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Attorneys for Appellant  
Phil-Gets (Guam) International Trading Corp.  
dba J&B Modern Tech

RECEIVED  
OFFICE OF PUBLIC ACCOUNTANTS  
GOVERNMENT OF GUAM

APR 07 2011

TIME 2:50 BY MAN  
FILE NO OPA-PA 11-013

**OFFICE OF THE PUBLIC AUDITOR**

In the Appeal of )  
)  
Phil-Gets (Guam) International Trading Corp. )  
dba J&B Modern Tech, )  
)  
Appellant. )  
\_\_\_\_\_ )

**NOTICE OF APPEAL**

Docket No. OPA-PA 11-013

**Appellant Information:**

Phil-Gets (Guam) International Trading Corp. dba J&B Modern Tech ("J&B")  
P.O. Box 9788  
Tamuning, Guam 96931

Telephone No. (671) 646-4435  
Facsimile No. (671) 646-0589

**Appeal Information:**

- A) Purchasing Agency: University of Guam (UOG)
- B) Invitation for Bid No.: UOG Bid No. P13-11, Recovery CIP: Roof Repairs & New Roof Coating at Various Facilities
- C) The decision being appealed was made on or about June 24, 2011 by the head of the purchasing agency, the date being uncertain due to an apparent typographical error on the date on the decision. The decision was received by J&B on June 24, 2011.
- D) Appeal is made from a decision on protest of method, solicitation or award.
- E) Names of competing bidders:

Note: This list is based on a handwritten list on a Bid Opening Abstract Form prepared by the purchasing agency. Some names on the list were not completely legible. Other names on the list did not appear to be the complete name of the bidder. The undersigned counsel has attempted to confirm or correct names with his client and the on-line membership list of the Guam Contractors' Association.

Western Roofing Services  
Chi Construction  
Loyal Pacific  
Guzum Construction (or G.C. Gozum Construction)  
Bascon Corporation  
GNK Enterprises, Inc.  
Allied Pacific Builders, Inc.  
Mega Pacific  
Asia Pacific (or Asia Pacific Solutions, LLC)  
G4 Corp.  
Dane Construction  
Asanuma Corporation  
Modern Konstrak  
J&G Construction

**Form and Filing:**

1. On January 21, 2011 UOG let the subject Invitation to Bid. (Exhibit 1.)

According to exhibits to the bid documents, the Project Specifications for the roof coating material to be used in the project were prepared by Isla Paint, a vendor of such materials, and modified by UOG and Sodexo. (Exhibit 2.) The Project Specifications identified three products that could be used in the work (Exhibit 3), at least two of which are manufactured and/or marketed by the same manufacturer (Exhibit 4, copies of web pages showing United Coatings and Hydro-Stop shared website). On information and belief, Isla Paint is the sole vendor on Guam for United Coatings and Hydro-Stop products.

J&B obtained a quote from Isla Paint for Roof Mate (a United Coatings product) before submitting its bid. At the time, Isla Paint did not inform J&B of any concerns about certifying J&B to apply this product.

The bids were opened on March 7, 2011. J&B was the lowest bidder. (Exhibit 5.)

UOG issued a request for clarification of qualification on March 14, 2011 (Exhibit 6) and reissued the request on March 16, 2011 (Exhibit 7). When J&B approached Isla Paint for additional information needed to respond to the request, Isla Paint for the first time informed J&B that it would not certify J&B to apply Roof Mate and would not sell Roof Mate to J&B unless J&B utilized a Roof Mate applicator certified by Isla Paint. J&B contacted URW Roofing, an applicator approved by Isla Paint. On March 22, 2011, J&B responded to UOG's request for clarification. In the

response, J&B provided information and, in a cover letter (Exhibit 8), stated it could use Roof Mate and hire URW Roofing as a sub-contractor, or use either of two other products, one of which J&B was licensed to apply and the other which would also require a sub-contract with a licensed applicator.

On June 10, 2011, J&B received a Bid Status notice from UOG informing J&B that it rejected J&B's bid due to "high price" and recommended for award to Modern Konstrak. (Exhibit 9.) On the same day, J&B sent UOG a protest based on the fact that J&B's bid was actually \$165,819 lower than the bid from Modern Konstrak. (Exhibit 10.)

On June 20, 2011, J&B faxed a follow-up letter to UOG to determine the status of its protest and request a meeting. (Exhibit 11.) On June 22, 2011, UOG provided J&B with confirmation that it had received J&B's request. In the June 22, 2011 letter, UOG stated, "We are finalizing our response to your bid status inquiry as will be sent to your attention in a few days." (Exhibit 12.)

On June 24, 2011, UOG provided J&B with a new Bid Status notice, changing the grounds for rejection of J&B's bid from "high price" to "Non-conformance with the specifications". (Exhibit 13.) On June 24, 2011, UOG also provided J&B with a letter back-dated to June 20, 2011, denying J&B's protest. In this letter, UOG admitted that J&B was the low bidder. Instead, UOG denied the protest on an entirely new ground, claiming that of the three products proposed by J&B, Roof Mate was the only acceptable product, and erroneously claiming that the use of a sub-contractor would violate the contractual requirement that the contractor be an "independent contractor". (Exhibit 14.) Not only is this a misinterpretation of the term "independent contractor", but Section 12 of the Contract Agreement for this project allows the use of subcontractors. (Exhibit 15.)

2. J&B requests that the Office of Public Auditor rule that the reasons given by the UOG for rejecting J&B's bid and for denying J&B's Protest are incorrect and constitute an abuse of discretion and that the matter be remanded to the UOG with instructions to award the Bid to J&B.

3. Supporting documents are attached hereto as exhibits. J&B is continuing to search for other documents that may support its appeal.

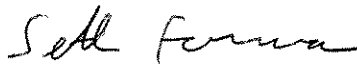
**Declaration regarding court action:**

J&B confirms that an action in court has not been commenced.

Dated this 7 day of July, 2011.

DOOLEY ROBERTS & FOWLER LLP

By:



**SETH FORMAN**

Attorneys for Appellant J&B Modern Tech

**VERIFICATION**

Tamuning, Guam ) ss:

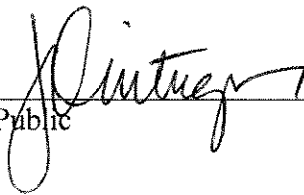
I, Generoso M. Bangayan, being first duly sworn, do hereby depose and state that I am the President for Appellant Phil-Gets (Guam) International Trading Corp. dba J&B Modern Tech and that I have read the foregoing Notice of Appeal and it is true of my own knowledge except as to those matters alleged upon information and belief and as to those matters, I believe them to be true.

