMENDATION FOR CLASS**
20 **COST OF SERVICE, CLASS REVENUE ALLOCATION AND RATE DESIGN?**

21 **A** No.

1 Q IF GWA IS GRANTED AN INCREASE IN THIS PROCEEDING FOR FY 2022, DO
2 YOU MAINTAIN YOUR DIRECT TESTIMONY POSITION THAT NAVY'S
3 WASTEWATER RATE BE BROUGHT TO ITS COST OF SERVICE?

4 A Yes. As indicated in my direct testimony, Navy's cost of service based wastewater
5 rate of \$12.18 per kgal at GWA's fully requested revenue increase should be adjusted
6 based on the specific level of rate increase GWA is granted.

7 Q WHY IS IT APPROPRIATE TO SET NAVY'S WASTEWATER RATE ON COST OF
8 SERVICE?

9 A It is appropriate because under the generally accepted principle of cost of service,
10 each customer class should, to the extent practicable, produce revenues equal to the
11 cost of serving that particular class, no more and no less. It is also appropriate
12 because a cost of service based wastewater rate would be consistent with the 1972
13 Utility Service Contract ("USC"), which is still effective between Navy and GWA. See
14 USC provided as Exhibit BCC-1.

15 Q PLEASE EXPLAIN WHY A COST OF SERVICE BASED WASTEWATER RATE
16 FOR NAVY IS CONSISTENT WITH THE USC.

17 A The USC requires Navy's wastewater rate to be based on cost of service. The
18 contract includes the following provision to ensure a cost of service based wastewater
19 rate for Navy at section a of Paragraph 3 of the General Provisions:

20 (a) At the request of either party to this contract with reasonable cause,
21 **the rates set forth herein shall be renegotiated based on actual**
22 **costs** and the new rates shall become effective as mutually agreed—
23 provided that any rates so negotiated shall not be in excess of rates to
24 any other customer of the Contractor under similar conditions of
25 service. (emphasis added)



1 **Q DOES THE USC REQUIRE THAT CERTAIN COSTS BE EXCLUDED FROM**
2 **NAVY'S RATE?**

3 A Yes. The USC requires Navy's wastewater rate to **exclude** any costs associated with
4 maintaining GWA laterals as well as capital improvements, additions, and
5 modifications. To the extent the residential subsidies included in Navy's proposed
6 wastewater rate include these costs, this is inconsistent with Navy's contract
7 requirements.

8 Specifically, the contract requires the following in sections c and d of
9 Paragraph 3, Change of Rates:

10 (c) In consideration of the connection charge(s) to be paid by the
11 Government pursuant to this contract, the rates set forth herein
12 **exclude any charges representing capital improvements,**
13 **additions and modifications to the sewerage system or any other**
14 **costs not normally chargeable to maintenance and operations** in
15 accordance with recognized accounting principles, and **the Contractor**
16 **agrees to exclude all such charges and costs from any new rates**
17 except as provided by mutual agreement pursuant to subparagraph (d)
18 of paragraph 7 of these General Provisions. (emphasis added)

19 (d) In consideration of the fact that the Government owns and
20 maintains its own laterals, the **rates set forth herein exclude any**
21 **charges representing the cost of maintaining Contractor-owned**
22 **laterals, and the Contractor agrees to exclude all such charges**
23 **and costs from any new rates applicable to the Government.**
24 (emphasis added)

25 **Q DOES THE USC REQUIRE THAT NAVY'S WASTEWATER RATE BE THE**
26 **LOWEST AMONG ALL CUSTOMERS RECEIVING SIMILAR SERVICE?**

27 A Yes. The USC also requires that Navy receive the lowest wastewater rate among all
28 customers receiving similar service. Under GWA's current rate tariffs and rate class
29 structure, GWA's proposed Navy, Airport, and Government classes are provided
30 wastewater service at the identical current wastewater rate (\$11.60 per kgal). The
31 proposed Navy, Airport and Government classes are currently provided wastewater

1 service as part of the same existing large wastewater customer class (Government
2 and Federal) under GWA's current wastewater rates.

3 Specifically, the contract requires the following at section e of Paragraph 1 of
4 the General Provisions:

5 (e) The Contractor hereby declares that rates are **not in excess of**
6 **the lowest rates now available to any existing or prospective**
7 **customer under like conditions of service**, and agrees that during
8 the life of this contract the Government shall continue to be billed at
9 the lowest available rate for similar conditions of service. (emphasis
10 added)

11 **Q IS GWA'S PROPOSED NAVY RATE OF \$12.80 PER KGAL CONSISTENT WITH**
12 **THE USC'S REQUIREMENTS FOR NAVY'S RATE?**

13 A No. GWA has determined Navy's cost of service rate to be \$12.18 per kgal (FY
14 2022) at GWA's fully requested revenue requirement. Notwithstanding that Navy's
15 proposed rate should be based on its cost of service per the USC's requirement,
16 GWA's proposed Navy volumetric rate of \$12.80 per kgal (FY 2022) at GWA's fully
17 requested revenue requirement is inconsistent with the USC between GWA and Navy
18 because GWA proposes a lower volumetric rate of \$12.65 per kgal (FY 2022) for the
19 new Government and Airport classes. As indicated above, the Government and
20 Airport customers, along with Navy, are currently provided wastewater service at the
21 identical class volumetric rate under GWA's present rates.



1 **Q IS IT CONSISTENT WITH THE USC TO CHARGE THE NEW AIRPORT CLASS**
2 **THE LOWER VOLUMETRIC RATE OF \$12.65 PER KGAL FOR WASTEWATER**
3 **SERVICE AS COMPARED TO GWA'S PROPOSED VOLUMETRIC RATE OF**
4 **\$12.80 PER KGAL FOR NAVY?**

5 **A** No. In terms of the USC's requirements, Navy's rate must be lower than that of other
6 customers under like conditions of service. It is inappropriate to charge the Airport
7 customers a lower rate of \$12.65 per kgal (FY 2022) as compared to Navy's rate of
8 \$12.80 per kgal (FY 2022). This is particularly troublesome in light of the cost of
9 service based wastewater rate of \$13.10 per kgal for FY 2022 as determined by GWA
10 for the new proposed Airport class.¹ Under GWA's proposed rate of \$12.65 per kgal
11 for the new Airport class for FY 2022, GWA has priced this non-residential customer
12 class's wastewater service below its calculated cost of service of \$13.10 per kgal for
13 FY 2022. In essence, GWA proposes that the Airport class receive a rate subsidy.

14 This is completely contrary to GWA's proposed treatment of Navy. GWA
15 proposes to charge Navy \$12.80 per kgal in FY 2022 for wastewater service, higher
16 than Navy's calculated cost of service of \$12.18 per kgal and higher than the
17 proposed rate of \$12.65 per kgal for the Airport and Government classes. Under
18 GWA's proposed rate for Navy, Navy pays a subsidy in excess of its cost of service.
19 As a result, GWA's proposed wastewater rate of \$12.80 per kgal for Navy is
20 inconsistent with the USC.

21 **Q DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

22 **A** Yes, it does.

¹ GWA Analytical Study #4 (May 2021), page 57, Table D-17.



