

CONTRACT FOR THE REHABILITATION OF BELL HOUSE PHASE 3

THE PUBLIC IS INFORMED:

This **Contract** is executed between:

JOHN HAY MANAGEMENT CORPORATION, a government-owned or controlled corporation with principal office at John Hay Special Economic Zone, Loakan Road, Baguio City, represented by its President and Chief Executive Officer (PCEO), **ALLAN RAZON GARCIA**, duly authorized for this purpose, as shown by the attached authority (*Annex "A"*), hereinafter referred to as "**JHMC**";

-and-

NOEL G. HAIGHT, doing business under the name and style of **HAIGHT'S CONSTRUCTION**, a sole proprietorship, with office address at 2nd Floor, Dangwa Square, Km-6, La Trinidad, Benguet.

Both may be referred to individually as "**Party**" or collectively as "**Parties**".

ANTECEDENTS:

JHMC, the implementing arm of the Bases Conversion and Development Authority (BCDA), is the administrator and estate manager of the former military reservation now known as Camp John Hay. The Bell House which is located in the Historical Core, John Hay Special Economic Zone (JHSEZ), Baguio City was built and used as a residence for the U.S. military officials and dignitaries before it was turned over to the Philippine government. To preserve and maintain the said structure, JHMC has completed rehabilitation projects for Phase 1 in 2018 and Phase 2 in February 2020.

Pursuant to the approved CY 2020 Annual Procurement Plan (APP), the repair and maintenance of the Bell House interior or the Rehabilitation of Bell House Phase 3 (*hereinafter known as the "Project"*) is included as one of the Projects of **JHMC** to be pursued through public bidding with an Approved Budget for the Contract (ABC) in the amount of Five Million Eight Hundred Eighteen Thousand Pesos (PhP5,818,000.00).

In accordance with Republic Act (RA) 9184 and its Revised Implementing Rules and Regulations (IRR), **JHMC** advertised the Invitation to Bid for the Project, for at least seven (7) days in the PhilGEPS and JHMC website, and also posted the same continuously at conspicuous places at JHMC's office.

On 14 October 2020, the JHMC Bids and Awards Committee (BAC) received three (3) bid proposals, namely: MJLAC Construction and Aggregates, R.S. Sepian Construction and Trucking, and Haight's Construction. Upon due evaluation of their eligibility requirements, the BAC declared HAIGHT'S CONSTRUCTION as the eligible bidder for having the lowest calculated bid proposal.

After evaluation of the eligibility requirements and validation of the bid of proposals, the BAC issued Resolution No. 2020-157 recommending to the JHMC Board of Directors (BOD) the award of the Project to the **CONTRACTOR**, for having the Lowest Calculated and Responsive Bid of Four Million Four Hundred Ninety Seven Thousand Two Hundred Forty Pesos and 56/100 (PhP4,497,240.56).

On 7 December 2020, the JHMC BOD, through Board Resolution No. 12072020-____, approved BAC Resolution 2020-157 recommending the award of the Project in favor of the **CONTRACTOR**. Subsequently, the JHMC BOD passed Board Resolution No. _____, authorizing the PCEO to sign the Contract on behalf of **JHMC**.

ACCORDINGLY, the Parties hereby mutually agree as follows:

ARTICLE 1
SCOPE OF WORKS

The **CONTRACTOR** shall undertake the Project in accordance with the approved Project Specifications or Program of Works and submit documents and reports as it may deem necessary by **JHMC**.

ARTICLE 2
CONTRACT DOCUMENTS

The following documents are understood to form part of this Contract:

- a) General and Special Conditions of Contract;
- b) Drawings/Plans and design;
- c) Specifications;
- d) Bidding Documents;
- e) Winning bidder's bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents/statements submitted;
- f) Addenda and/or Supplemental/Bid Bulletins, if any;
- g) BAC Resolution;
- h) Board Resolution;
- i) Performance Security;
- j) Credit line in accordance with the provisions of the Revised IRR of RA 9184, if applicable;
- k) Notice of Award of Contract and "Contractor's Conformance" thereto;
- l) Contractor's All Risk Insurance;
- m) Program Evaluation and Review Technique (PERT)/Critical Path Method (CPM);
- n) Construction Schedule and S-curve;
- o) Manpower Schedule;
- p) Equipment Utilization Schedule;
- q) Construction Methods;
- r) Equipment Utilization Schedule;
- s) Construction Safety and Health Program approved by the Department of Labor and Employment;
- t) Construction Environment Management Plan (CEMP); and,
- u) Applicable JHMC permits.

