[redacted]

J&A No. 26-JA-FECON-0011

Justification for an Exception to Fair Opportunity

1. **AGENCY AND CONTRACTING ACTIVITY:** This is a Justification for an Exception to Fair Opportunity. The requiring activity is the Commander Fleet Activities Okinawa (CFAO); the contracting activity is the Naval Facilities Engineering Systems Command Far East (NAVFAC FE), Resident Officer in Charge of Construction (ROICC) Okinawa, Japan.

2. **NATURE AND/OR DESCRIPTION OF THE ACTION BEING APPROVED:** This is a limited source action to be awarded as a modification of an existing order to American Engineering Corporation (AEC) under contract number N4008421D0070, task order N4008424F4099, DB CFAO088 Replace Standby Generators, Camp Shields Bldg. 7206 and White Beach Bldg. 1004B. The placement of a firm, fixed price order is anticipated.

3. **DESCRIPTION OF REQUIRED SUPPLIES/SERVICES:** The proposed acquisition is to repair the malfunctioning Automatic Transfer Switch (ATS) to restore automated backup power capability at White Beach Bldg 1004B. It is intended to acquire a new ATS to replace the existing failed ATS. The additional work would extend the construction completion date by 545 calendar days to accommodate design, material procurement, installation, testing, and commissioning. The estimated cost is $[redacted] and Fiscal Year 2026 Operation & Maintenance, Navy (O&MN) funds would be used.

4. **IDENTIFICATION OF THE EXCEPTION TO FAIR OPPORTUNITY:** The statutory authority which permits exception to fair opportunity to be considered for each order over the micro-purchase threshold issued under a multiple award contract is 10 U.S.C. 3406(c), as implemented by FAR 16.507-6(b):

☐ (1) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays

☐ (2) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized

☒ (3) The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order

☐ (4) It is necessary to place the order to satisfy a minimum guarantee

☐ (5) For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that purchase be made from a specified source

☐ (6) The order satisfies one of the exceptions permitting the use of other than full and open competition listed in 6.103 (10 U.S.C. 3406(c)(5)).

[redacted]

[redacted]

[redacted]

5. **RATIONALE/EXPLANATION TO SUPPORT CITED AUTHORITY:** This order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an existing task order.

(a) Recency of the previous competitive order and the number of times this exception has been used:

All Okinawa DB/DBB MACC holders were given a fair opportunity to compete for the original task order, which was awarded on 5 December 2023. This is the first time this exception to fair opportunity has been used for this requirement to replace the malfunctioning ATS at White Beach Bldg 1004B.

(b) Why the specific requirement continues:

The requirement continues because the emergency power system at White Beach Building 1004B is currently non-operational. While AEC successfully replaced the 600 kW standby generator under the original scope, the existing Automatic Transfer Switch (ATS) unit experienced a critical failure during a mandatory switching test conducted on March 16, 2026. Without a functional ATS, the newly installed generator cannot start and transfer load automatically during an outage. Consequently, the active task order with AEC cannot be successfully closed out or finalized until a compatible ATS is procured, installed, and fully integrated with the new generator system.

(c) Why it would be of benefit to the Government for the specified contractor to continue this work:

Continuing with AEC is highly beneficial to the Government because they are currently mobilized on-site with the necessary equipment, technical personnel, and direct, intimate knowledge of the newly installed generator and the facility's electrical distribution system. AEC can immediately design, procure, and replace the ATS without coordination delays. Most importantly, utilizing AEC ensures a single point of accountability for the entire emergency power system. Introducing a different contractor to work on the exact same power distribution system creates complex warranty disputes in the event of future malfunctions and would likely void the manufacturer's warranty on both the generator and the new ATS.

(d) Why the relationship between the initial order and the follow-on is logical:

The relationship is logical in terms of scope and performance. The standby generator and the ATS must operate as a unified, seamless emergency power system. Because AEC is the prime contractor responsible for designing and certifying the generator system, replacing the failed ATS is intrinsically linked to the successful completion and certification of the initial generator installation. Attempting to separate the ATS replacement from the generator installation introduces severe technical integration risks.

[redacted]

(e) Award to any other source would likely result in substantial duplication of cost to the Government that is not expected to be recovered through competition:

Awarding this requirement to another source would result in substantial duplication of costs that will not be recovered through competition. A new contractor would charge the Government for redundant mobilization overhead, site familiarization, and an extensive engineering review of AEC's recent generator installation before they could safely install a new ATS. Furthermore, the potential cost of voided warranties and future integration failures between two different contractors' work far outweighs any marginal price reduction that might be achieved through a separate solicitation.

6. **FAIR AND REASONABLE COST DETERMINATION:** The Contracting Officer has determined that the anticipated cost to the Government of the supplies/services covered by this J&A will be fair and reasonable prior to the execution of the task order modification. This determination will be based on a technical evaluation of the contractor's proposal, comparison with the Independent Government Cost Estimate (IGCE), and comparison with historical pricing for similar procurements.

7. **ANY OTHER FACT SUPPORTING THE JUSTIFICATION:** None.

8. **ACTIONS TO INCREASE COMPETITION:** For future requirements of this nature, the requiring activity will make every effort to inspect and test existing auxiliary infrastructure prior to drafting the scope of work. This will allow integration requirements to be competed as part of the initial solicitation package, thereby maximizing fair opportunity.

[redacted]

9. **TECHNICAL/REQUIREMENTS/FUNCTIONAL LEAD CERTIFICATION**

I declare that the facts and representations under my cognizance which are included in this justification is complete and accurate to the best of my knowledge and belief.

Signature: [redacted] Phone: [redacted] Date 28-Jul-2026

Name/Title: [redacted] NAVFAC Far East ROICC Okinawa

10. **LEGAL SUFFICIENCY REVIEW**

I have reviewed and determined this Justification is legally sufficient.

Signature: [redacted] Phone: [redacted] Date 28-Jul-2026

Name/Title: [redacted] NAVFAC Far East

11. **CERTIFICATION AND APPROVAL**

Upon the basis of the above justification, I certify that this justification is accurate and complete to best of my knowledge and belief and hereby approve the Exception to Fair Opportunity for the proposed procurement(s) described herein using pursuant to the 10 U.S.C. 3406(c), as implemented by FAR 16.507-6(b)(3):

ECHELON IV CHIEF OF CONTRACTING OFFICE APPROVAL

Signature: [redacted] Phone: [redacted] Date 28-Jul-2026

Name/Title: [redacted] NAVFAC Far East

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