I, Brian C. Collins, aver the foregoing statements are true and accurate to the best of
my knowledge,

November 5, 2021

Brian C. Collins

424471





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Doc

NAVFAC 4280/1 (7-66)
Supersedes NAVDOCKS 1337
S/N 0104-814-0000

CONTRACT N62766-72-C-0044

*Returned to us
July 19, 2016*

PUBLIC UTILITY AGENCY
GOVERNMENT OF GUAM
(Contractor)

UTILITY SERVICE CONTRACT
NAVAL FACILITIES, CENTRAL AND NORTHERN
DISTRICTS, GOV GUAM INTEGRATED SEWERAGE
SYSTEM, GUAM, M.I.



NAVAL FACILITIES ENGINEERING COMMAND
DEPARTMENT OF THE NAVY
WASHINGTON, D.C.

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UTILITY SERVICE CONTRACT

Department of the Navy Contract N62766-72-C-0044

Premises to be served: Naval facilities in the Central and Northern
Districts of the GOVGUAM Integrated Sewerage
System, Guam

Contractor: Public Utility Agency of Guam

Contractor's Address: Post Office Box 3010
Agana, Guam 96910

Bills will be rendered monthly in five copies to Public Works Center at
Building 100, Naval Station, Guam. Payments will be made by Navy Finance
Office at Naval Station, Guam.

Estimated cost for service: See paragraph 2 of the General Provisions.

Connection charge: \$900,000 for the Central District, and an
amount to be agreed upon between the parties
for the Northern District in accordance with
paragraph 7 of the General Provisions.

Appropriations
chargeable: For service:
Various appropriations based on distribution
to appropriations ultimately chargeable on
invoices, public vouchers, or other instruments
as may be directed by the Officer in Charge of
this contract when submitted to the Navy
Finance Office for payment.

For connection charge for the Central District:
17 x 1205.25 x 3

For connection charge for the Northern District:
To be determined.

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This contract is negotiated pursuant to 10 U.S.C. 2304(a)(10). THIS CONTRACT is entered into effective as of 1 July 1972 by and between the UNITED STATES OF AMERICA, hereinafter called the Government, represented by the Contracting Officer executing this contract, and the Public Utility Agency of Guam, an Agency of the Government of Guam, whose address is Post Office Box 3010, Agana, Guam 96910, hereinafter called the Contractor.

I. SCOPE. Subject to the terms and conditions hereinafter set forth, the Contractor shall furnish, and the Government shall purchase and receive, sewerage service (hereinafter called service) requested by the Government from the Contractor at the premises to be served hereunder (hereinafter called the service locations), in accordance with the Technical and General Provisions and the Sewerage Service Specifications attached hereto and made a part hereof.

II. TERM. This contract shall continue in effect until terminated at the option of the Government by the giving of written notice not less than 30 days in advance of the effective date of termination.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

GOVERNMENT OF GUAM
BY *John T. San Agustin*
JOHN T. SAN AGUSTIN
Chief Officer
Public Utility Agency of Guam

UNITED STATES OF AMERICA
BY *Robert M. Sutley*
ROBERT M. SUTLEY
CAPT, CEC, USN
Contract Officer

Date DEC 12 1972

Date 5 Jan 73

Approved *Carlos G. Canacho*
CARLOS G. CANACHO
Governor of Guam

Date DEC 28 1972

APPROVED AS TO FORM

Richard D. Magee
RICHARD D. MAGEE, Acting
Attorney General

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TECHNICAL AND GENERAL PROVISIONS FOR UTILITY SERVICE

I. TECHNICAL PROVISIONS

1. MEASUREMENT OF SERVICE

(a) All service furnished by the Contractor shall be measured by mutually acceptable methods and at mutually agreed upon points of measurement. Such methods may include, but not necessarily be limited to, 80 percent of metered water consumption, not to exceed 100 gallons per capita per day, average population times mutually agreed upon usage factors, hours of pumping times pumping capacity, measurement by suitable portable metering equipment, and measurement by installed metering equipment of standard manufacture. In the case measurement by hours of pumping times pump capacity or by portable metering equipment, the sewage flow shall be measured for a minimum of seven consecutive days and the average daily flow thus measured may be used for the current billing period and the following two billing periods. Upon receipt of reasonable notice from the Contractor, the Government shall provide at the expense of the Government a suitable facility for the Contractor's permanently installed sewage metering equipment. All sewage metering equipment shall be furnished, installed, maintained, calibrated, and read by the Contractor at the Contractor's expense.

(b) In the event that any meter fails to register or registers incorrectly, the quantity of service delivered through it during that period shall be determined and an equitable adjustment based thereon shall be made in the Government's bills (for this purpose any meter which registers not more than two (2) percent slow or fast shall be deemed correct). Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) The Contractor shall read all meters at periodic intervals of approximately thirty (30) days.

2. METER TEST

The Contractor, at his expense shall periodically inspect and test the meters installed by him, at intervals of no longer than one (1) year. At the written request of the Contracting Officer, the Contractor, in the presence of Government representatives, shall make additional tests of any or all meters. The cost of such additional tests shall be borne by the Government if the percentage of error is found to be not more than two (2) percent slow or fast. No meter shall be placed in service which on test registers in excess of one hundred (100) percent under normal operating conditions.

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II. GENERAL PROVISIONS

1. PAYMENT FOR SERVICE

(a) The Contractor shall be paid by the designated disbursing officer for service furnished hereunder at the rates specified.

(b) Payments hereunder shall be contingent upon the availability of appropriations therefor, and shall not be made in advance of the service rendered.

(c) All bills for service shall be paid without penalty or interest and the Government shall be entitled to any discounts customarily applicable to payment of bills by all customers of the Contractor.

(d) Invoices for service rendered hereunder shall contain statements of the meter readings at the beginning of the billing period, meter constants, consumption during the billing period, and such other pertinent data for each service location as shall be required by the Government.

(e) The Contractor hereby declares that rates are not in excess of the lowest rates now available to any existing or prospective customer under like conditions of service, and agrees that during the life of this contract the Government shall continue to be billed at the lowest available rate for similar conditions of service.

2. RATES AND CHARGES FOR SERVICE

For all service furnished under this contract to the service location the Government shall pay the Contractor at the rate of \$.02 per thousand gallons of sewage for which the Contractor provides less than full primary treatment, and \$.03 per thousand gallons of sewage for which the Contractor provides full primary treatment. There shall be no minimum monthly charge and no charge for any service furnished prior to 1 July 1972.

3. CHANGE OF RATES

(a) At the request of either party to this contract with reasonable cause, the rates set forth herein shall be renegotiated based on actual costs and the new rates shall become effective as mutually agreed --provided that any rates so negotiated shall not be in excess of rates to any other customer of the Contractor under similar conditions of service.

(b) No increase shall be requested in the contract rate unless the Contractor has placed into effect a general rate increase to all of his customers under similar conditions of service. If the Contractor has placed into effect a general rate decrease, a corresponding decrease in the contract rate shall be made.

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(c) In consideration of the connection charge(s) to be paid by the Government pursuant to this contract, the rates set forth herein exclude any charges representing capital improvements, additions and modifications to the sewerage system or any other costs not normally chargeable to maintenance and operations in accordance with recognized accounting principles, and the Contractor agrees to exclude all such charges and costs from any new rates except as provided by mutual agreement pursuant to subparagraph (d) of paragraph 7 of these General Provisions.