ARTICLE 3
PROJECT DURATION

3.1. The Project shall be completed within **one hundred twenty (120) calendar days** from the date of issuance of the Notice to Proceed.

3.2. Should it be necessary to extend the project duration, the **CONTRACTOR** shall submit a written request not later than ten (10) days before the expiration of the original project duration. **JHMC** shall reasonably grant such request for extension in accordance with the Revised IRR of RA 9184.

3.3. In case the **CONTRACTOR** refuses or fails to satisfactorily complete the work/s within the specified contract time, including any time extension duly granted, and is thereby considered in default, the **CONTRACTOR** shall pay **JHMC** Liquidated Damages in accordance with Article 11 of this Contract.

ARTICLE 4
PAYMENT CONDITIONS

4.1. For the satisfactory execution and completion of the Project, **JHMC** shall pay the **CONTRACTOR** the amount of **Four Million Four Hundred Ninety Seven Thousand Two Hundred Forty Pesos and 56/100 (PhP4,497,240.56)**, inclusive of taxes, and other applicable fees and charges. It is further understood that the said amount already covers the **CONTRACTOR**'s cost for materials, equipment, accommodation, operational expenses, labor expenses, and the cost to remedy defects therein, subject to the following conditions:

- a) Any payment relative to the partial or full completion of this Contract shall be in accordance with government procurement and auditing rules and regulations.
- b) Any progress payments are subject to retention of ten percent (10%) referred to as the "retention money." Such retention shall be based on the total amount due to the **CONTRACTOR** prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value completed works, as determined by **JHMC**. If, after fifty percent (50%) completion, the work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, ten percent (10%) retention shall be imposed.
- c) Prior to the release of payment, the **CONTRACTOR** shall submit a statement of work accomplished which shall be subject to ground validation, verification and approval by **JHMC**.

4.2. The Parties shall comply with the guidelines set forth under the COA Circular No. 2012-001 on the "Revised Documentary Requirements for Common Government Transactions".

ARTICLE 5
PERFORMANCE SECURITY

5.1. This Contract shall not take effect until the **CONTRACTOR** has furnished and delivered to **JHMC** a Performance Security equal to a percentage of the contract price and denominated in Philippine Pesos as required under Section 39.2 of the Revised IRR of RA 9184, as follows:

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
a) Cash or cashier's/ manager's check issued by a Universal or Commercial Bank.	Ten Percent (10%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Five Percent (5%) Universal or Commercial Bank, if issued by a foreign bank.	
c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty Percent (30%)

5.2. The Performance Security shall remain valid until **JHMC** issues the Certificate of Acceptance.

5.3. The Performance Security may be released by **JHMC** after the issuance of the Certificate of Acceptance, subject to the following conditions:

- a) **JHMC** has no claims filed against the **CONTRACTOR**; and/or
- b) There are no claims for labor and materials filed against the **CONTRACTOR**.

ARTICLE 6
WARRANTIES AND COMPLIANCE WITH LAWS AND
JHMC POLICIES, RULES AND REGULATIONS

6.1. The **CONTRACTOR** warrants the execution and completion of the Project pursuant to Article 2 and 3 hereof.

6.2. The **CONTRACTOR** shall comply and strictly observe all labor laws with regard to his workers/employees including workmen's health and safety, workmen's welfare, compensation for injuries, minimum wages, hours of labor and other labor laws, holding **JHMC** free and harmless from any liability arising from such obligations.

- a) The **CONTRACTOR** shall ensure that the personnel that will be deployed in **JHMC** premises shall faithfully observe and comply with all **JHMC** rules and regulations.
- b) The **CONTRACTOR** shall strictly comply with environmental standards, policies and regulations of **JHMC**.
- c) In discharging his responsibility and duties under this Contract, the **CONTRACTOR** shall exercise the care and diligence that the reasonably prudent person would exercise in taking care of his own affairs.
- d) The **CONTRACTOR** shall immediately report any loss or damage to the properties of **JHMC**, including those for which **JHMC** is responsible within his area of jurisdiction whether sustained through accident, fault, negligence or force majeure.