Dated this 7<sup>th</sup> day of July, 2011.

  
\_\_\_\_\_  
**GENEROSO M. BANGAYAN**

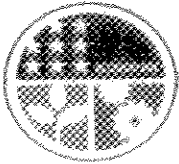
SUBSCRIBED AND SWORN to before me this 7<sup>th</sup> day of July, 2011.



  
\_\_\_\_\_  
Notary Public

**JENNIFER BANAYAT QUITUGUA**  
**NOTARY PUBLIC**  
In and for Guam, U.S.A.  
My Commission Expires: **March 19, 2012**  
115 Chalan Apusento, Box 178  
Chalan Pago, Guam 96910

# EXHIBIT I



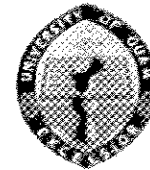
GRANT - US Public Law 111-5  
American Recovery  
Reinvestment Act of 2009



GRANTOR - USDOE  
SFSF GSF Grant  
Award 5397A090055




GRANTEE - Gov. Guam  
BBMR WOR 10-0200-002  
CIP Program




SUB-GRANTEE  
University of Guam (UOG)  
Plant Management Division

## Bid Advertisement Layout for Newspaper

6.5 Inches (Wide)



### ARRA FUNDED RECOVERY PROJECT INVITATION FOR BID



UNIVERSITY OF GUAM  
UNIBERSIDAD GUAMAR

Administration and Finance  
Consolidated Procurement Office

**UOG BID P13-11 "Recovery CIP: Roof Repairs & New Roof Coating at Various Facilities"**

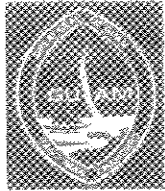
The University is soliciting sealed bids for the Recovery project above and a copy of the Instruction and Information for the bid may be obtained from UOG's Consolidated Procurement Office at UOG's Administration Building in Mangilao, Guam 96923; Telephone No. (671) 735-2925, Fax No. (671) 734-3118.

A copy of the Bid Package is available from 9:00 am – 4:00 pm, Monday thru Friday.  
You can request a PDF file of this Bid Package at [vborja@uguam.uog.edu](mailto:vborja@uguam.uog.edu) or [ciriarte@uguam.uog.edu](mailto:ciriarte@uguam.uog.edu)


**A NON-REFUNDABLE FEE OF \$ 100.00 IS REQUIRED.**

Deadline for SUBMISSION of BIDS is on Friday, February 18, 2011 on or before 2:00 pm to the UOG Consolidated Procurement Office in the UOG Administration Building. A Mandatory Pre-Bid Conference is scheduled on Friday, February 4, 2011 at 10:00 am in the UOG Plant & Facilities Office (2<sup>nd</sup> Floor). Pre-Bid Conference attendees **MUST** be on time; and all attendees are required to register their presences by signing in at the start of the meeting. Anyone not recorded on the attendance sheet will not be considered as present at this mandatory meeting.

*This advertisement was paid for by the University of Guam using ARRA Funds.*



**Project Funded By USDOE ARRA SFSF GSF Grant  
Award No. 5397A090055 (CFDA 84.397A)  
Web Site: [uog.edu](http://uog.edu)**



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A U.S. Land Grant Institution Accredited by the Western Association of Schools & Colleges.

5  
Inches  
(Tall)

## EXHIBIT 2

**EXHIBIT B**  
**Project Specification or Equivalent Equal**  
**UOG BID NO. P13-11**

FLUID APPLIED ELASTOMERIC ROOFING (ACRYLIC) For CONCRETE

(Prepared by Isla Paint; Modified by University of Guam and Sodexo)

**NOTES - COMPARABLE PRODUCTS**

**DEFINITION**

Comparable Product: Product that is demonstrated and approved through submittal process, or where indicated as a product substitution, to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified product. Descriptive, performance, and reference standard requirements in the Specifications establish "salient characteristics" of products.

**1.1 COMPARABLE PRODUCTS**

- A. Comparable Product Requests: Submit three (3) copies of each request for consideration. Identify product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.
1. UOG's Action: If necessary, The University of Guam will request additional information or documentation for evaluation within one week of receipt of a comparable product request. The University of Guam will notify Contractor of approval or rejection of proposed comparable product request within 15 days of receipt of request, or 7 days of receipt of additional information or documentation, whichever is later.
- B. Conditions: The University of Guam will consider Contractor's request for comparable product when the following conditions are satisfied. If the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
1. Evidence that the proposed product does not require extensive revisions to the Contract Documents, that it is consistent with the Contract Documents and will produce the indicated results, and that it is compatible with other portions of the Work.
  2. Detailed comparison of significant qualities of proposed product with those named in the Specifications. Significant qualities include attributes such as performance, weight, size, durability, visual effect, and specific features and requirements indicated.
  3. Evidence that proposed product provides specified warranty.
  4. List of three (3) similar installations for completed projects with project names and addresses. The three projects must be at least three (3) years old and be available for inspection by a University of Guam's Representative.
  5. Any deficiencies in performance, warranty terms or improper submittal procedure will constitute grounds for immediate rejection of proposed comparable product. Any item or materials submitted as a comparable product must comply in all respects as to the quality and performance of the listed specifications. The University of Guam shall be the sole judge as to whether or not an item submitted as a substitute is truly equal. Should the Contractor choose to submit a comparable product, he shall assume all monetary or other risk involved, should The University of Guam find the proposed comparable product unacceptable. The University of Guam reserves the right to limit selection to products with warranties not in conflict with requirements of the Contract Documents.
  6. Samples, if requested.
  7. Provide products complete with accessories, trim, finish, fasteners, and other items needed for a complete installation and indicated use and effect.



# EXHIBIT 3

## 1.9 ENVIRONMENTAL CONDITIONS

Apply materials when there is no surface moisture or visible dampness on the substrate surface. Moisture test for substrate is specified under paragraph entitled "Moisture Test". The applicator shall not apply any material when environmental conditions will not permit a set before rain.

## 1.10 WARRANTY

A. Furnish the fluid-applied roofing system manufacturer's warranty for the roofing system, including flashing and accessories. The warranty shall run directly to the University of Guam. In no event shall the warranty period be less than ten (10) years from the date of the UOG's acceptance of the work, notwithstanding roofing applicator's or manufacturer's unpaid invoices for installation, supplies, or service.