(d) In consideration of the fact that the Government owns and maintains its own laterals, the rates set forth herein exclude any charges representing the cost of maintaining Contractor-owned laterals, and the Contractor agrees to exclude all such charges and costs from any new rates applicable to the Government.

(e) The Contractor shall maintain expense and operating records so as to separate charges for capital improvements and lateral maintenance as described in subparagraphs (c) and (d) above. All pertinent records shall be available for Government review.

4. CHANGE IN VOLUME OR CHARACTER OF SERVICE

The Contracting Officer shall give reasonable notice to the Contractor respecting any material changes anticipated in the volume or characteristics of the utility service required at each location.

5. CONTINUITY OF SERVICE AND CONSUMPTION

The Contractor shall use reasonable diligence to provide a regular and uninterrupted supply of service at the service location, but shall not be liable to the Government for damages, breach of contract, or otherwise, for failure, suspension, diminution, or other variations of service occasioned by any cause beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, act of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, or failure or breakdown of transmission or other facilities.

6. CONTRACTOR'S FACILITIES

(a) As provided in paragraph 7(a) below, title of specified Government owned sewers is to be transferred to the Contractor. The Contractor, at his expense, shall furnish, install, operate, and maintain all facilities required to furnish service hereunder to, and to measure the service at, the point of delivery specified in the Utility Service Specifications. Title to all of these facilities shall remain in the Contractor and he shall be responsible for all loss of or damage to those facilities

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except that arising out of the fault or negligence of the Government, its agents or its employees. All taxes and other charges in connection therewith, together with all liability arising out of the negligence of the Contractor in the construction, operation, or maintenance of these facilities, shall be assumed by the Contractor.

The Contractor will be responsible for the cost of the facilities.
(b) The Government hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations specified in this contract, a revocable permit to enter the service location for any proper purpose under this contract, including use of the site or sites agreed upon by the parties hereto for the installation, operation, and maintenance of the facilities of the Contractor required to be located upon Government premises. Authorized representatives of the Contractor will be allowed access to the facilities of the Contractor at suitable times to perform the obligations of the Contractor with respect to these facilities. It is expressly understood that the Government may limit or restrict the right of access herein granted in any manner considered to be necessary for the national security.

(c) The facilities shall be removed and Government premises restored to their original condition, ordinary wear and tear excepted, by the Contractor at his expense within a reasonable time after the Government shall revoke the permit herein granted and in any event within a reasonable time after termination of this contract, provided, that in the event of termination due to fault of the Contractor these facilities may be retained in place at the option of the Government until service comparable to that provided for hereunder is obtained elsewhere.

(d) In consideration of the construction by the Government of the 30-inch Finegayan Interceptor Sewer as shown on Exhibit "B" for use as part of the Integrated Sewerage System, the Department of the Navy in accordance with subparagraph (e) below, toward the connection charges specified in paragraph 7(b), of these General Provisions; provided, however, that in no event may the Department of the Navy apply more than \$482,000 of this credit toward the \$900,000 connection charge specified in subparagraph (a) of said paragraph 7. Any credit beyond \$482,000 shall be applied to the Northern District Connection Charge.

(e) The total referred to in subparagraph (d) above shall be the amount of the total cost of the 30-inch Finegayan Interceptor Sewer minus the Navy's proportional share of said costs based on the ratio of the Navy's proportional share of said costs based on the ratio of the estimated ultimate average daily flows from all Naval facilities (or the successors or assigns of the Department of the Navy) connected to the Northern District treatment plant, to the total estimated ultimate average daily flows from all sources connected to said treatment plant. Said estimated ultimate flows shall be agreed upon by the parties as soon as practicable after all costs for the 30-inch Finegayan Interceptor Sewer are known. As used in this agreement the term "estimated ultimate average daily flow" shall be that flow designed and constructed as the current capital improvement program.

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(f) Any connections by the Contractor to sewer lines which were constructed solely for Government use shall be on an agreed-upon reimbursable basis. If it is determined that the government-owned line from the South Finegayan housing area to the Dededo Interceptor can be utilized as a part of the integrated system, the Government shall receive fair value credit or reimbursement towards their proportional share of the Northern District connection charge.

7. CONNECTION CHARGE(S)

(a) Charge for the Central District. In consideration of the furnishing and installation by the Contractor at his expense of (1) the existing facilities required to provide service which were funded by monies appropriated pursuant to Public Law 88-170, and others and (2) the new facilities required to provide full primary treatment in the Central District, the Government shall pay the Contractor, in the manner and subject to the conditions and credits herein provided, the sum of \$900,000 as a connection charge for the Central District, \$525,000 for existing facilities and \$375,000 for the treatment plant. Contractor joint-use sewers as shown in Exhibit A including the Dededo Interceptor sewer have an estimated value of \$330,000. Transferring ownership of these sewers to the Contractor and the Government obtaining a credit therefore establishes \$525,000 as the net amount of the connection charge as the Government's share of the existing facilities in the Central District.

(b) Charges for the Northern District. In the consideration of the furnishing and installation by the Contractor at his expense of the new facilities required to provide service and full primary treatment in the Northern District, the Government shall pay the Contractor, in the manner and subject to the conditions and credits herein provided, an amount to be agreed upon by the parties as a connection charge for the Northern District. The agreed amount not to exceed \$1.2 million, shall be the Navy's proportional share of the cost of the outfall, treatment plant, pumping stations and Interceptor lines in the Northern District sewerage system based on their total actual costs and the ratio of the ultimate average daily flows from all Naval facilities (or the successors or assigns of the Department of the Navy) connected to the Northern District treatment plant, to the total ultimate average daily flows from all sources connected to said treatment plant, as estimated at the time of said agreement. If the Navy's proportional share exceeds \$1.2 million the Government shall have the right, separately or in combination, to reduce its reserve capacity in the system or make up the difference, all or in part, with credit or additional funds, if available. There shall be no obligation on the part of the Government to pay all or any portion of this connection charge unless and until funds have been appropriated and authorizations, as necessary, have been obtained.

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(c) Payment

(1) Of the total amount of \$900,000 representing the Government's obligation for connection charges for the Central District as provided for in subparagraph (a) above, the sum of \$525,000 will be payable upon execution of this agreement. The balance of \$375,000 covering the construction of new facilities in the Central District will be payable as set forth in subparagraph (2) below.

(2) The Government will make progress payments of the applicable connection charge monthly as the work proceeds on construction of the Central District sewerage treatment plant, and on construction of the Northern District sewerage system serving Government facilities, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total construction contract prices showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the construction contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract and (2) if the Contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized on the work covered by the contract.

(3) In making such progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Government, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate building, public works, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefor without retention of a percentage. Where the time originally specified for completion of the contract exceeds one year, the Contracting Officer, at any time after 50 percent of the work has been completed, if he finds that satisfactory progress is being made, may reduce the total amount retained from progress payments to an amount not less than 10 percent of the estimated value of the work remaining to be done under the contract or 1-1/2 percent of the total contract amount, whichever is the higher. In computing the total contract amount, for the purposes of the preceding sentence, the contract amount for any separate building, public work, or other division of the contract on which the price is stated separately in the contract and on which payment has been made in full, including retained percentage thereon under this clause shall be excluded.

