



REPUBLIC OF NAMIBIA



OSHIKOTO REGIONAL COUNCIL

**OPEN NATIONAL BIDDING
(WORKS)**

**CONSTRUCTION OF A WATER RETICULATION
NETWORK IN ONYUULAYE SETTLEMENT**

Procurement Reference No: W/ONB/ORC-05/2024

Cost: N\$ 100.00

Bidder's Name:	
Contact Details:	Tel.:
	Email:
Total quoted AMOUNT (VAT INCLUDED):	figures:
	Words:

SBD for Procurement of Works

PART 1 – BIDDING PROCEDURES

Section I. Instructions to Bidders (ITB)

This Section provides relevant information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. **Section I contains provisions that are to be used without modification.**

Section II. Bidding Data Sheet

This Section consists of provisions that are specific to each procurement and that supplement the information or requirements included in Section I, Instructions to Bidders.

Section III. Evaluation Criteria

This section contains supplementary evaluation criteria which the Employer may choose to apply to the procurement under consideration.

Section IV. Bidding Forms

This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid.

PART 2 – EMPLOYER’S REQUIREMENTS

Section V. Employer’s Requirements

This Section contains the Specification, the Drawings, and supplementary information that describe the Plant and Installation Services to be procured.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section VI. General Conditions of Contract

This Section contains the general clauses to be applied in all contracts. **The text of the clauses in this Section shall not be modified.**

Section VII. Special Conditions of Contract

The contents of this Section supplement the General Conditions of Contract and shall be prepared by the Employer.

Section VIII. Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for **Performance Security** and **Advance Payment Security**, when required, shall only be completed by the successful Bidder after contract award.

Standard Bidding Document

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PART 1 – Bidding Procedures

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Section I - Instructions to Bidders

A. General

- 1. Scope of Bid**
- 1.1 The Public Entity as defined¹ in Section II “Bidding Data Sheet” (**BDS**) also referred to herein as Employer invites bids for the construction of Works, as **described in the BDS** and Section VII, “Special Conditions of Contract” (**SCC**).
- The name and identification number of the Contract are **provided in the BDS and the SCC**.
- 1.2 The successful Bidder shall be expected to complete the Works by the Intended Completion Period **specified in the BDS**.
- 1.3 Throughout these bidding documents, the terms:
- (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax,) with proof of receipt;
 - (b) if the context so requires, “singular” means “plural” and vice versa;
 - (c) “day” means calendar day unless otherwise stated; and
- 2. Source of Fund**
- 2.1 The Works shall be financed by the Public Entity’s own budgetary allocation, **unless otherwise stated in the BDS**.
- 3. Public Entities Related to Bidding Documents & to application for review**
- 3.1 The public entities related to these bidding documents are the Public Entity, acting as procurement entity (Purchaser), the Procurement Policy Unit, in charge of issuing standard bidding documents and responsible for any amendment these may require, the Central Procurement Board in charge of vetting Bidding document, receiving and evaluation of bids in respect of major contracts and the Review Panel, set up under the Public Procurement Act, 2015 (hereinafter referred to as the Act.)
- The Review Panel
Private Bag 13295
Windhoek
Namibia**
- 4. Fraud and Corruption**
- 4.1 The Government of the Republic of Namibia requires that bidders/suppliers/contractors, participating in procurement in Namibia, observe the highest standard of ethics during the
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procurement process and execution of contracts.

- 4.2 The Employer will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;

For the purposes of this Sub-Clause:

- (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (v) “obstructive practice” is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.
- 4.3. Bidders, suppliers and public officials shall also be aware of the provisions stated in section 67 and 68 of the Public Procurement Act, 2015 which can be consulted on the website of the Procurement Policy Unit (PPU): www.mof.gov.na/procurement-policy-unit

5. Eligible Bidders

- 5.1 A Bidder may be a natural person, private entity, or government-owned entity or any combination of them in the form of a joint venture, under an existing agreement, or with the intent to constitute a legally-enforceable joint venture. All partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms.

- 5.2 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if :
- (a) they have a controlling partner in common; or
 - (b) they receive or have received any direct or indirect subsidy from any of them; or
 - (c) they have the same legal representative for purposes of this bid; or
 - (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
 - (e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or
 - (f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid; or
 - (g) a Bidder, or any of its affiliates has been hired (or is proposed to be hired) by the Employer as Engineer for the contract.
- 5.3 (a) A bidder that is under a declaration of ineligibility by the Government of Namibia in accordance with applicable laws at the date of the deadline for bid submission and thereafter shall be disqualified
- (b) Bids from contractors appearing on the ineligibility lists of African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group and World Bank Group shall be rejected.
- 5.4 Government-owned enterprises in the Republic of Namibia shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law, and that they are not a dependent agency of the Government.

6. Qualifications of Bidders

- 6.1 All bidders shall provide in Section III, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.
- 6.2 Bidders shall include the information and documents listed hereunder with their bids, unless otherwise **stated in the BDS**. The non-submission of the documents by the Bidder within the prescribed period may lead to the rejection of its bid.
- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business of the Bidder;
 - (b) total monetary value of construction works performed for each of the last five years;
 - (c) experience in works of a similar nature and size for each of the last five years or as otherwise **stated in the BDS**; and clients who may be contacted for further information on those contracts;
 - (d) major items of construction equipment proposed to carry out the Contract;
 - (e) qualifications and experience of key site personnel and technical personnel proposed for the contract;
 - (f) report on the financial standing of the Bidder for the last three years, such as certified copies of Financial Statements/Audited Accounts as filed at the Registrar of Companies;
 - (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
 - (h) authority to seek references from the Bidder's bankers; and
 - (i) information regarding any litigation, current or during the last five years, in which the Bidder was/is involved, the parties concerned, the issues involved, the disputed amounts, and awards;
 - (j) proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.