B. Warranty Period: 10 Years

## PART 2 PRODUCTS

A. Subject to compliance with project requirements, manufacturers offering Products which may be incorporated in the Work include the following:

1. Global Shield, Inc., Rubbershield AC Roofing System
2. United Coatings, Inc., Roof Mate Concrete Roofing System
3. Hydro Stop Inc., Hydro Stop Premium Coat Roofing System

## 2.1 SYSTEM

A. The following specification is based on a Concrete Roofing System with Full Fabric Reinforcement .

### 2.1.1 MATERIALS

A. Biodegradable Cleaner: water-reducible non-phosphate cleaner, as supplied by Coating Manufacturer for use in cleaning concrete substrates prior to coating.

B. Construction Grade Caulk: Single package polyurethane sealant, as approved by Coating Manufacturer for use in sealing cracks and seams, and at vertical/horizontal interfaces.

C. Concrete Repair Material: polymer concrete renovation and repair material, as supplied by Coating Manufacturer for use in filling voids, resurfacing spalled concrete surfaces and/or providing slope-to-drain as necessary to eliminate ponding water.

D. Concrete Primer and Sealer: water-based, single package penetrating epoxy, as supplied by Coating Manufacturer for use in priming and sealing chalky or dusted concrete surfaces.

E. Fabric Adhesive: single package acrylic, as supplied by Coating Manufacturer for use in adhering and embedding reinforcing fabric on detail areas or when reinforcing entire roof surface.

F. Reinforcement Tape: stitchbonded polyester, as supplied by Coating Manufacturer for reinforcing cracks, seams, vertical/horizontal interfaces and other detail areas.

G. Reinforcement Fabric: stitchbonded polyester fabric, as supplied by Coating Manufacturer for reinforcing large detail areas and for full fabric reinforcement.

H. Fluid-Applied Reinforcement Mastic: single package acrylic, as supplied by Coating Manufacturer use as an alternative to letter F above in reinforcing detail areas where mesh application is impracticable.

I. Fluid-Applied Elastomeric Finish: advanced acrylic coating to provide a seamless, weatherproof membrane over the existing concrete substrate.

# EXHIBIT 4

## ADVANTAGES OF ROOF MATE

The Following Advantages Combine To Make **ROOF MATE** The Most Effective, Low-Cost Method Of Extending The Life Of New Or Existing Roof Surfaces.

### 1. Low Cost Application:

**ROOF MATE** can be installed more efficiently and at a fraction of the cost of other roofing systems. No bulky or expensive materials to haul, lift, spread, cut or glue. Simply apply **ROOF MATE** by brush, roller or spray over the properly prepared roof substrate. Cleanup requires only soap and water. **ROOF MATE** conforms to all federal and state air pollution standards and VOC regulations.

### 2. Fast Application:

Roofs can be prepared and coated with **ROOF MATE** significantly faster than applying conventional built-up or single-ply systems.

### 3. High Solids and Resin Content:

The high volume solids of **ROOF MATE**, along with its excellent hide and vertical hold characteristics, allows for faster film build in fewer coats. This enables **ROOF MATE** to uniformly cover the uneven profile of textured substrates. The high ratio of elastomeric acrylic polymer to filler pigment provides long-term weathering and ultraviolet resistance.

### 4. Lightweight:

A **ROOF MATE** roof is lighter than conventional and single-ply systems, putting less stress on the framework of the building. No glue, fasteners or heavy ballasting is required.

### 5. Permanent Flexibility:

**ROOF MATE** contains no migratory plasticizers, which may give good initial elasticity but leach out of the coating upon extended exterior exposure. **ROOF MATE** remains permanently flexible through the use of high grade elastomer acrylic polymers.

### 6. Colorfast:

The acrylic resins utilized in **ROOF MATE** crosslink under exterior exposure to lock in color and lock out dirt. The topcoat color remains true through years of weathering, while the tight, crosslinked surface effectively repels dirt.

### 7. Low Maintenance Costs:

With a **ROOF MATE** roof there is no asphalt to degrade, metal to corrode or seams to come apart. It is formulated to remain flexible to -30°F without cracking under stress, and is impervious to minor ponding water associated with most roofs. When maintenance is required, repairs are easily accomplished using acrylic caulk and/or additional **ROOF MATE**.

### 8. Resists Abusive Weather:

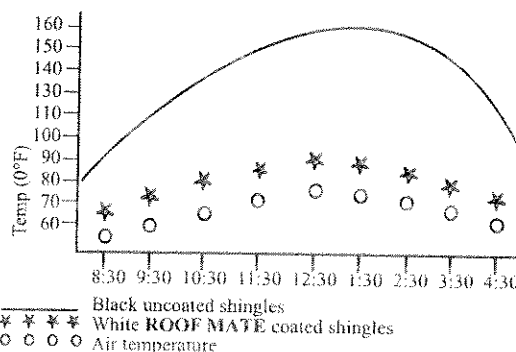
**ROOF MATE** will take abusive weather conditions of all types. Ice, snow, wind driven rain and sand do not penetrate its tough, dense surface under normal conditions.

### 9. Long Term Fire Protection:

**ROOF MATE** utilizes non-migratory fire retardants that become an integral and inseparable part of the coating to provide permanent fire retardancy.

### 10. Reduced Energy Cost:

**ROOF MATE** topcoat remains white to effectively reflect the sun's heat, unlike dark-colored roofs that retain heat and are subject to ultraviolet degradation. Roof temperatures can be reduced in excess of 50°F. Exceeds ENERGY STAR® & Cool Roof Rating Council Guidelines.



### 11. Resistance To Foot Traffic:

**ROOF MATE'S** tough finish, combined with its flexibility and bond strength characteristics, allows it to easily withstand the stresses of normal roof maintenance traffic.

### 12. Code Approvals:

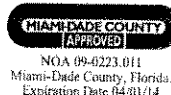
**ROOF MATE** is UL classified as a Class "A" Fluid Applied Coating System, and as a Class A, B or C Maintenance & Repair System as outlined in the UL Roofing Materials & Systems Directory and UL website. It is Factory Mutual Approved for recover over FMRC-rated BUR or insulated metal panels, and approved by Miami-Dade County.

### 13. Warranty Programs:

**ROOF MATE** is backed by 5, 10 and 15 year, non-prorated warranty programs. These guarantee to the Building Owner that the coating system will not leak as result of degradation from normal weathering. All warranty programs are extendable to last for the life of the structure.