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(4) Upon completion and acceptance of all work, the amount due the Contractor under this contract shall be paid upon the presentation of a properly executed voucher and after the Contractor shall have furnished the Government with a release, if required, of all claims against the Government arising by virtue of this contract. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), a release may also be required of the assignee.

(d) After payment of the applicable connection charge, the Department of the Navy shall not be liable for any charges representing capital improvements, additions and modifications to the sewerage system in that district or any other costs not normally chargeable to maintenance and operations in accordance with recognized accounting principles, except such charges for:

(1) Capital improvements, additions and modifications to the sewerage system required solely to provide greater than primary treatment for sewage from Naval facilities, or

(2) Providing service to Naval facilities (or the successors or assigns of the Department of the Navy) in excess of an average flow of 3.353 million gallons of sewage per day for such service locations connected to the Central District treatment plant and an average flow of 1.250 million gallons of sewage per day for such service locations connected to the Northern District treatment plant; or

(3) Replacement of major portions of the sewerage system providing service to Naval facilities; provided, however, that except as stipulated in subparagraph (2) above, the Department of the Navy shall not be liable for any replacements which increase the capacity of the system.

In the event the Contractor considers it necessary to incur costs in the category of (1), (2), or (3) above and desires to charge all or any portion thereof to the Government, he shall first notify the Government and reach a mutual agreement in writing as to the amount and manner of payment of such charge either as an additional connection charge, an increase in the rate for service, or other agreed upon method, and the Government shall be under no obligation to pay unless and until this is done.

(e) The connection charge specified is in lieu of any other payments required by law, regulation, or previous agreement, if any, and, except as provided in subparagraph (d) above, shall constitute full, complete and final payment of the Department of the Navy's contribution to the Contractor for the capital costs of the applicable sewerage system. In the consideration thereof and the use of Government-owned facilities as provided in subparagraph (d) of paragraph 6 of these General Provisions, the Contractor will reserve capacity for and provide sewage service to the Naval facilities (or the successors or assigns of the Department of the Navy) in that district at the rates and charges herein provided, regardless

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of the number and location of the physical connections made, provided that the total sewage from such service locations does not exceed an average of 3.353 million gallons per day for the Central District and an average of 1.250 million gallons per day for the Northern District.

(f) Service locations shall be served by the treatment plant in the district in which the service locations are geographically located, except that service locations in the Northern District shall be connected to the Central District treatment plant and shall, for the purposes of this contract, be considered as within the Central District until such time as the Northern District treatment plant is constructed and in operation. The boundaries of the Central District and the Northern District and the approximate location of their treatment plants are shown on the attached drawing designated Sheet 2 of 2, Exhibit "C".

(g) Notwithstanding any other provision of this contract, the Government shall be responsible at its expense for making all future physical connections of the service locations to the Contractor's sewer lines at the points of delivery.

(h) Ownership, Operation, and Maintenance of New Facilities. Notwithstanding the payment by the Government of a connection charge, the facilities to be supplied by the Contractor under this contract shall remain the property of the Contractor and, at all times during the life of this contract or any renewals thereof, shall be operated and maintained by the Contractor at his expense.

(i) Termination Prior to Completion of Facilities. The Government reserves the right to terminate this contract at any time prior to completion of the facilities provided for herein with respect to which the Government is to pay a connection charge. In the event the Government exercises this right, the Contractor shall be paid fair compensation, exclusive of profit, with respect to those facilities.

8. MULTIPLE SERVICE LOCATIONS

By written order, the Contracting Officer may at any time designate any service location within the Central District or Northern District service area of the Contractor at which service shall be furnished or discontinued thereunder, and the contract shall be modified in writing accordingly by adding to or deleting from the service specifications the name and location, of appropriate service location by specifying a different point of delivery, and any other appropriate terms and conditions.

9. DEFINITIONS (1962 FEB)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Head of the Agency" or "Secretary" means the

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Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Head of the Agency or the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

10. ASSIGNMENT OF CLAIMS (1962 FEB)

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating \$1,000 or more, claims for monies due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to an assignee of any monies due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or set-off.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret" or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

11. DISPUTES (1958 JAN)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer

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shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: provided, that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(c) The provisions of (a) above shall not apply to disputes which are subject to the jurisdiction of a Federal, State, or other appropriate regulatory body. The provisions of (a) above shall also be subject to the requirements of the law with respect to the rendering of utility services and the collection of regulated rates. (1968 SEP)

12. OFFICIALS NOT TO BENEFIT (1949 JUL)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

13. COVENANT AGAINST CONTINGENT FEES (1958 JAN)

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

14. EXAMINATION OF RECORDS BY COMPTROLLER GENERAL (1971 MAR)

(a) This clause is applicable if the amount of this contract exceeds \$2,500 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

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(b) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding \$2,500 (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above for records which relate to (i) appeals under the "Disputes" clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of.

15. GRATUITIES (1952 MAR)

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly

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authorized representative) which shall not be less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

16. CONVICT LABOR (1949 MAR)

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

17. CONTRACT WORK HOURS STANDARDS ACT - OVERTIME COMPENSATION (JUN 1964)

This contract, to the extent that it is of a character specified in the Contract Work Hours Standards Act (40 U.S.C. 327-330), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours Standard Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of his standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or

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subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract.

18. EQUAL OPPORTUNITY (1971 APR)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules

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regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

19. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (1970 JAN)

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because:

- (i) the Contractor furnished cost or pricing data which was not complete, accurate and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;
- (ii) a subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data - Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not complete, accurate and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;
- (iii) a subcontractor or prospective subcontractor furnished cost or pricing data which was required to be complete, accurate and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not complete, accurate and current as of

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the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(iv) the Contractor or a subcontractor or prospective subcontractor furnished any data, not within (i), (ii), or (iii) above, which was not accurate as submitted; the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided the actual subcontract price was not affected by defective cost or pricing data.

NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor and the subcontractor, provided that they are consistent with ASPR 23-203 relating to Disputes provisions in subcontracts. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontracts.

20. AUDIT BY DEPARTMENT OF DEFENSE (1971 APR)

(a) General. The Contracting Officer or his representatives shall have the audit and inspection rights described in the applicable paragraphs (b), (c) and (d) below.

(b) Examination of Costs. If this is a cost reimbursement type, incentive, time and materials, labor hour, or price redeterminable contract, or any combination thereof, the Contractor shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

(c) Cost or Pricing Data. If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are

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employees of the United States Government shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation, pricing or performance of such contract, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding \$100,000 for formally advertised contracts, the Comptroller General of the United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(d) Reports. If the Contractor is required to furnish Cost Information Reports (CIR) or Contract Fund Status Reports (CFSR), the Contracting Officer or his representatives shall have the right to examine books, records, documents, and supporting materials, for the purpose of evaluating (i) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports and (ii) the data reported.

(e) Availability. The materials described in (b), (c) and (d) above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit, or reproduction, until the expiration of three years from the date of final payment under this contract or such lesser time specified in Appendix M of the Armed Services Procurement Regulation, and for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (1) and (2) below:

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.

