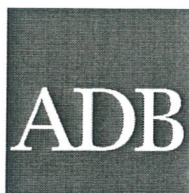




ISLAMIC REPUBLIC OF AFGHANISTAN
MINISTRY OF ENERGY AND WATER



CONTRACT

FOR

Construction of CPMO Office Building

MEW/WRDIP-P1/NCB/Addtl04

**ADB Grant No. and Title: 0167-AFG:
Water Resources Development Investment Program**

Between

Ministry of Energy and Water

And

Nabi Afghan Construction & Road Building Co

OCTOBER 2019



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(a) Contract Agreement

THIS AGREEMENT made the ... 06 ... day of October, 2019 ..., between Ministry of Energy and Water (hereinafter "the Employer"), of the one part, and Nabi Afghan Construction & Road Building Co. (hereinafter "the Contractor"), of the other part:

WHEREAS the Employer desires that the Works known as Construction of CPMO Office Building, (MEW/WRDIP-P1/NCB/Addtl04) should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (a) the Contract Agreement,
 - (b) the Letter of Acceptance,
 - (c) the Letter of Bid,
 - (d) the Particular Conditions of Contract,
 - (e) the List of Eligible Countries that was specified in Section 5 of the bidding document,
 - (f) the General Conditions of Contract,
 - (g) the Specifications,
 - (h) the Drawings,
 - (i) the Completed Activity Schedules or Bill of Quantities, and
 - (j) any other documents shall be added here.
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

The Contract amount is **17,093,454.00 Afghani (Seventeen Million Ninety-Three Thousands Four Hundred Fifty-Four Afghani) inclusive of 6% Contingency amounting to 967,554.00 Afghani**

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Islamic Republic of Afghanistan on the day, month and year indicated above.

Eng. Mohammad Gul "Khulmi"
Acting Minister, Ministry of Energy and Water

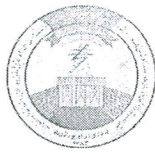
For and on behalf of Employer
Witness, Name, Signature, Address, Date

Engineer Nabiullah Alokozai
President, Nabi Afghan Construction & Road Building Co

For and on behalf of Contractor
Witness, Name, Signature, Address, Date



b- Letter of Acceptance



جمهوری اسلامی افغانستان
وزارت انرژی و آب

د افغانستان اسلامي جمهوریت
د انرژی او اوبو وزارت



Islamic Republic of Afghanistan
Ministry of Energy & Water

معینیت آب

پروگرام سرمایه گذاری برای انکشاف منابع آب

WRDIP/T- II

21235
570
تاریخ: 1398 / 7 / 10

Letter of Acceptance

To: Nabi Afghan Construction Company
1st street of Kart-e-Naw, District 8, Kabul – Afghanistan.
Nacc.engineering@gmail.com
+93(0) 700 140 203

Subject: Notification of Award Contract Number MEW/WRDIP-P1/NCB/Addtl 04

This is to notify you that your Bid dated 02 April 2019 for execution of the Construction of PMO Office Building (MEW/WRDIP-P1/NCB/Addtl 04), for the Accepted Contract Amount of the equivalent of 17,093,454.00 Afghani (Seventeen Million Ninety-Three Thousands Four Hundred Fifty-Four Afghani) inclusive of 6% Contingency amounting to 967,454.00 Afghani, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature:

Engineer Khan Mohammad Takal
Acting Minister
Ministry of Energy and Water

Website: www.mew.gov.af

آدرس: وزارت انرژی و آب، سرک دارالمان سناتوریم کابل افغانستان



C- Letter of Bid –First Page

4-2 Section Forms 4 Bidding

Letter of Bid

Note:

Nabi Afghan Construction Company

Date: 02-04-2019
NCB No.: MEW/WRDIP-P1/NCB/Addtl 04
Invitation for Bid No.: MEW/WRDIP-P1/NCB/Addtl 04

To: **Ministry of Energy and Water**

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) Clause 8.
- (b) We offer to execute in conformity with the Bidding Documents the following Works:
[Construction of PMO Office Building]
- (c) The total price of our Bid, excluding any discounts offered in item (d) below is:
[Seventeen Million and Ninety Three Thousand Four Hundred Fifty Four AFN], [17093454.00]
- (d) The discounts offered and the methodology for their application are as follows: [... insert discounts and methodology for their application if any...]
- (e) Our bid shall be valid for a period of [120] days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Document.
- (g) Our firm, including any Subcontractors or Suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB 4.2.
- (h) We, including any Subcontractors or Suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3.