**UNITED COATINGS** **HYDROSTOP**

2810 South 18th Place • Phoenix, AZ 85034  
Phone: (480) 754-8900 • Fax: (480) 754-8939  
(800) 541-4383 • www.questconstructionproducts.com



*Our products are guaranteed to meet established quality control standards. Information contained in our technical data is based on laboratory and field testing, but is subject to change without prior notice. No guarantees of accuracy are given or implied, nor does UNITED assume any responsibility for coverage, performance or injuries resulting from storage, handling or use of our products. Liability, if any, is limited to product replacement or, if applicable, to the terms stated within the executed project warranty.*

Vertical Markets

**Ron Head**

Director of National Accounts

Cell: 707-815-5226

Email: rhead@questconstructionproducts.com

**John Follis**

School Program - Vertical Market Manager

Cell: 832-434-4170

Email: johnfollis@hydro-stop.com

United C  
Ques

**Kris Castro**

FedOpps - Vertical Market Manager (West Coast)

Cell: 916-919-1488

Email: kcastro@questconstructionproducts.com

**Chris Jefferies**

FedOpps - Vertical Market Manager (East Coast)

Cell: 843-810-1302

Email: cjefferies@hydro-stop.com

Quest Construction Products

United Coatings

2810 S 18th Place

Phoenix, AZ 85034

800-541-4383

www.unitedcoatings.com

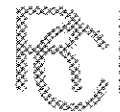
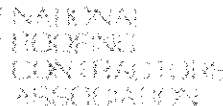
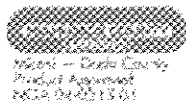
Hydro-Stop

1465 Pipefitter Street

N Charleston, SC 29405

800-739-5566

www.hydro-stop.com



# EXHIBIT 5

1.5%

**ATTACHMENT P  
BID OPENING ABSTRACT FORM**

Pursuant to the Bid Attachment "B" No. 7 - we have provided this form for your use while recording the bid opening information being read out loud.

UOG Bid No. P13-11                      Opening Date \_\_\_\_\_ & Opening Time \_\_\_\_\_

Witnesses: \_\_\_\_\_

NO BID  
A-G, H, I, J, N.

A, B, C, D  
A, B, D, N.

A-F, I, J, M, N.

Bid Set No.	Bidder's Company Name	Sealed Bid Receive Date & Time	Original Signed & 4 ea. Copy Sets Provided?	Required Submittal (Attachment B-D)	Bid Price for Option A	Bid Price for Option B
01	WESTERN ROOFING CHI CONST.	3/7/11 (3:7:11)	Yes or No	Yes or No	\$ 2,054,116	\$ 1,979,911 = 5%
02	LOYAL PACIFIC GUZUM CONST.	3/7/11 (3:7:11)	Yes or No	Yes or No	\$ 1,091,190	\$ 1,091,190 -
03	CONSTRUCT BUILDERS RASCON CORP.	3/7/11 (3:7:11)	Yes or No	Yes or No	\$ 799,345	799,345 - ✓
04	GNK ENTERPRISES ALBIO PACIFIC BID	3/7/11 (3:7:11)	Yes or No	Yes or No	\$ 388,168 <sup>2A</sup>	NO OPTION
05	MEGA PACIFIC ASIA PACIFIC	3/7/11 (3:7:11)	Yes or No	Yes or No	\$ 1,376,568	1,376,568
06	GA CORP. DANIE CONST.	3/7/11 (3:7:11)	Yes or No	Yes or No	\$ 707,949 <sup>57</sup>	704,109.92 ✓
07	ANANOMA CORP.	3/7/11 ( : : )	Yes or No	Yes or No	\$ NO BID	\$ 5,000 - ✓
08	MODERN CONSTRUCT	3/7/11 ( : : )	Yes or No	Yes or No	\$ 885,730	NO OPTION
09	JEG	3/7/11 ( : : )	Yes or No	Yes or No	\$ 486,779	NO OPTION
10	J&B Modern Tech	3/7/11 ( : : )	Yes or No	Yes or No	\$ 719,911	\$ 709,112

NOTES:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# EXHIBIT 6





UNIVERSITY OF GUAM  
UNIBETSEDAT GUAHAN

Administration and Finance  
Consolidated Procurement Office

## REQUEST FOR CLARIFICATION

INVITATION FOR BID  
UOG BID No. P13-11  
Date Issued: March 14, 2011

This is notifying all prospective bidders of the following clarification:

1.1 We are requesting that all prospective bidders submit a copy of the approval and certification from the manufacture, as per Exhibit B, paragraph 1.5.3 of the bid specification for the product. This request is due by March 18, 2011.

Regards,

A handwritten signature in black ink, appearing to read "Carlos L.G. Iriarte".

Carlos L.G. Iriarte  
Buyer II

---

Please acknowledge receipt and fax to 734 -3118:

Name of company: J&B MODERN TECH

ALEXANDER SALAZAR 3/14/11  
Print Name/Signature/Date

# EXHIBIT 7



UNIVERSITY OF GUAM  
UNIBETSEDAT GUAHAN

Administration and Finance  
Consolidated Procurement Office

RE-ISSUE  
REQUEST FOR CLARIFICATION OF QUALIFICATIONS  
AND  
NEW SUBMISSION DATE  
UOG BID NO. PI3-II  
RECOVERY CIP: ROOF REPAIR & NEW ROOF AT VARIOUS FACILITIES  
Date Issued: March 16, 2011

This is notifying all prospective bidders of the following clarification and submission:  
Exhibit B Project Specification or Equivalent Equal, Section 1.5 Qualifications Page 89:  
1.5.1 Fluid-Applied Roofing Material Manufacturer Company document of experience.  
1.5.2 Applicator Company approved as an authorized applicator in writing by manufacturer  
(Note: The Company, not an individual working for the Company)  
1.5.3 Applicator approved and certified by manufacturer (Note: The approval and certification  
has to be current, signed and dated by manufacturers authorized representative). This will apply  
for all applicators the company intends to use for this project.

A complete and up to date set of Manufacturer Roofing System Specifications for the proposed  
Roofing System the bidding company is approved and certified to install.

1.1 Deadline for submission of the above information will on **Tuesday, March 22, 2011.**

All other terms and conditions remain the same.

Regards,

Carlos L.G. Iriarte  
Buyer II

Please acknowledge receipt and fax to 734 -3118:

Name of company: J & B MODERN TECH

ALEXANDER SALAZAR 3/16/11  
Print Name/Signature/Date

# EXHIBIT 8



**J&B MODERN TECH**  
HVAC&R EQUIPMENTS AND SUPPLIES

P.O. BOX 9788 TAMUNING, GUAM, U.S.A. 96931  
TELEPHONE: (671) 646-0588 / 646-3346 / 646-4435  
FAX: (671) 646-0589

March 22,2011

Consolidated Procurement Office  
Administrative and Finance  
University of Guam  
Mangilao, Guam 96923

Attention: Carlos L.G. Iriarte

Subject: UOG Bid NO. P13-11  
Recovery CIP: Roof Repair & New Roof at Various Facilities  
Request for Clarification of Qualification  
SUBMITTAL

Dear Sir,

In reference to request for clarification of qualification issued dated March 14,2011 and re-issued March 16,2011, J&B Modern Tech hereby submit three (3) products that meets technical specifications, intend to be used for UOG selection for the above mentioned project as follows:

**SYSTEM A:**

Product Name : Roof Mate  
Manufacturer : United Coatings, 19011 E. Cataldo Ave, Greenacres, WA 99016  
Supplier : Isla Paint & Roofing Supply, 250 Guerrero Drive, Tamuning, Guam 96931  
Applicator : URW Roofing, Dededo, Guam 96929

Roof Mate of United coatings was been in use in Guam for more than ten (10) years on Federal, Government of Guam, Commercial, Industrial and Residential facilities, proven the product itself resist Guam weather conditions.