(2) Records which relate to appeals under the "Disputes" clause of this contract, or litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of.

(f) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (f), in all subcontracts hereinafter, except altered as necessary for proper identification of the contracting parties and the Contracting Officer under the Government prime contract.

21. SUBCONTRACTOR COST OR PRICING DATA (1970 JAN)

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed \$100,000 when

entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds \$100,000 when entered into except where the price thereof is based on adequate price competition established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of \$100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST OR PRICING DATA-PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to award of any subcontract, the amount of which is expected to exceed \$100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

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(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds \$100,000 when entered into.

22. SUPERSEDED CONTRACT

The Contractor and the Government mutually agree that on the effective date of this contract, the Memorandum of Understanding between the Commander, Naval Forces Marianas and the Governor of Guam concerning Operation of Sewerage Lines on Guam entered into as of the 8th day of June 1965 is hereby superseded and terminated without penalty to either party. The Contractor agrees to unconditionally waive any claim against the Government by reason of such termination. The Department of the Navy and the Contractor further agree that if there are any discrepancies between the provisions of this contract and their rights and liabilities under paragraph (c) entitled Sewer System of Article 3 of the Agreement between the Department of the Navy and the Department of the Interior with respect to the transfer of responsibility for the administration of the Government of Guam dated 1 July 1956, the provisions of this contract shall prevail.

23. CONFLICTS

To the extent of any inconsistency between the provisions of this contract, and the provisions of any schedule, rider, or exhibit incorporated in this contract by reference or otherwise, the provisions of this contract shall control.

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SEWERAGE SERVICE SPECIFICATIONS

1. SPECIFIED PREMISES TO BE SERVED/ESTIMATED SERVICE (See Exhibit C)

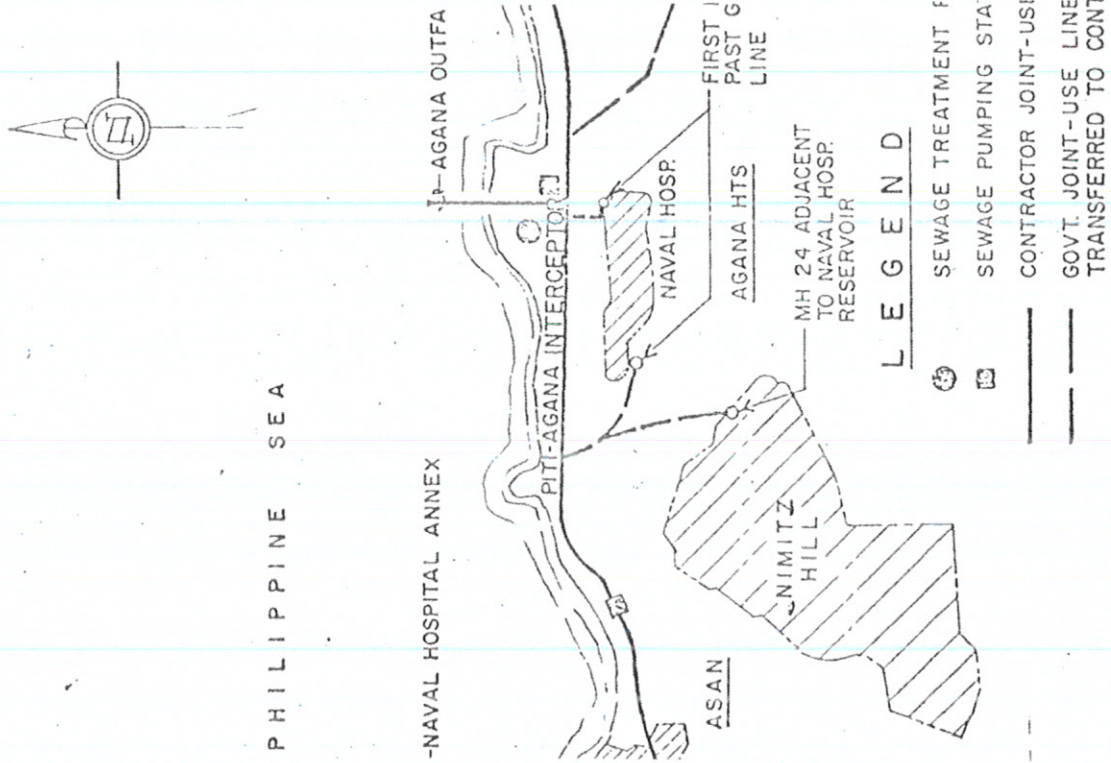
<u>Service Locations</u>	<u>Estimated Service Requirements</u>	
	<u>Current</u>	<u>Ultimate (1)</u>
a. NCS Finegayan	0.632 MGD	0.682 MGD
b. Finegayan Housing	0.168 MGD	0.568 MGD
NORTHERN DISTRICT SUBTOTAL	0.800 MGD	1.250 MGD
c. NCS Barrigada	None	0.020 MGD
d. NAS Agana	1.000 MGD	1.500 MGD
e. Naval Hospital	0.850 MGD	1.275 MGD
f. Nimitz Hill	0.220 MGD	0.330 MGD
g. Naval Hospital Annex (Asan)	0.143 MGD	0.214 MGD
h. Piti Area	0.008 MGD	0.014 MGD
CENTRAL DISTRICT SUBTOTAL	2.221 MGD	3.353 MGD
TOTAL	3.021 MGD	4.603 MGD

(The Government is in no way obligated to use nor is it restricted to the above estimated service requirements.)