6.3. The **CONTRACTOR** shall comply with the Construction Safety Guidelines for Government Infrastructure Projects within JHSEZ which was approved during the COVID-19 public health crisis.

6.4. To ensure continuing compliance with tax laws pursuant to Executive Order No. 38:

- a) The **CONTRACTOR** shall pay taxes in full and on time and that failure to do so will entitle **JHMC** to suspend payment for any services delivered by the **CONTRACTOR**.
- b) The **CONTRACTOR** is likewise required to regularly present, within the duration of the Contract, a tax clearance from the Bureau of Internal Revenue (BIR) as well as a copy of his income and business tax returns duly stamped and received by the BIR and duly validated with the tax payments made thereon.

6.5. The **CONTRACTOR** warrants that he has not given nor promised to give any money or gift to any employee/official of **JHMC** to secure this Contract.

6.6. The **CONTRACTOR** shall remedy, at his own expense, any defect that **JHMC** will subsequently find in accordance with the provisions of this Contract and applicable laws, rules and regulations.

- a) Within twelve (12) months after the completion and final acceptance of this Project, the **CONTRACTOR** shall remain liable and shall assume the cost for any damage/s or defect/s discovered on the Project due to faulty construction methods, use of materials of inferior quality or violations of the terms and conditions of this Contract.
- b) The **CONTRACTOR** shall be held responsible for any claims due to the Project's structural defects within the warranty period of five (5) years after Final Acceptance by **JHMC**, except those occasioned by *force majeure*. As used in this Contract, *force majeure* shall have the same meaning as that provided in the Civil Code of the Philippines. It is further understood that it shall be strictly construed against the party claiming it.

6.7. **JHMC** shall perpetually disqualify the **CONTRACTOR** from participating in any public bidding for his Projects if it fails to comply with the warranty provisions under Section 62 of the Revised IRR of RA 9184.

ARTICLE 7
CONTRACTOR'S ALL RISK INSURANCE

The **CONTRACTOR** shall, prior to the commencement of work, secure the standard Contractor's All Risk (CAR) Insurance from any insurance company duly certified by the Insurance Commission as authorized to issue such insurance, to insure the works against all losses or damages arising from whatever cause for which the **CONTRACTOR** is responsible under the Contract.

ARTICLE 8
EMPLOYER-EMPLOYEE RELATIONSHIP

8.1. No employer-employee relationship shall exist between **JHMC** and the **CONTRACTOR** and/or the latter's employees deployed to **JHMC**. The **CONTRACTOR** shall be directly responsible for his personnel at all times.

8.2. The **CONTRACTOR** shall hold **JHMC** free from any liability and/or responsibility for damages arising from or that may be caused by the acts of his personnel or structural defects mentioned in Article 6.

8.3. Assume the cost of any required testings and other related medical expenses for his employees in connection with the COVID-19 pandemic.

ARTICLE 9
CONFIDENTIALITY

9.1. The **CONTRACTOR** shall not disclose to a third party any of the terms contained herein or any proprietary or confidential information without prior written consent of **JHMC**. Such confidentiality shall extend to any information which the **CONTRACTOR** may encounter relating to **JHMC**'s business, operation, reports or filings under this Contract. However, confidentiality shall not apply to disclosures required under the laws, rules and regulations of the Philippines, or pursuant to valid and enforceable orders of courts or other governmental agencies with jurisdiction over the subject matter of this Contract.

9.2. This provision shall survive the termination of this **Contract**.

ARTICLE 10
LIQUIDATED DAMAGES

In case of breach of contract, the **CONTRACTOR** shall pay **JHMC** liquidated damages in the amount equal to at least one-tenth (1/10) of one percent (1%) of the unperformed portion for every day of delay. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the Contract, **JHMC** may unilaterally rescind or terminate the Contract without the necessity of prior recourse to the courts, and without prejudice to other courses of action and remedies available.