Should UOG select and approve to use Roof Mate on this project, J&B Modern Tech will hire the services of URW Roofing as sub-contractor in application of elastomeric roof system. URW Roofing is a certified applicator of United Coatings in Guam with reputable extensive experience and was in roofing system business since 2000.

**SYSTEM B:**

Product Name : ALDOCOAT  
Manufacturer : ALDO Products Company Inc., 1604 N. Main St. Kannapolis, NC 28081  
Supplier : Checkpoint International, Tamuning, Guam 96913  
Applicator : J&B Modern Tech, Harmon, Guam

ALDOCOAT of ALDO Products Company Inc. was been in use in Guam for over five (5) years on Federal, Government of Guam, Commercial and residential facilities, proven the product itself resist Guam weather conditions.

Should UOG select and approve to use ALDOCOAT on this project, J&B Modern Tech will utilized own personnel in application of elastomeric roof system. J&B Modern Tech is a certified applicator of ALDOCOAT in Guam with more than five (5) years experience in roofing system in Guam

SYSTEM C:

Product Name : Polyurethane Coatings  
Manufacturer : Urethane Polymers International, Inc, 10880 Poplar Ave, Fontana, CA 92337  
Supplier : AMC Painting & Construction, Tamuning, Guam 96913  
Applicator : AMC Painting & Construction, Tamuning, Guam 96913

Polycoat of Urethane Polymers International, Inc. was been in use in Guam for over five (5) years on Government of Guam, Commercial, Industrial and Residential facilities, proven the product itself resist Guam weather conditions.

Should UOG select and approve to use UPI on this project, J&B Modern Tech will hire the services of AMC Painting and Construction Company as sub-contractor in application of elastomeric roof system. AMC Construction Company Inc. is a certified applicator of Urethane Polymers International, Inc. in Guam with more than five (10) years experience in roofing system in Guam

Should you have concerns, comments or questions regarding this matter, please contact the undersign at: phone: (671) 646-0588/3346/4435; fax: (671) 646-0589; mobile: (671) 898-5336 and e-mail: asalazar@jbmoderntech.com

Sincerely,

Alexander Salazar  
Project Manager  
J&B modern Tech

# EXHIBIT 9

6717343118

BUSINESS OFFICE

UOG BUSINESS OFFICE

03: /p.m. 06-10-2011

1/2



UNIVERSITY OF GUAM  
PROCUREMENT OFFICE  
UOG STATION,  
MANGILAO, GUAM 96923

TRANSMITTAL SHEET

TO: PHIL GETS (GUAM) INTL. TRADING CORP.  
DBA: MODERN TECH., - MR. GENEROSO M. BANGAYAN

DATE: JUNE 10, 2011

RE: UOG BID NO. P13-11 ROOF REPAIRS & NEW ROOF COATING  
AT VARIOUS FACILITIES ( BID STATUS)

FAX: NUMBER 646-0589

FROM: CARLOS IRIARTE, BUYER II: 735-2925

TOTAL PAGES, (2)

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

\*\*\*\*\*ACKNOWLEDGEMENT WITH PROTEST\*\*\*\*\*

ACKNOWLEDGE RECEIPT

DATE/TIME: 6-10-11 ; 10:00PM

PRINT NAME: GENEROSO M. BANGAYAN

SIGNATURE:

FAX BACK TO 734-3118

This facsimile message and any attachments may contain information which is confidential and privileged. Unless you are the intended recipient (or authorized to receive for the intended recipient), any unauthorized review, use, disclosure or distribution of information in this message is strictly prohibited. If you have received this message in error, please contact the sender at 735-2900 and destroy all copies of the message. Thank you.





UNIVERSITY OF GUAM  
UNIBETSEDAT GUAMAN

Administration and Finance  
Consolidated Procurement Office

BID STATUS

June 7, 2011

Mr. Generoso M. Bangayan  
President  
P.O. Box 9788  
Tamuning, GU. 96931  
Telephone: 646-4435  
Fax No: 646-0589

Subject: INVITATION FOR BID NO. P13-11, Roof Repairs and New Roof Coating at Various Facilities  
Opened: March 7, 2011

The following is the result of the above mentioned bid. Refer to the items checked below.

- Cancelled (in its entirety), or partially cancelled due to:
- Insufficient funds; (Moving group 6 through 12 is hereby cancelled)
  - Change of specifications; or
  - Insufficient number of bidders
- Rejected due to:
- Late submission of bid;
  - No bid security or insufficient bid security amount submitted; as required by General Terms and Conditions;
  - Not meeting the delivery requirement as stated in the IFB
  - Non-conformance with the specifications;
  - Inability to provide future maintenance and services to the equipment;
  - High price; or
  - Others: \_\_\_\_\_

Bid is recommended for award to: Modern Konstrak .

V. T. BORJA  
Supply Management Administrator

Please Acknowledged Receipt and fax back to 734-3118.

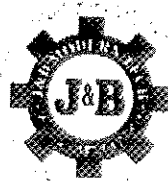
ACKNOWLEDGED WITH PROTEST.

Generoso M. Bangayan  
GENEROSO M. BANGAYAN

Phil-Gets (Guam) Intl. Trading Corp. dba: Modern Tech.

UOG Station, Mangilao, Guam 96923 Tel. (671) 735.2925 Fax. (671) 734.3118  
A U.S. Land Grant Institution accredited by the Western Association of Schools and Colleges  
The University of Guam is an equal opportunity provider and employer.

# EXHIBIT 10



**J&B MODERN TECH**  
**ACR EQUIPMENT AND SUPPLIES**

P.O. BOX 9788 TAMUNING, GUAM, U.S.A. 96931  
TELEPHONE : (671) 646-0588 / 646-3346 / 646-4435  
FAX: (671) 646-0589

June 10, 2011

University of Guam  
Procurement Office  
Mangilao, Guam

Attn: Mr. Vicente T. Borja – Supply Management Administrator

Subject: IFB No. P13-11, Roof Repair and New Roof Coating at Various Facilities.