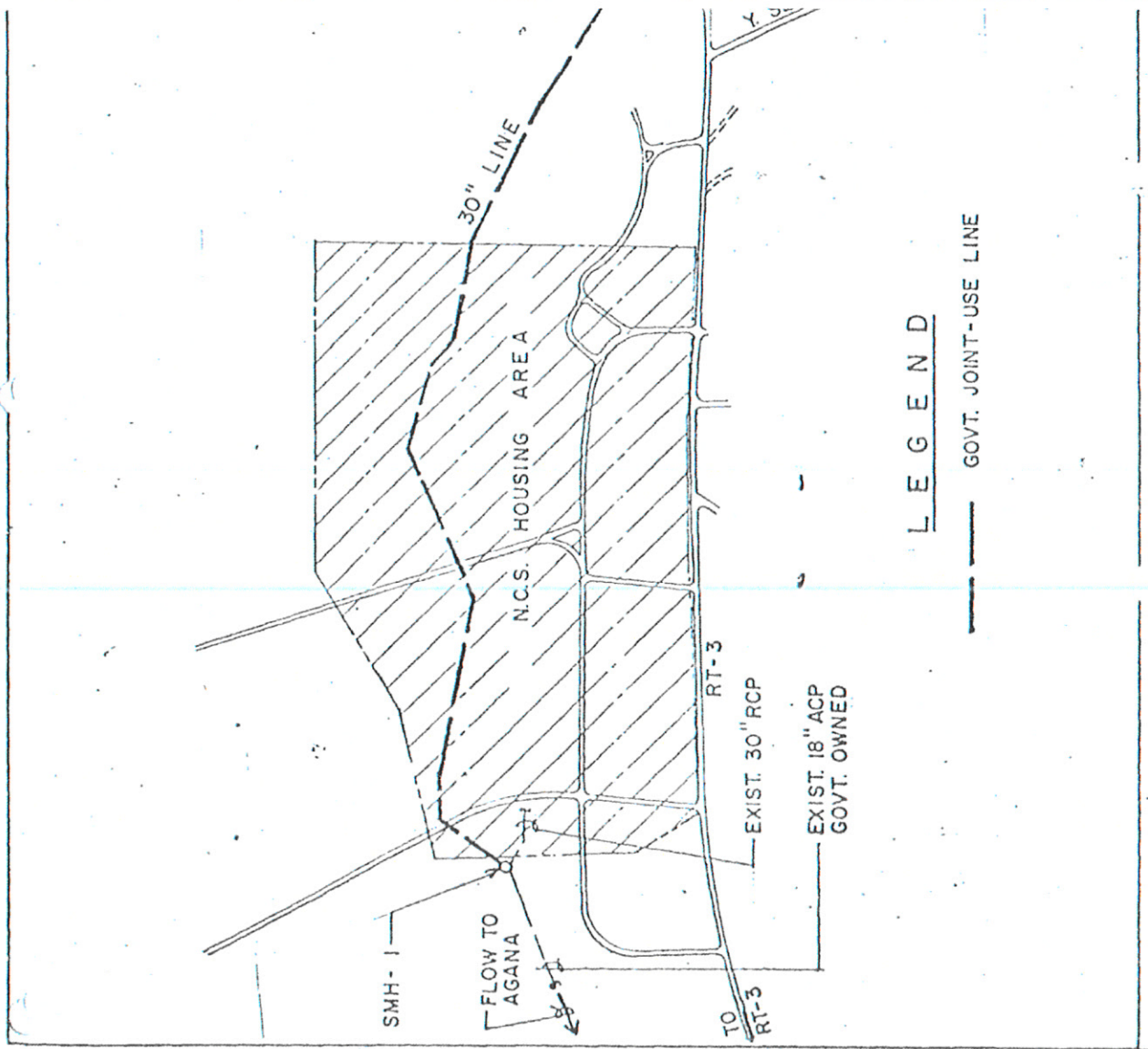
2. SERVICE TO BE RENDERED. The Contractor shall furnish a sanitary sewer connection and sanitary sewerage service as required by the Government and shall receive, carry, treat and dispose of all sanitary sewage originating at the project in such amounts as the government desires to release into Contractor's sewer system and in a manner and by such means as will constitute no hazard to the public health. The Contractor shall operate his sewage disposal and treatment facilities in conformity with applicable laws, rules, and regulations promulgated by Federal, state and local authorities.

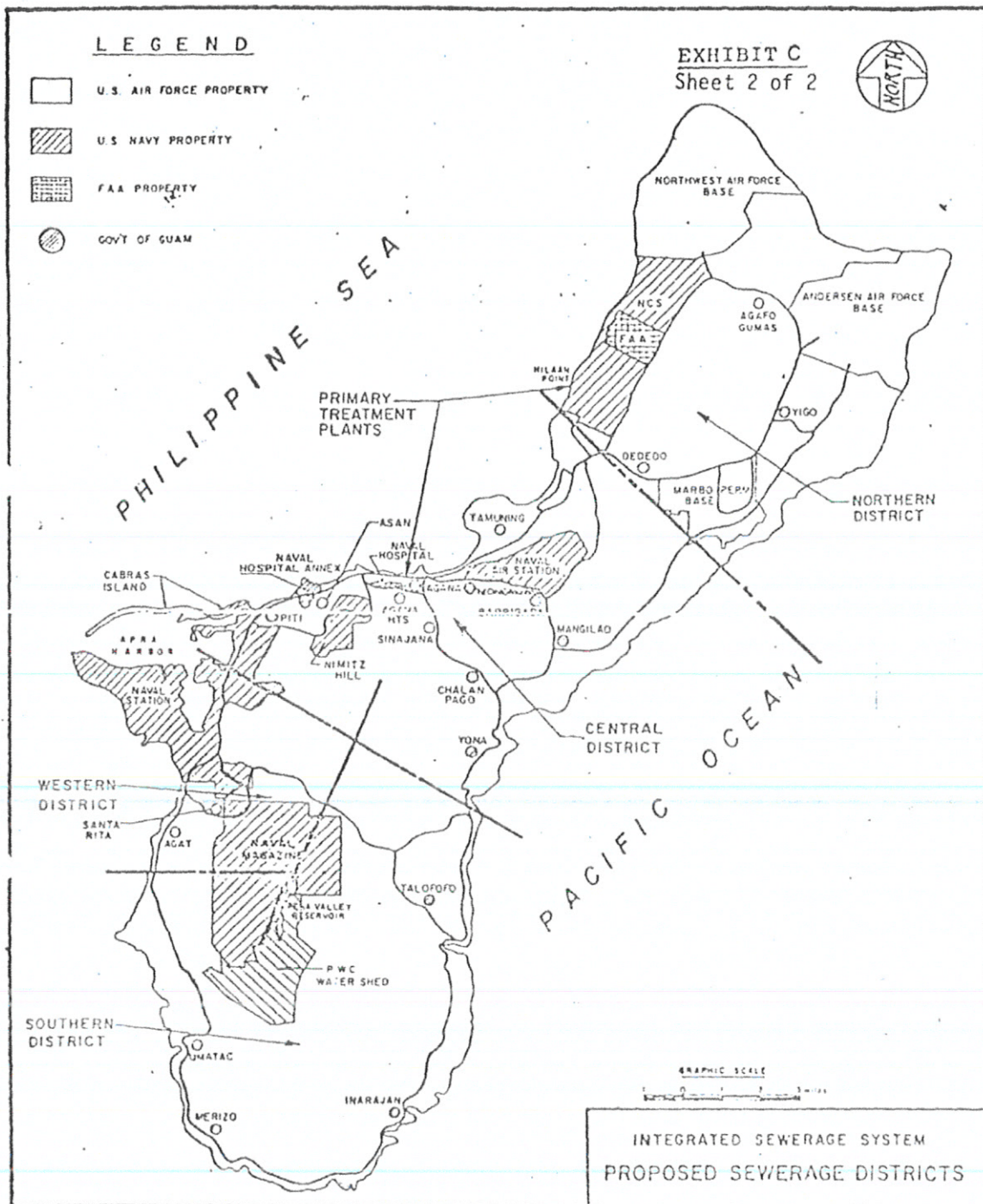
3. POINT OF DELIVERY. The sewage shall be delivered to the Contractor by the Government through Government owned and maintained sewer lines to the Contractor's sewer line nearest to each service location, or through other lines by mutual agreement.

(1) "Estimated ultimate average daily flow" as specified in scope of work for Contract N62766-72-0091.