ARTICLE 11
TERMINATION OF CONTRACT

JHMC may cause the termination of this Contract in accordance with Annex "I" or the Guidelines on Termination of Contracts found in the 2016 Revised IRR of RA 9184 on the following grounds:

a. Termination for Default

- i. Due to the **CONTRACTOR**'s fault and while the Project is on-going, he has incurred negative slippage of fifteen (15%) or more in accordance with Presidential Decree 1870;

- ii. Due to **CONTRACTOR**'s fault and after the Contract time has expired, he has incurred a negative slippage of ten percent (10%) or more in the completion of the work; or
- iii. The **CONTRACTOR**:
 - a. Abandons the contract works, refuses or fails to comply with a valid instruction of **JHMC** or fails to proceed expeditiously and without delay despite a written notice by **JHMC**;
 - b. Does not actually have on the project site the minimum essential equipment listed on the Bid necessary to prosecute the Works in accordance with the approved work plan and equipment deployment schedule as required for the Project;
 - c. Does not execute the Works in accordance with the Contract or persistently or flagrantly neglects to carry out his obligations under the Contract;
 - d. Neglects or refuses to remove materials or to perform a new work that has been rejected as defective or unsuitable; or
 - e. Sub-lets any part of the contract works without approval by **JHMC**.

b. Termination for Convenience

JHMC may terminate the Contract, in whole and in part, at any time for its convenience. The **JHMC** may terminate a contract for the convenience of the Government if it has determined the existence of conditions that make Project implementation economically, financially or technically impractical and/or unnecessary, such as but not limited to, fortuitous event(s) or changes in law and national government policies.

c. Termination for Insolvency

JHMC shall terminate the Contract if the **CONTRACTOR** is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the **CONTRACTOR**, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the **JHMC** and/or **CONTRACTOR**.

d. Termination for Unlawful Acts

JHMC may terminate the Contract in case it is determined *prima facie* that the **CONTRACTOR** has engaged, before or during the implementation of the Contract, in unlawful deeds and behavior relative to the contract acquisition and implementation. Unlawful acts include but are not limited to, the following: a) Corrupt, fraudulent, collusive and coercive practices; b) Drawing up or using forged documents; c) Using adulterated materials, means or methods, or performance of the Contract contrary to rules of science or the trade; and d) Any other act analogous to the foregoing.

e. Termination by CONTRACTOR

The **CONTRACTOR** may terminate his Contract with **JHMC** if the works are completely stopped for a continuous period of at least sixty (60) calendar days to any of the following reasons:

- i. Failure of **JHMC** to deliver, within a reasonable time, supplies, materials, right-of-way, or other items it is obligated to furnish under the terms of the Contract; or
- ii. The prosecution of the works is disrupted by the adverse peace and order situation, as certified by the Armed Forces of the Philippines Provincial Commander and approved by the Secretary of National Defense.

**ARTICLE 12
INDEMNITY**

12.1. The **CONTRACTOR** shall indemnify and hold **JHMC** free and harmless from any claims of third parties arising from a negligent or otherwise wrongful act, or omission by the **CONTRACTOR** or his employees or representatives.

12.2. **JHMC** shall not be liable for any injury, illness or death sustained by the **CONTRACTOR**'s employees arising from the COVID-19 pandemic while in the performance of their duties and responsibilities in connection with this Contract.

**ARTICLE 13
NON-WAIVER OF RIGHTS**

JHMC's failure to insist on the strict performance of any of the contract terms and conditions shall not be deemed as a waiver of any of its rights or remedies then available, or for any subsequent breach or default discovered thereafter. No waiver of any right stipulated here shall be deemed to have been made unless expressed in writing and signed by the parties.

**ARTICLE 14
DISPUTE RESOLUTION AND VENUE OF ACTION**

14.1. Should a dispute or issue arise between the Parties in connection with this Contract, the Parties shall exhaust every effort to resolve amicably and in good faith such dispute or issue by mutual consultation. If the dispute or issue remains unresolved within one (1) month from the first meeting of the parties, either of the Parties may then resort to court action.

14.2. Any court action arising out of this Contract shall be brought exclusively before the appropriate courts of Baguio City.