Bidding Document for MEW/WRDIP-P1/NCB/Addtl 04 Procurement of Works-Small Contract

(Signatures and Stamp of Nabi Afghan Construction Co.)



C- Letter of Bid –Second Page

Section 4 - Bidding Forms

4-3

- (i) We are not participating, as a Bidder in more than one Bid in this bidding process in accordance with ITB 4.3(e), other than alternative offers submitted in accordance with ITB 13.
- (j) Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible by ADB, under the Employer's country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council.
- (k) [We are not a government-owned enterprise] / [We are a government-owned enterprise but meet the requirements of ITB 4.5].¹
- (l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:²

Name of Recipient	Address	Reason	Amount
.....
..... none

- (m) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (n) We understand that you are not bound to accept the lowest evaluated Bid or any other Bid that you may receive.
- (o) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by ADB.
- (p) If our Bid is accepted, we commit to mobilizing key equipment and personnel in accordance with the requirements set forth in Section 6 (Employer's Requirements) and our technical proposal, or as otherwise agreed with the Employer.

Name: Eng. Nabiullah Alokozai

In the capacity of Director of Nabi Afghan Construction Company

Signed

Duly authorized to sign the Bid for and on behalf of Director of NACC

Date: 02-04-2019



¹ Use one of the two options as appropriate.

² If none has been paid or is to be paid, indicate "None".



(d)

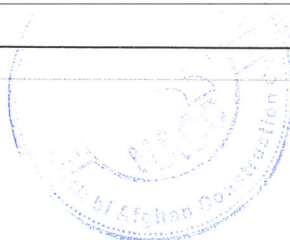
Section 8 - Particular Conditions of Contract

The following Particular Conditions of Contract shall supplement the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

A. General	
GCC 1.1 (d)	The financing institutions is Asian Development Bank
GCC 1.1 (r)	The Employer is: Ministry of Energy and Water (MEW) Darul Aman Road, Kabul, Afghanistan Authorized Representative: Mr. Sayed Moqem Sadat, CPMO Director <u>saidmoqem5@gmail.com</u> +93(0) 786 53 84 77
GCC 1.1 (w)	The Intended Completion Date for the whole of the Works shall be: Two Hundred forty days from the date of notice to proceed (NTP).
GCC 1.1 (cc)	The Project Manager is: Mr. Fardeen Azimi Ministry of Energy and Water (MEW) Darul Aman Road, Kabul, Afghanistan <u>fardeen.azimi.b@gmail.com</u> +93(0) 799 43 53 43
GCC 1.1 (ff)	The Site is located at Kabul City
GCC 1.1 (ii)	The Start Date shall be 7 (seven) days after the issuance of NTP.
GCC 1.1 (mm)	The Works consist of Construction of CPMO Office Building in Kabul.
GCC 2.2	Sectional Completions are: Not Applicable
GCC 2.3 (j)	The following documents also form part of the Contract: <ul style="list-style-type: none">Quality Control Plan and Safety Plan
GCC 3.1	The language of the contract is: English The law that applies to the Contract is the law of Islamic Republic of Afghanistan (IRoA)
GCC 8.3	Add sub-clause 8.3 as follows. "The Contractor shall comply with all applicable national, provincial and local environmental laws and regulations. The Contractor shall allocate the budget required to comply with this requirement".
GCC 10.1	Project Manager's Decisions: Add the following at the end of the Sub-clause:

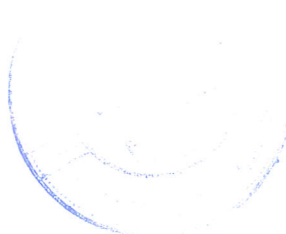


	<p>"Notwithstanding anything contained hereinabove, the Project Manager is required to obtain approval of the Employer before exercising specific authorities as listed below:</p> <p>(i) Extension of the Intended Completion Date in accordance with Sub-Clauses 36.1 and 36.2.</p> <p>(ii) Instructing or approving Variations pursuant to Clause 47 if such Variation results in increase of Contract price by more than 0.5% in a single instance, and combined with all previously issued Variations results in increase of the Accepted Contract Amount by more than 2%.</p>
GCC 11.1	The Project Manager may delegate any of his duties and responsibilities.
GCC 14.1	Schedule of other contractors: Not Applicable
GCC 19.1	<p>The minimum insurance amounts and deductibles shall be:</p> <p>(a) Minimum insurance amount for loss or damage to the Works, Plant and Materials: 16 Million Afs. Deductibles: None</p> <p>(b) Minimum insurance amount for loss or damage to Equipment: 5 Million Afs. Deductibles: 100,000 Afghani</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract: 3.6 Million Afs per occurrence, with the number of occurrences unlimited</p> <p>(d) for personal injury or death:</p> <p>(i) of the Contractor's employees: as per Afghanistan's law</p> <p>(ii) of other people: as per Afghanistan's law</p>
GCC 20.1	Site Investigation Reports are: Reports available, if any, can be inspected at PMO Kabul
GCC 23.1	The following shall be designed by the Contractor: Not Applicable
GCC 24.1	<p>Add the following at the end of the sub-clause.</p> <p>"The Contractor shall make available a budget for all such safety measures. It shall be deemed that any safety related costs are included in the unit prices for other items in the Bill of Quantities".</p>
GCC 26.1	The Site Possession Date(s) shall be: 14 days after the signing of contract
GCC 29.1	Appointing Authority for the Adjudicator: Minister, Ministry of Justice, IRoA
GCC 30.3	<p>The Adjudicator shall be paid by the hour at the rate of: as per MEW Policy</p> <p>The reimbursable expenses are: as per MEW Policy</p>
GCC 30.4	<p>Institution whose arbitration procedures shall be used:</p> <p>(a) Contracts with foreign contractors:</p> <p>International arbitration shall be conducted in accordance with the rules of Singapore International Arbitration Centre (SIAC).</p> <p>Arbitration shall be administered by SIAC</p> <p>The place of arbitration shall be: the place of the institution administering the arbitration.</p>



	<p>(b) Contracts with domestic contractors:</p> <p>Arbitration shall be conducted in accordance with the laws of the Employer's country.</p>
GCC 34.2	<p>The following additional clause shall apply:</p> <p>Respectful Work Environment</p> <p>The Contractor shall ensure that its employees and sub-contractors observe the highest ethical standards and refrain from any form of bullying, discrimination, misconduct and harassment, including sexual harassment and shall, at all times, behave in a manner that creates an environment free of unethical behavior, bullying, misconduct and harassment, including sexual harassment. The Contractor shall take appropriate action against any employees or sub-contractors, including suspension or termination of employment or sub-contract, if any form of unethical or inappropriate behavior is identified.</p> <p>The Contractor shall conduct training programs for its employees and sub-contractors to raise awareness on and prevent any form of bullying, discrimination, misconduct and harassment including sexual harassment, and to promote a respectful work environment. The Contractor shall keep an up to date record of its employees and subcontractors who have attended and completed such training programs and provide such records to the Employer or the Engineer at their first written request.</p>

C. Time Control	
GCC 35.1	The Contractor shall submit for approval a Program for the Works within Fifteen (15) days from the date of the Letter of Acceptance.
GCC 35.3	<p>The period between Program updates is Thirty (30) days.</p> <p>The amount to be withheld for late submission of an updated Program is 100,000.00 Afghani</p>
D. Quality Control	
GCC 43.1	The Defects Liability Period is: Three Hundred and Sixty Five (365) days.
E. Cost Control	
GCC 53.1	The currency of the Employer's country is: Afghani (AFN)
GCC 54.1	<p>The Contract is not subject to price adjustment in accordance with GCC Clause 54, and the following information regarding coefficients does not apply.</p> <p>The coefficients and indexes for adjustment of prices in local and international currencies shall be as specified in the Table(s) of Adjustment Data submitted together with the Letter of Bid.</p>
GCC 55.1	The proportion of payments retained is: Ten (10) percent
GCC 56.1	<p>The liquidated damages for the whole of the Works are 0.04% per day.</p> <p>The maximum amount of liquidated damages for the whole of the Works is Ten percent (10%) of the final Contract Price.</p>



GCC 58.1	The Advance Payments shall be Ten (10) percent and shall be paid to the Contractor no later than Thirty (30) days after the date of signing of the contract.
GCC 58.3	Repayment of the Advance Payments shall be: Fifteen percent (15%) from each payment certificate.
GCC 59.1	The Performance Security amount is five percent (5%) of the Contract Amount
G. Finishing the Contract	
GCC 72.1	The date by which operating and maintenance manuals are required is: Not Applicable The date by which "as built" drawings are required is at the date of Issuance of Certificate of Completion.
GCC 72.2	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required in GCC 72.1 is 100,000.00 Afghani
GCC 73.2 (h)	The maximum number of days is: 200 days
GCC 75.1	The percentage to apply to the value of the work not completed, representing the Employer's additional cost for completing the Works, is fifteen (15) percent.