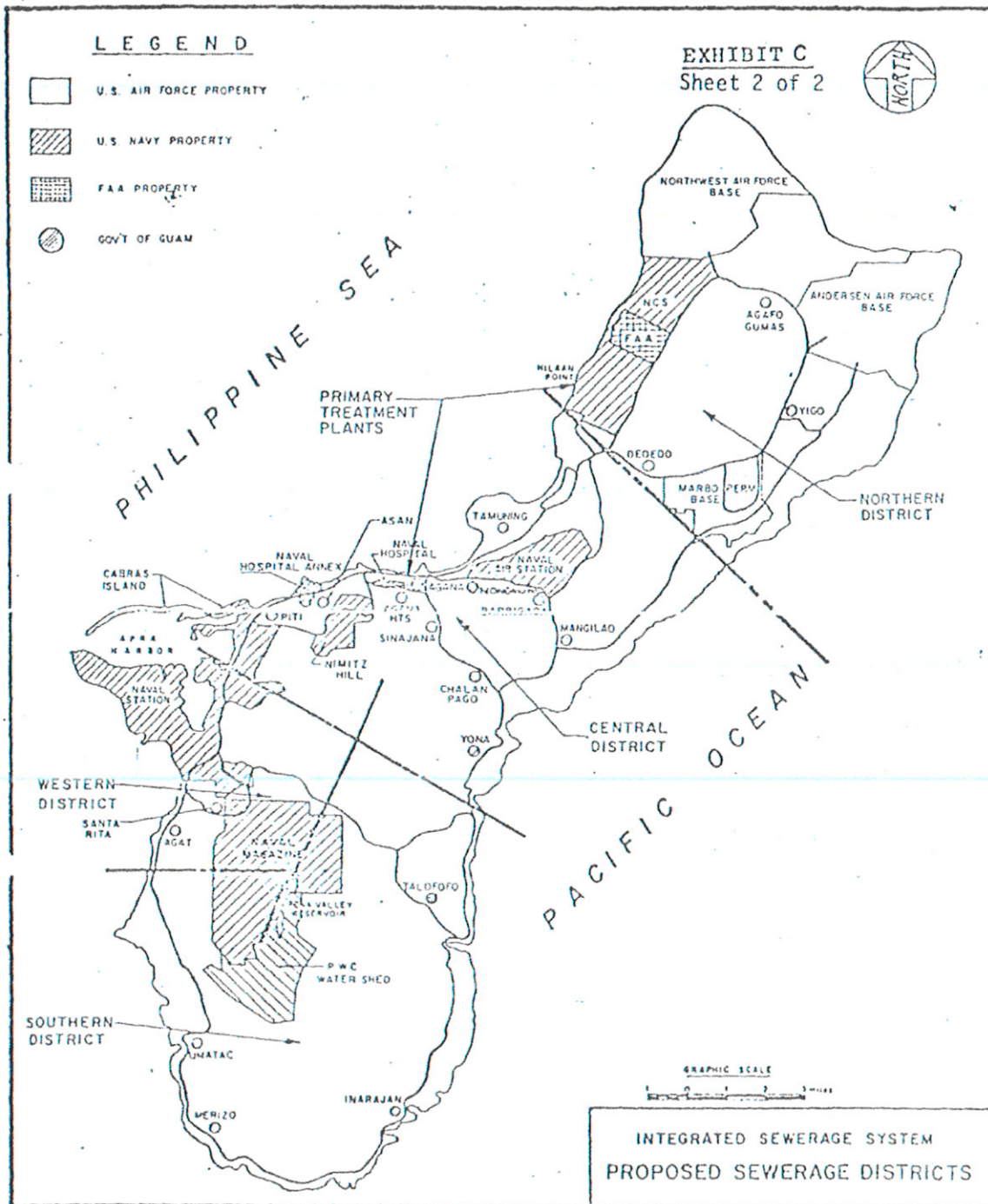


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DETERMINATION AND FINDINGS

Upon the basis of the following findings and determinations which I hereby make for the Commander, Naval Facilities Engineering Command, Contracting Officer, negotiation, without formal advertising of Contract N62766-72-C-0044 with Government of Guam, is authorized under the provisions of 10 USC 2304(a) (10).

FINDINGS

a. Requirement. Sanitary sewage disposal service requirements for Naval installations on the central and northwestern sections of Guam, Mariana Islands are as follows:

	<u>Current</u>	<u>Future</u>
Nimitz Hill	0.220 MGD	0.330 MGD
NCS Finegayan	0.632 MGD	0.682 MGD
Finegayan Housing	0.168 MGD	0.568 MGD
NCS Barrigada	None	0.020 MGD
NAS Agana	1.000 MGD	1.500 MGD
Naval Hospital	0.850 MGD	1.275 MGD
Naval Hospital Annex (Asan)	0.143 MGD	0.214 MGD
Piti Area	0.008 MGD	0.014 MGD
Total	3.021 MGD	4.603 MGD

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STANDARD FORM 30, JULY 1966 GENERAL SERVICES ADMINISTRATION FED. REG.										AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT										PAGE 1 OF 1	
1. AMENDMENT/MODIFICATION NO. Administrative Change #1					2. EFFECTIVE DATE 022/da					3. REQUISITION/PURCHASE REQUEST NO. N/A					4. PROJECT NO. (If applicable)						
ISSUED BY Officer in Charge of Construction Naval Facilities Engineering Command Contracts, Marianas FPO San Francisco 96630					CODE 022/da					6. ADMINISTERED BY (If other than block 5) Doc					CODE						
7. CONTRACTOR NAME AND ADDRESS Public Utility Agency Government of Guam Post Office Box 3010 Agana, Guam 96910					FACILITY CODE					8. AMENDMENT OF SOLICITATION NO. DATED _____ (See block 9)					MODIFICATION OF CONTRACT/ORDER NO. N62766-72-C-0044 DATED 73 Jan 5 (See block 11)						
<p>9. THIS BLOCK APPLIES ONLY TO AMENDMENTS OF SOLICITATIONS</p> <p><input type="checkbox"/> The above numbered solicitation is amended as set forth in block 12. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation, or as amended, by one of the following methods:</p> <p>(a) By signing and returning _____ copies of this amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE ISSUING OFFICE PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If, by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided such telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>																					
10. Appropriation and Subhead		Obj. Cl.		Bureau Cont. No.		Sub. Alloc.		Authorization Acct'g Act's		Trans. Type		Property Acct'g Act's		Country		Cost Code		Amount			
<p>11. THIS BLOCK APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS</p> <p>(a) <input type="checkbox"/> This Change Order is issued pursuant to _____ The Changes set forth in block 12 are made to the above numbered contract/order.</p> <p>(b) <input checked="" type="checkbox"/> The above numbered contract/order is modified to reflect the administrative changes _____, as changes in paying office, appropriation data, etc.) set forth in block 12.</p> <p>(c) <input type="checkbox"/> This Supplemental Agreement is entered into pursuant to authority of _____ It modifies the above numbered contract as set forth in block 12.</p>																					
<p>12. DESCRIPTION OF AMENDMENT/MODIFICATION</p> <p style="text-align: center;">to Contract N62766-72-C-0044, Utility Service Contract Naval Facilities, Central and Northern Districts, Government of Guam Integrated Sewage System, Guam, M. I.</p> <p style="text-align: center;">The title "Contract Officer" appearing on page 2, Contract N62766-72-C-0044 is changed to "For Commander Naval Facilities Engineering Command Contracting Officer"</p>																					
<p>as provided herein, all terms and conditions of the document referenced in block 8, as heretofore changed, remain unchanged and in full force and effect.</p> <p><input checked="" type="checkbox"/> CONTRACTOR/OFFEROR IS NOT REQUIRED TO SIGN THIS DOCUMENT <input type="checkbox"/> CONTRACTOR/OFFEROR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE</p>																					
14. NAME OF CONTRACTOR/OFFEROR For Commander Naval Facilities Engineering Command										17. UNITED STATES OF AMERICA For Commander Naval Facilities Engineering Command											
BY _____ (Signature of person authorized to sign)										BY _____ (Signature of Contracting Officer)											
15. NAME AND TITLE OF SIGNER (Type or print)										18. NAME OF CONTRACTING OFFICER (Type or print)											
16. DATE SIGNED										19. DATE SIGNED											

