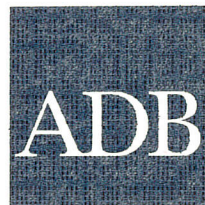




**ISLAMIC REPUBLIC OF AFGHANISTAN
MINISTRY OF ENERGY AND WATER**



CONTRACT

FOR

**Rehabilitation & Construction of Subproject
(Qulbors and Shorab Canals)**

MEW/P-ARBP/NCB/03

ADB Grant No. and Title: 0506 /0507 -AFG: Panj-Amu River Basin Sector Project

Between

Ministry of Energy and Water

and

Samandar Construction, Road Building & Construction Material Production Co.

December 2018

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(a) Contract Agreement

THIS AGREEMENT made the 31 Day of Dec/2018 between **Ministry of Energy and Water (MEW)** (hereinafter "The Employer"), of the one part, and **Samander Construction, Road Building & Construction Materials Production Co.** (hereinafter "The Contractor"), of the other part:

WHEREAS the Employer desires that The Works known as **Rehabilitation & Construction of Subprojects (Qulbors & Shorab Canals)** under the contract no. MEW/P-ARBP/NCB/03 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 Schedules including Bill of Quantities,
 - j) Other documents
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.



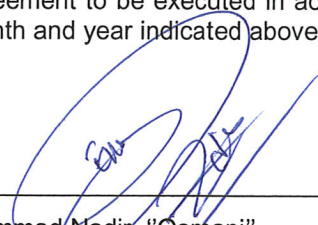
The contract amount is **AFN 79,473,439.49. (Seventy Nine Million Four Hundred Seventy Three Thousand Four Hundred Thirty Nine Afghani & Forty Nine Pul)** inclusive of 10% Contingency on bill no. 2 amounting to **AFN 5,347,585.41** and provisional sum amounting to **AFN 3,500,000.00**.

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



Mohammad Gul "Khulmi"
Acting Minister, MEW

For and on behalf of The Employer
in the presence of



Mohammad Nadir "Osmani"
Managing Director SCC

For and on behalf The Contractor
in the presence of

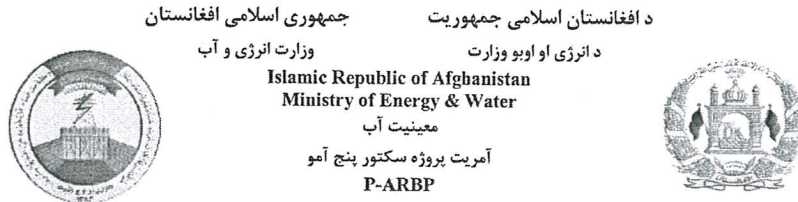


Witness, Name, Signature, Address, Date

Witness, Name, Signature, Address, Date



(b) Letter of Acceptance



Letter of Acceptance

December 17, 2018

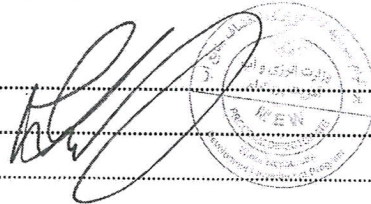
To: Samander Construction, Road Building & Construction Material Production Co, located at Qala-e-Fatullah 4th Street Kabul, Afghanistan

Subject: Notification of Contract Award No: MEW/P-ARBP/NCB/03

This is to notify you that your Bid dated **27 August 2018** for execution of the **Rehabilitation & Construction of Subprojects (Qulbars and Shorab Canals), Package III** for the Accepted Contract Amount of the equivalent of **AFN 79,473,439.49 (Seventy Nine Million, Four Hundred Seventy Three Thousand, Four Hundred Thirty Nine Afghanis & Forty Nine Pul)** inclusive of 10% Contingency amounting to **AFN 5,347,585.41** and provisional sum amounting to **AFN 3,500,000.00**, 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.

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



Handwritten signature and initials.



(c) Letter of bid

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Section 4 - Bidding Forms

Letter of Bid

Note-

The bidder must accomplish the Letter of Bid on its letterhead clearly showing the bidder's complete name and address.

Date: 27 August 2018

ICB/NCB No.: MEW/P-ARBP/NCB/03

Invitation for Bid No.: MEW/P-ARBP/NCB/03

To: [... Ministry of Energy & 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: [. . Rehabilitation and Construction of Subprojects (Qulbars and Shorab Canals) .]
- (c) The total price of our Bid, excluding any discounts offered in item (d) below is:

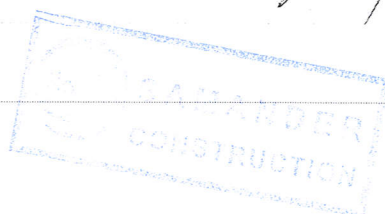
[amount of foreign currency in words], [amount in figures], and [79,473,439.49], [Seventy Nine Million Four Hundred Seventy Three Thousand Four Hundred Thirty Nine Point Forty Nine Only]

The total bid price from the Summary of Bill of Quantities for admeasurement contracts or Activity Schedule for lump sum contracts should be entered by the bidder inside this box. Absence of the total bid price in the Letter of Bid may result in the rejection of the bid.