**ARTICLE 15
MISCELLANEOUS**

16.3. **Effectivity.** This Contract becomes valid and binding upon its execution and shall remain effective until the Project's final completion and **JHMC**'s final acceptance.

16.4. **Amendment.** No amendment or alteration of the provisions of this Contract shall be binding unless executed and approved in writing by both Parties.

16.5. **Assignment.** The **CONTRACTOR** shall not assign this Contract or sub-contract the performance of any portion of it, without **JHMC**'s prior written consent.

**ARTICLE 16
OGCC APPROVAL**

Pursuant to GCG MC 2018-02, this Contract shall be subject to the review and approval of the Office of the Government Corporate Counsel. Any of its ensuing comments, recommendations, or directives shall form part of this Contract.

JAN 16 2021

SIGNED BY the Parties on _____ at Baguio City.

JOHN HAY MANAGEMENT

By:


ALLAN RAZON GARCIA
President and CEO *me*



**NOEL G. HAIGHT, DOING BUSINESS
UNDER THE NAME AND STYLE OF
HAIGHT'S CONSTRUCTION**





Witnesses:

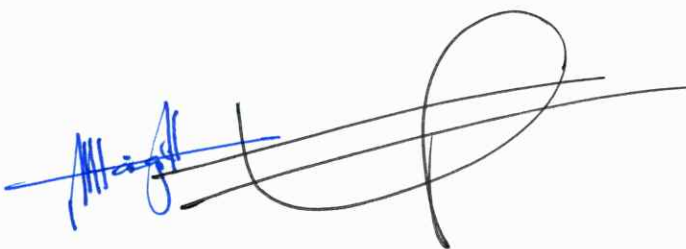

ARCH. LUZVIMINDA M. NIGOS-PANGANIBAN
Project Manager, JHMC


CARISSA HAIGHT
TIN I.D. No. 441-420-430

Certified Availability of Funds:
CAF No: CAF 20-12-186
BUR No.: 06-2020-12-0992


JOSEPHINE Q. TECAN
Accountant, JHMC





ACKNOWLEDGMENT

Republic of the Philippines)
Baguio City LA TRINIDAD, BENGUET) S.S.

BEFORE ME, a Notary Public in and for LA TRINIDAD, BENGUET personally appeared the following:

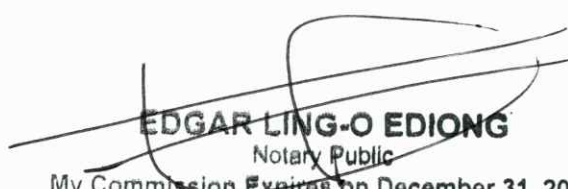
Name	Competent Evidence of Identity	Date/Place Issued
ALLAN R. GARCIA	Driver's License No. 5-82-036-118	October 18, 2018 Angeles City, Pampanga
NOEL G. HAIGHT	PRC No. 0118983	Valid until 25 August 2022

They are both known to me to be the same persons who executed the foregoing instrument and they acknowledge to me that the signatures they affixed confirm their own free acts and the entities they represent.

This contract consisting of nine (9) pages including this where the Acknowledgment is stated, relates to the Rehabilitation of the Bell House Phase 3 between JHMC and Haight's Construction. The Parties and their witnesses signed in the proper spaces and the left margin of every page.

SIGNED AND SEALED on JAN 16 2021 at Baguio City, LA TRINIDAD, BENGUET

Doc. 440 ;
Book 88 ;
Page 19 ;
Series of 2021 .


EDGAR LING-O EDIONG
Notary Public
My Commission Expires on December 31, 2022
Roll No. 52279; May 11, 2006
PTR No. 6867933; 12/18/2020 for 2021; Benguet
IBP LIFETIME NO. 08824; Baguio-Benguet Chapter
MCLE Compliance No VI-0011768; 08/14/18
Room 215, Pines Hill Commercial Center Building II
Km. 5, La Trinidad, Benguet, Philippines