Dear Mr. Borja:

This is in reference to the Bid Status Notice dated June 07, 2011 which we received via fax to our office today June 10, 2011 at 3:47PM.

The Notice indicates that Phil-Gets(Guam) Int'l Trading DBA: J&B Modern Tech's bid was rejected due to High Price, and recommended for award to Modern Konstrak.

We oppose the recommendation to award to Modern Konstrak in view of the following:

1. J&B Modern Tech's bid amount was \$719,911.00 with Option "B" for discount to bring down the amount to \$709,112.00
2. Modern Konstrak bided for \$885,730.00 and did not offer discount on Bid Option B.

Based on the Bid Results, J&B Modern Tech is \$165,819.00 lower on Bid Option A as against Modern Konstrak. For this reason, we protest against the recommendation to award to Modern Konstrak. We believe that J&B Modern Tech is the lowest responsive and responsible bidder and should own the awarding of the above subject bided job.

We respectfully request proper review and correction of the action taken in the Bid Status Notice.

Thank you.

Sincerely,

  
Generoso M. Bangayan  
President

# EXHIBIT 11

# WorkCentre /120 Transmission Report

G3-JD                      671-646-0589  
Local Name                J & B MODERN TECH  
Company Logo

Date & Time : 20/06/2011 6:43 PM  
Page : 1 (Last Page)

The job has been sent.  
Original Size: 8.5 x 11"



**J&B MODERN TECH**  
**ACR EQUIPMENT AND SUPPLIES**  
P.O. BOX 9788 TAMUNING, GUAM, U.S.A. 96831  
TELEPHONE : (671) 646-0588 / 646-3346 / 646-4435  
FAX: (671) 646-0588

June 20, 2011

UNIVERSITY OF GUAM  
Procurement Office  
Mangilao, Guam

Attn: Robert McIntosh

Subject: IPB No. P13-11, Roof repair and roof coating at various facilities.

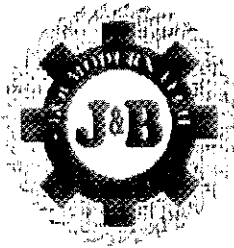
This is in reference to the notice sent to us dated June 7, 2011 titled Bid Status. J&B Modern Tech responded to the notice in writing dated June 10, 2011 and as of this date we have not received any words from UOG the status of our request for proper review and correction of action taken.

We request debriefing on Wednesday, June 22, 2011 at 10:00 am to clarify more on the issued notice.

Please advise us if the time and date requested is conducive to your schedule.

Respectfully,  
  
Gene Hangyan  
President  
J&B Modern Tech  
Tel# (671) 646-0588  
Fax# (671) 646-0589

#	Job	Remote Station	Start Date & Time	Duration	Pages	Protocol	Contents	Status
1	8946	6717343118	6-20; 6:41 PM	51 Secs	1/1	ECM	Completed	-



**J&B MODERN TECH**  
**ACR EQUIPMENT AND SUPPLIES**

P.O. BOX 9788 TAMUNING, GUAM, U.S.A. 96931  
TELEPHONE : (671) 646-0588 / 646-3346 / 646-4435  
FAX: (671) 646-0589

June 20, 2011

UNIVERSITY OF GUAM  
Procurement Office  
Mangilao, Guam

Attn: Robert McIntosh

Subject: IFB No. P13-11, Roof repair and roof coating at various facilities.

This is in reference to the notice sent to us dated June 7, 2011 titled Bid Status. J&B Modern Tech responded to the notice in writing dated June 10, 2011 and as of this date we have not received any words from UOG the status of our request for proper review and correction of action taken.

We request debriefing on Wednesday, June 22, 2011 at 10:00 am to clarify more on the issued notice.

Please advise us if the time and date requested is conducive to your schedule.

Respectfully,

Gene Bangayan  
President  
J&B Modern Tech  
Tel# (671) 646-0588  
Fax# (671) 646-0589

# EXHIBIT 12



UNIVERSITY OF GUAM  
UNIBETSEDAT GUAHAN

Administration and Finance

June 22, 2011

Mr. Gene Bangayan, President  
c/o J&B Modern Tech  
PO Box 9788  
Tamuning, Guam 96931

Subject: Debricing Request for IFB No. P13-11

Dear Mr. Bangayan:

This is to confirm receipt of subject request. We are finalizing our response to your bid status inquiry as will be sent to your attention in a few days.

If you have any questions, please call me at (671) 483 - 5237 or email at [somvppz@uguan.uog.edu](mailto:somvppz@uguan.uog.edu).

Regards,

A handwritten signature in black ink, appearing to read "Sonny P. Perez".

Sonny P. Perez, PE  
Chief Plant and Facilities Officer



# EXHIBIT 13



UNIVERSITY OF GUAM  
**PROCUREMENT OFFICE**  
 UOG STATION.  
 MANGILAO, GUAM 96923

TRANSMITTAL SHEET

TO: MR. GENEROSO M. BANGAYAN, PRESIDENT  
 J&B MODERN TECH

DATE: JUNE 24, 2011

RE: UOG BID NO. P13-11 PROTEST DETERMINATION TO ARRA  
 CIP PROJECT ROOF REPAIRS & NEW ROOF COATING SYSTEMS  
 AT VARIOUS FACILITIES

FAX NUMBER: 646-0589

FROM: BEN BORJA, SUPPLY MANAGEMENT ADMISTRATOR:  
 735-2925

TOTAL PAGES, INCLUDING  
 THIS PAGE  
 4 pages

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

**ACKNOWLEDGE RECEIPT**

DATE/TIME: JUNE 24, 2011 / 3:41 PM

PRINT NAME: ALEXANDER SALAZAR

SIGNATURE:

FAX BACK TO 734-3118

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UNIVERSITY OF GUAM  
UNIBETSEDAT GUANAK

Administration and Finance  
Consolidated Procurement Office

**BID STATUS (Corrected)**

June 24, 2011

Mr. Generoso M. Bangayan  
President  
J & B Modern Tech  
P.O. Box 9788  
Tamuning, GU 96913  
Fax: 646-0589

Subject: Invitation for UOG Bid No. P13-11, Roof Repairs & New Roof Coating System at various facilities

Date/Time Opened: March 7, 2011 2:00 p.m.

The following is the result of the above mentioned bid. Refer to the items checked below.

/ / Cancelled (in its entirety), or partially cancelled due to:

- Insufficient funds;
- Change of specifications; or
- Insufficient number of bidders

/X/ Rejected due to:

- Late submission of bid;
- No bid security or insufficient bid security amount submitted; as required by General Terms and Conditions;
- Not meeting the delivery requirement as stated in the IFB
- Non-conformance with the specifications
- Inability to provide future maintenance and services to the equipment;
- High price; or
- Others:

/X/ Bid is recommended for award to: Modern Konstrak

  
V.T. BORJA

Supply Management Administrator

Please Acknowledge Receipt and fax back to (671) 734-3118.