- (d) The discounts offered and the methodology for their application are as follows: [.. No Discount ..]
- (e) Our bid shall be valid for a period of [... 90 days ...] 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.

Procurement of Works Small Contract

Bidding Document for MEW/P-ARBP/NCB/03



Section 4 - Bidding Forms

4-3

- (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.
- (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
Nil.....
.....

- (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 Samander Construction, Road Building & Construction Materials Production Co.....

In the capacity of President of Company

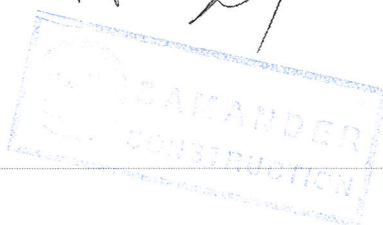
Signed

Duly authorized to sign the Bid for and on behalf of Samander Construction, Road Building & Construction Materials Production Co.....

Date 27 August 2018.....

¹ Use one of the two options as appropriate.

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



(d) 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. Fardeen Azimi, PMO Director fardeen.azimi.b@gmail.com +93(0) 799 43 53 43
GCC 1.1 (w)	The Intended Completion Date for the whole of the Works shall be: Five Hundred Forty (540) calendar days from the date of notice to proceed (NTP).
GCC 1.1 (cc)	The Project Manager is: Mr. Waisuddin Rahimi Ministry of Energy and Water (MEW) Darul Aman Road, Kabul, Afghanistan waisuddin.rahimi@gmail.com +93(0) 793 85 7777
GCC 1.1 (ff)	The Site is located at Takhar City .
GCC 1.1 (ii)	The Start Date shall be 7 (seven) days after the issuance of notice to proceed (NTP).
GCC 1.1 (mm)	The Works consist of Rehabilitation and Construction of Subproject (Qulbars & Shorab Canals) .
GCC 2.2	Sectional Completions are: Not Applicable
GCC 2.3 (j)	The following documents also form part of the Contract: • 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 10.1	Project Manager's Decisions: Add the following at the end of the Sub-clause: "Notwithstanding anything contained hereinabove, the Project Manager is required to obtain approval of the Employer before exercising specific authorities as listed below: (i) Extension of the Intended Completion Date in accordance with Sub-Clauses 36.1 and 36.2.



	(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%.
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: Amount = AFN 600,000, Deductibles: None</p> <p>(b) Minimum insurance amount for loss or damage to Equipment: Amount = 200,000, Deductibles: None</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract: AFN 1,000,000 per occurrence, with the number of occurrences unlimited. Deductibles: None</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 PIO Takhar.
GCC 23.1	The following shall be designed by the Contractor: Not Applicable
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: <i>[select from below]</i></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 sentence 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</p>



	<p>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>
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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 0.05% 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 Fifteen (15) 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 (20%) from each payment certificate.
GCC 59.1	The Performance Security amount is Fifteen percent (15%) 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 200,000.00 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.
GCC 80	<p>Security of the Site:</p> <p>Add the following Clause 80:</p> <p>The Contractor shall be responsible for the security of the Works, the Contractor's personnel, materials and equipment for the duration of the project in accordance with the Employer's Requirements. The Contractor shall employ a full-time Security Coordinator on Site in charge of all security matters. The Security Officer shall be English speaking and shall have at least 5 years' experience in a similar role.</p> <p>The Contractor shall prepare the Security Plan and submit to the Employer and Project Manager for their information.</p> <p>The Contractor shall make available a budget for all such security measures. It shall be deemed that any security related costs are included in the unit prices for other items in the Bill of Quantities.</p>
GCC 81	<p>Add the following Clause 81:</p> <p>The Contractor shall comply with all relevant (a) labour laws and regulations applicable to the Contractors personnel, including staff, consultants, contractors, and agents; and (b) workplace health and safety laws.</p> <p>The Contractor shall not make employment decisions based upon personal characteristics unrelated to job requirements. The Contractor shall base the employment relationship upon equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment or retirement, and discipline.</p> <p>The Contractor shall (a) provide equal wages and benefits to men and woman for work of equal value or type; (b) use their best efforts to employ women and local people, including disadvantaged people, living in the vicinity of the Project; and (c) maximize female training and employment".</p>