REPUBLIC OF THE PHILIPPINES
 DEPARTMENT OF TRANSPORTATION
 LAND TRANSPORTATION OFFICE
 PROFESSIONAL DRIVER'S LICENSE



Last Name, First Name, Middle Name
GARCIA, ALLAN RAZON

Nationality Sex Date of Birth Height Weight
 PHL M 1957/07/27 1.70 62 67.0

Address
 724 VALENZUELA ST. LOURDES MARIEST
 ANGELES CITY PAMPANGA

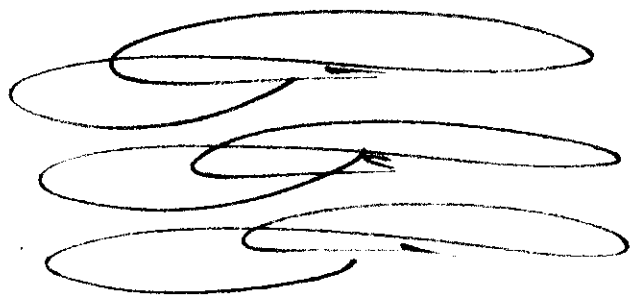
License No. Expiration Date Agency Code
 N05-02-036118 2028/09/27 C26

Blood Type Eye Color
 NONE BLACK

Restrictions Codditions
 1,2,3 NONE

2018/10/17
 Signature of Licensee

EDGAR C. SALVANTE
 Assistant Secretary

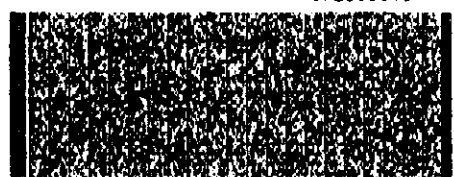


III. ORGAN DONATION:
 I WILL NOT DONATE ANY ORGAN

IV. IN CASE OF EMERGENCY NOTIFY:
 NAME EMILIE GARCIA
 ADDRESS: LOURDES MARIEST ANGELES CITY PAMP
 TEL. NO. 09175607953

- I. RESTRICTIONS:**
1. MOTORCYCLES - MOTORIZED TRICYCLES
 2. VEHICLE UP TO 4500 KGS G.V.W.
 3. VEHICLE ABOVE 4500 KGS G.V.W.
 4. AUTOMATIC CLUTCH UP TO 4500 G.V.W.
 5. AUTOMATIC CLUTCH ABOVE 4500 G.V.W.
 6. ARTICULATED VEHICLE 1600 KGS G.V.W. AND BELOW
 7. ARTICULATED VEHICLE 1601 UP TO 4500 G.V.W.
 8. ARTICULATED VEHICLE 4501 & ABOVE G.V.W.
- II. CONDITIONS:**
- A. WEAR EYEGLASSES
 - B. DRIVE ONLY W/SPECIAL EQPT FOR UPPER LIMBS
 - C. DRIVE ONLY W/SPECIAL EQPT FOR LOWER LIMBS
 - D. DAYLIGHT DRIVING ONLY
 - E. ACCOMPANIED BY A PERSON W/ NORMAL HEARING

Serial Number
 072568819





Republic of the Philippines
PROFESSIONAL REGULATION COMMISSION
 Manila



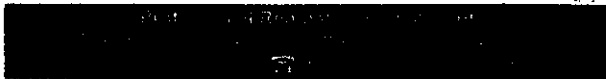
PROFESSIONAL IDENTIFICATION CARD

LAST NAME ▶ **HAIGHT**
 FIRST NAME ▶ **NOEL**
 MIDDLE INITIAL NAME ▶ **GARCIA**
 REGISTRATION NO ▶ **0118983**
 REGISTRATION DATE ▶ **12/09/2010**
 VALID UNTIL ▶ **06/25/2022**



06/25/1988
 09/02/2019

~~Handwritten signature~~
~~Handwritten signature~~
~~Handwritten signature~~



CERTIFICATION

REGISTRATION NO. 0118983

This is to certify that the person whose name, photograph, and signature appear herein is a duly registered professional, legally authorized to practice his/her profession with all the rights and privileges appurtenant thereto.

This is to certify further that he/she is a professional in good standing and that his/her certificate of registration/professional license has not been suspended, revoked, or withdrawn.

Signature of Professional

TEOFILO S. PILANDA, JR.
 CHAIRMAN