ALEXANDER SALAZAR  
J & B Modern Tech (print name & signature)

# EXHIBIT 14



UNIVERSITY OF GUAM  
PROCUREMENT OFFICE  
UOG STATION.  
MANGILAO, GUAM 96923

TRANSMITTAL SHEET

TO: MR. GENEROSO M. BANGAYAN, PRESIDENT  
J&B MODERN TECH

DATE: JUNE 24, 2011

RE: UOG BID NO. F15-11 PROTEST DETERMINATION TO ARRA  
CIP PROJECT ROOF REPAIRS & NEW ROOF COATING SYSTEMS  
AT VARIOUS FACILITIES

FAX NUMBER: 646-0589

FROM: BEN BORJA, SUPPLY MANAGEMENT ADMINISTRATOR:  
735-2925

TOTAL PAGES, INCLUDING  
THIS PAGE  
4 pages

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

ACKNOWLEDGE RECEIPT

DATE/TIME: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

FAX BACK TO 734-3118

ATTN: ATTY. SEBH FOREMAN

FROM: ALEXANDER SALAZAR

This facsimile message and any attachments may contain information which is confidential and privileged. Unless you are the intended recipient (or authorized to receive for the intended recipient), any unauthorized review, use, disclosure or distribution of information in this message is strictly prohibited. If you have received this message in error, please contact the sender at 735-2900 and destroy all copies of the message. Thank you.



UNIVERSITY OF GUAM  
UNIBETSEDAT GUAHAN  
OFFICE OF THE PRESIDENT

UOG Station, Mangilao, Guam 96923  
Telephone: (671) 735-2990 • Fax: (671) 734-2296

ATTN?

June 20, 2011

Generoso M. Bangayan, President  
J&B Modern Tech  
P.O. Box 9788  
Tamuning, Guam 96931

**SUBJECT: Protest Determination to ARRA CIP Project UOG Bid P13-11  
Roof Repairs & New Roof Coating System at Various Facilities**

Hafa Adai Mr. Bangayan,

This acknowledges receipt of your Protest letter dated June 10, 2011. After review of the procurement files and discussion with the relevant parties, my determination to your Protest is as follows:

On March 7, 2011 at 2:00pm, the University of Guam received bid packages from sixteen (16) contractors in response to the subject bid. The bidder providing the lowest price was J&B Modern Tech (J&B). Due to an inadvertent administrative error on the University's part, the Bid Status notice dated June 7, 2011 to J&B indicated that the J&B bid was rejected due to "High price". An Amended Bid Status is included with this letter to accurately reflect the reason for the bid rejection.

The bid analysis and determination is shown below to determine the bidder's responsiveness and responsibility to UOG's subject bid:

1. J&B is certified to apply ALDOCOAT of ALDO Products Company (Ref: Letter to UOG Consolidated Procurement office dated March 22, 2011; SYSTEM B)
  - a. ALDOCOAT is not included in any of the acceptable specified materials as found in the bid specification P13-11: (Exhibit B; Project Specification or Equivalent Equal, Part 2 Products, p91)
    - i. Global Shield, Inc., Rubbershield AC Roofing System
    - ii. United Coatings, Inc., Roof Mate Concrete Roofing System
    - iii. Hydro Stop, Inc., Hydro Stop Premium Coat Roofing System
  - b. ALDOCOAT does not meet the material performance standard as found in the bid specification P13-11: (Exhibit B; Project Specification or Equivalent Equal, Part 2 Products, p91)

**ALDOCOAT Roof Systems:** This is a fluid-applied Waterproofing that has been used on concrete roofs in Guam with substandard performance. The observations were made recently at numerous new school buildings that were coated using this product. The ALDOCOAT product did not perform under the extreme high humidity, heat and wet conditions that exist here in Guam. ALDOCOAT does have a product (FM4470 System) that does have a ten year standard warranty. The Product Specifications

indicate that high humidity may retard cure time for the product. Application should be suspended if climactic conditions prevent complete cure before rain or dew. This is a common climactic condition on Guam and product requirements may be difficult to achieve. The ALDOCOAT 400 Premium Acrylic topcoat is recommended as the ideal choice for metal roofs and single ply roof restorations. It is also ideal for use over spray polyurethane foam roofs. As a side, it also states that this product has excellent adhesion to a variety of other substrates including concrete. The viscosity of this Top Coat Product (10000 +/- 3000 cps) does not satisfy the performance requirement minimum of 12000 cps, as established by UOG. However, the tensile strength of 400psi and the elongation property of 239% does satisfy the UOG performance requirements. This product does not satisfy the comparable product requirements due to deficiencies in performance. (Ref: Report from AM Orient Engineering, Dated 26, April 2011; Subject Roof Material Review for UOG Bid P13-11)

2. J&B presented an alternate arrangement to subcontract a certified applicator for the subject bid. (Ref: Letter to UOG Consolidated Procurement office dated March 22, 2011; SYSTEM A and SYSTEM C):
  - a. You are directed to the UOG document P13-11, as found in Attachment A: General Terms and Conditions of the Invitation for Bids, Section 13 Independent Contractor, states: (In response to SYSTEM A and SYSTEM C), which states:

"Contractor shall operate its business as an independent contractor and shall discharge all of its duties as such. No act performed or representation made, whether oral or written by Contractor with respect to third parties shall be binding to UOG."

This section requires you to "discharge all of its duties" as a certified roof applicator to perform all of the work. You introduced this third party subcontractor arrangement after the fact; what appears to be after bid closing. In your letter to UOG, you explicitly state "Should UOG select and approve to use Roof Mate on this project, J&B will hire the services of URW Roofing or other company on Isla Paint list..." This statement implies your inability to discharge your duties under their existing business organization and resources. The practice of third party subcontracting anticipates awarding only a small portion or percentage of the work; not a majority or all of 100%. UOG would consider it acceptable if you were a roof repair company, currently certified to the products or to its equivalents, as specified in P13-11, and sought additional certified resources, which are also currently certified to the products or to its equivalents to augment your labor force to satisfy customer schedule requirements. In addition, UOG did NOT request in its clarification how you would satisfy the bid requirements (as shown in your proposed multiple SYSTEMS A, B, or, C) but clarifications and document requests for company certifications, product submittals, and specifications.