DUPLICATE ORIGINAL

REPRODUCED AT GOVERNMENT EXPENSE

Standard Form No. 1016—Revised
Form prescribed by
Comptroller General, U. S.
September 18, 1950
(Gen. Reg. No. 51, Supp. No. 12)

STATEMENT AND CERTIFICATE OF AWARD

No. N62766-72-C-0044

(Contract)

Date 5 January 1973

Department of the Navy

(Department or establishment)

Naval Facilities
Engineering Command

(Bureau or office)

Officer in Charge of
Construction, Marianas

(Location)

METHOD OF OR ABSENCE OF ADVERTISING

METHOD OF ADVERTISING

1. By advertising in newspapers. Yes ☐ No ☐
2. (a) By advertising in circular letters sent to dealers.
(b) And by notices posted in public places. Yes ☐ No ☐

(If notices were not posted in addition to advertising by circular letters sent to dealers, explanation of such omission must be made below.)

ABSENCE OF ADVERTISING

Without advertising in accordance with 10 U.S.C. 2304 (a) (10)

(Cite law pursuant to which contract was negotiated and the applicable section and paragraph thereof. If contract was negotiated under a public exigency which would not admit of the delay incident to advertising, or because of it being impracticable to secure competition, state below or on the reverse hereof, the circumstances requiring negotiation.)

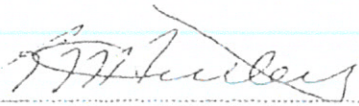
AWARD OF CONTRACT

- | | Yes | No |
|--|--------------------------|--------------------------|
| A. To lowest bidder as to price (Expenditures) | <input type="checkbox"/> | <input type="checkbox"/> |
| B. To highest bidder as to price (Receipts) | <input type="checkbox"/> | <input type="checkbox"/> |

CERTIFICATE

I CERTIFY that the foregoing statement is true and correct; that the written findings required by law to be submitted with the contract in case of negotiation, upon a determination by the agency head or other authorized official that such method of contracting is necessary, are attached thereto; that the total number of bids received is, and that where lower bids (expenditure contracts) or higher bids (receipt contracts) as to price were received, a statement of reasons for their rejection, together with an abstract of bids received, including all lower than that accepted in case of expenditure contracts and all higher in case of receipt contracts, is given below or on the reverse hereof or on a separate sheet attached hereto; that the articles or services covered by the agreement (expenditure) are necessary for the public service; and that the prices charged are just and reasonable.

Sole Source negotiation required because Government of Guam is the only supplier of this service on the Island of Guam, and competition is impracticable.


(Signature of contracting officer)

R. M. SUTLEY
CAPT, CEC, USN

For Commander
Naval Facilities
Engineering Command
Contracting Officer
(Title)

NOTE.—This statement and certificate will be used to support all agreements, both formal contracts and less formal agreements of whatever character, involving the expenditure or receipt of public funds. It must be executed and signed by the contracting officer (unless the award is made by or is subject to approval by an officer other than the contracting officer, when execution and signature may be made by such officer).

b. Competition. The Government of Guam, Public Utilities Agency, Guam provides sanitary sewage disposal service to the populace on Guam. There is no other supplier of this service on the island.

c. Service. The Government of Guam is constructing sewerage systems on the island of Guam to conform with the Water Pollution Control Program and Executive Order 11288. These systems are designed to satisfy all sewage disposal requirements on Guam including Navy and Air Force requirements.

d. Rates. Sewage treatment and disposal service will be provided by the Government of Guam, Public Utilities Agency, Guam, at a unit rate of \$.02 per thousand gallons of sewage which provides less than full primary treatment, and \$.03 per thousand gallons of sewage for full primary or greater treatment. These rates are subject to negotiations annually based on operations and maintenance records kept by PUAG.

e. Regulations. The Public Utilities Agency, Guam is subject to regulations of the Government of Guam.

f. Term. This contract shall continue from year to year until terminated at the option of the Government upon 30 days advance written notification.

DETERMINATIONS

Based on the above Findings, I hereby make the following Determinations:

a. That the unit rates of \$.02 per thousand gallons and \$.03 per thousand gallons are considered fair and reasonable.

b. That the sewerage system as constructed by GOV GUAM and operated by PUAG will be adequate and reliable.

c. That the contract will continue from year to year unless terminated at the option of the Government.

d. That the contract is for sewage disposal service.

REPRODUCED AT GOVERNMENT EXPENSE

- e. That competition is impracticable.
- f. That negotiation is authorized under the provisions of 10 USC 2304 (a) (10).

17 JUN 1972

R M Sutley
For Commander
Naval Facilities Engineering Command
Contracting Officer

R. M. SUTLEY
CAPT, CEC, USN



BEFORE THE PUBLIC UTILITIES COMMISSION OF GUAM

**IN RE: PETITION FOR APPROVAL OF
GWA'S THIRD FIVE-YEAR FINANCIAL
PLAN (BASE RATE INCREASES)**

GWA DOCKET 19-08

CERTIFICATE OF SERVICE

I hereby certify, pursuant to Rule 4, that on 5 November 2021, I caused service of eight copies of the Department of the Navy's "Rebuttal Testimony and Exhibit of Brian C. Collins" and this "Certificate of Service" by hand delivery to the Public Utilities Commission of Guam:

Public Utilities Commission of Guam
Suite 207, GCIC Building
414 West Soledad Avenue
Hagatna, GU 96910

Additional copies were served by hand delivery on 5 November 2021 to:

Kelly O. Clark/Theresa G. Rojas
GWA Legal Counsel
Guam Waterworks Authority
Gloria B. Nelson Public Service Building, Mangilao, Guam 96913

Tim Roberts
ROBERTS FOWLER & VISOSKY LLP
Attorneys for the Georgetown Consulting Group
865 S. Marine Corps Drive, STE 201
Tamuning, Guam 96913

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Additional copies were served by email on 5 November 2021 to:

Dr. Kay Davoodi & Larry Allen
NAVFACHQ
khojasteh.davoodi@navy.mil
larry.r.allen@navy.mil

Dated this 5th day of November 2021.

ODOCA.CHRISTOPHER.R.15468
37684

Digitally signed by
ODOCA.CHRISTOPHER.R.1
546837684
Date: 2021.11.05 07:45:30
+10'00'

Christopher R. Odoca
Assistant Counsel, NAVFAC Marianas