Secondly, UOG can only enter into contractual agreements with the prime or main contractor. In this case, the third party subcontractor becomes the warrantor, whose name does not appear in any of the required Government of Guam, UOG, and ARRA affidavits. This will be a potential obstacle during warranty issues since it does not explicitly demonstrate responsibility from the third party to cover warranty matters.

- b. UOG contends you understood the certified applicator requirement where the bidder and certified applicator are one in the same company, because you had approached Isla Paint and Supply seeking certification. Isla Paints determined that you failed to meet certification prerequisites. (Letter from Isla Paint and Supply dated June 14, 2011.) UOG restates its position that the aforementioned section requires you to "discharge all of its

duties" as a certified roof applicator to perform all of the work and not to subcontract to a certified roofing company because you failed to obtain the necessary certifications at the time of bid closing.

- c. In response to SYSTEM C: you are directed to UOG's response as found in part 2(a) above and the engineering report results as stated in the following:

MC Thane, 456-48 of Urethane Polymers International, Inc., (UPI) does not meet the material performance standard as found in the bid specification P13-11: (Exhibit B; Project Specification or Equivalent Equal, Part 2 Products, p91) Urethane Polymer International – This product is a liquid applied aliphatic urethane roofing system suitable for sloped or unusual shaped concrete roofs. Most aliphatic compounds are flammable and are sometimes used as fuels. The performance requirement for UOG indicates that the Roofing System shall have a Class A fire rating, as tested and certified by UL790 and Factory Mutual FM4470. The UPI product specifications do not indicate the use of Reinforcement (stitch bonded polyester fabric) material in the total roofing system. This is a UOG product requirement that will be required to be used to reinforce large roof areas and reinforcement in detail areas. The UPI/Guarantee/Warranty does not indicate a 10-year warranty period which will be required by the Manufacturer. The UPI product does not satisfy the comparable product requirements used to justify its use as an equivalent product. (Ref: Report from AM Orient Engineering, Dated 26, April 2011; Subject Roof Material Review for UOG Bid P13-11)

Notwithstanding that J&B Modern Tech is the lowest bidder; it is not the most responsive and most responsible bidder because J&B is not in full compliance with all the terms and conditions as stipulated in UOG Bid P13-11. Therefore, based on all the factual evidence, your Protest is denied. Pursuant to Guam law, you have a right to administrative and judicial review.

The University complies with the Guam Procurement Law and the University of Guam Procurement Manual, and is committed to the fair and equitable treatment of all qualified bidders. The University encourages J&B to participate in any future University bids for which it is qualified.

Should you have any further inquiries or concerns, please direct them to Vicente (Ben) Borja, Supply Management Administrator, UOG Procurement Office.

Thank you for your attention to this matter.

Sincerely,



Robert A. Underwood, Ed.D.  
President

Copy: Legal Counsel  
SMA Ben Borja



# EXHIBIT 15

## EXHIBIT D

### SECTION ELEVEN TIME OF THE ESSENCE; EXTENSION OF TIME

All times stated herein or in the Agreement documents are of the essence. The Agreement may be extended by a Change Order from the Project Manager for such reasonable time as he or she may determine, when in his or her opinion the Contractor is delayed in work progress by "change orders", labor disputes, fire, prolonged transportation delays, injuries, bad weather, or other causes beyond the Contractor's control which justify the delay. Any request by the Contractor for an extension of time must be submitted to the Project Manager contemporaneous with any Change Order request, or in the case of delays caused by factors beyond the Contractor's control, contemporaneous with the time when the Contractor learns of said factors, which would lead to the delay. Failure to submit a timely request constitutes a waiver of any right by the Contractor to such extension.

The Contractor shall complete the work hereunder within \_\_\_\_\_ (\_\_\_\_) calendar days of the date herein or within such terms as may be extended by the University of Guam and should the Contractor fail to complete the work hereunder as specified, then the Contractor agrees to pay to the University of Guam, for each and every day of such delay beyond the time of completion of work, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which the sum is hereby, in view of the difficulty of estimating such damages, agreed upon, fixed, and determined by the parties (1% of the negotiated price per day of delay as described on UOG's Bid forms) hereto as liquidated damages that Owner will suffer by such default and not by way of penalty and shall be deducted as such from the balance due the Contractor. Should damages exceed the sum due or to become due the Contractor, then and in that event, the Contractor shall be liable to Owner for such difference.

### SECTION TWELVE SUBCONTRACTORS

The Contractor agrees to furnish the Project Manager, prior to the execution of this Agreement, a list of names of subcontractors in addition to the list provided in the Contractor's proposal, if any, to whom it proposes to, award the principal portions of the work to be subcontracted by it. A Subcontractor, for the purposes of this Agreement, shall be a person with whom the Contractor has a direct Agreement for work at the project site. The Contractor agrees not to employ a Subcontractor to which the Owner reasonably objects. All contracts between the Contractor and subcontractors shall conform to the provisions of the Agreement documents, and shall incorporate in them relevant provisions of this Agreement.

### SECTION THIRTEEN DISPUTES

In accordance with UOG Procurement Regulations 9.4 et seq., all controversies between the University and the Contractor which arise under, or are by virtue of, this contract and which are not resolved by mutual agreement, shall be decided by the Procurement Officer in writing, within sixty (60) working days after written request by the Contractor for a final decision concerning the controversy; provided however, that if the Procurement Officer does not issue a written decision within sixty (60) working days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Contractor may proceed as if an adverse decision had been received.

### SECTION FOURTEEN CONTRACTOR PROVIDED INSURANCE

The Contractor and subcontractors of all tiers shall procure and maintain the following types and amounts of insurance during the entire term of this Agreement.

- Liability Insurance:** Commercial General Liability insurance including coverage for bodily injury and property damage, contractual liability, products and completed operations. Coverage shall be extended for one year following issuance of Notice of Completion. The limits of liability shall be not less than \$1,000,000 combined single limit of liability per accident and \$2,000,000 annual aggregate. Deductibles, if any, shall be approved by the Owner. The University of Guam, its Directors, Officers, agents, and employees shall be named as additional insured with respect to any claims arising out of the Project.
- Automobile Liability:** Commercial Auto Liability insurance for all owned and non-owned vehicles used in connection with the Project in an amount not less than \$1,000,000 combined single limit of liability. Deductibles, if any, shall be approved by the Owner. The University of Guam, its Directors, Officers, agents, and employees shall be named as additional insured with respect to any claims arising out of the Project.
- Workers Compensation:** Statutory Workers' Compensation and Employers Liability insurance.
- Cancellation:** All policies shall contain an endorsement requiring insurers to provide the Owner with sixty (60) days prior written notice of cancellation, non-renewal, or reduction of coverage or limits.
- Certificates:** The Contractor shall provide evidence of the required insurance on standard Accord forms or equivalent.