- 6.3 To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria:
- (a) a minimum average annual financial amount of construction work over the period **specified in the BDS**.
 - (b) experience as prime contractor in the construction of a minimum number of works of a nature and complexity equivalent to the Works over a period as **specified in the BDS** (To comply with this requirement, works cited should be at least 70 percent complete);
 - (c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment **listed in the BDS**;
 - (d) a Contract Manager/Supervisor with five years' experience in works of an equivalent nature and volume, including no less than three years as Manager or as otherwise **specified in the BDS**; and
 - (e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount **specified in the BDS**.²

A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.

B. Contents of Bidding Document

7. **Sections of Bidding Document** of 7.1 The Bidding Document consists of all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 10.

Section I - Instructions to Bidders (ITB)
Section II- Bidding Data Sheet
Section III - Evaluation Criteria
Section IV - Bidding Forms
Section V - Employer's Requirements
Section VI – General Conditions of Contract
Section VII- Special Conditions of Contract
Section VIII - Contract Forms

- 7.2 The Invitation for Bids issued by the Employer is not part of the Bidding Document.
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- 8. Clarification of Bidding Document** 8.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer’s address **indicated in the BDS**.
- The Employer will respond in writing to any request for clarification, provided that such request is received 14 days prior to the deadline for submission of bids.
- Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 10.
- 9. Site visit/Pre-bid meeting** 9.1 Bidders, at the Bidders’ own responsibility and risk, are encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing their Bids and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidders’ own expense.
- 9.2 The Bidder or its designated representative is invited to attend a pre-bid meeting, as **provided for in the BDS**. The purpose of the pre-bid meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- Non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.
- 10. Amendment of Bidding Document** 10.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing addenda and extend the deadline for submission of bids, if needed.

C. Preparation of Bids

- 11. Cost of Bidding** 11.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall in no case be responsible or liable for those costs irrespective of the outcome of the bidding process.
- 12. Language of Bid** 12.1 The Bid, supporting documents as well as all correspondence relating to the bid exchanged by the Bidder and the Employer shall be in English Language.
- 13. Documents Comprising the Bid** 13.1 The Bid shall comprise the following:
- (a) Bid submission Form (in the format indicated in Section IV);
 - (b) Qualification information and documentary evidence establishing the Bidder’s qualifications to perform the contract;
 - (c) completed Bill of Quantities / Activity Schedule;

(d) the following documentary evidence is required

1. have a valid company Registration Certificate;
2. have an original valid good Standing Tax Certificate;
3. have an original valid good Standing Social Security Certificate;
4. An original or certified copy of a valid Good Standing Certificate from BIPA;
5. have a valid certified copy of Affirmative Action Compliance Certificate, proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998;
6. Good Standing Certificate from BIPA;
7. have a certificate indicating SME Status (for Bids reserved for SMEs);
8. An undertaking on the part of the Bidder that the salaries and wages payable to its personnel in respect of this proposal are compliant to the relevant laws, Remuneration Order, and Award, where applicable and that it will abide to sub-clause 4.6 of the General conditions of Contract if it is awarded the contract or part thereof; and;

(e) The aforementioned documentary evidence in ITB 13.1 (d) shall be deemed as valid only if it's an original document or **original certified copy, certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act.1963 (Act No. 16 of 1963).**

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| 14. Bid Submission Form and Schedules | 14.1 The Bid Submission Form, Schedules, and all documents listed under ITB 13.1 shall be prepared using the relevant forms, if so provided. |
| 15. Alternative Proposal | 15.1 Alternative Technical Proposals and completion dates if allowed shall be indicated in Section V- Specifications. The evaluation methodologies for their consideration shall be given in Section III. |
| 16. Bid Prices and Discounts | <p>16.1 The Contract shall be for the whole Works, as described in ITB Sub-Clause 1.1, based on the priced Activity Schedule/Bill of Quantities³ submitted by the Bidder.</p> <p>16.2 Bidders shall fill in rates and prices for all items of the Works described in the Bill of Quantities.⁴ Items for which no rate or price is entered by Bidders, shall not be paid for by the Public</p> |
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Entity when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.

16.3 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 14 days prior to the deadline for submission of bids, shall be included in the rates, prices, and total Bid price submitted by Bidders.⁵

16.4 The price to be quoted in the Bid Submission Form shall be the total price of bid after any discount offered.

The discount if any and the conditions of its application shall be indicated separately.

17. Currencies of Bid and Payment

17.1 The bid price and rates shall be in Namibian Dollars and fixed for the duration of the contract unless otherwise **specified in the BDS**.

17.2 Unless otherwise **specified in BDS** interim payment for Plant and Material on site is applicable as per GCC 39.7.

18. Documents Comprising the Technical Proposal

18.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in the Bidder Qualification Form (section IV), in sufficient details to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.

19. Period of Validity of Bids

19.1 Bids shall remain valid for a period **specified in the BDS**. The Bid Validity period should not exceed 180 days.

19.2 In exceptional circumstances, prior to expiry of the original bid validity period, the Employer may request that the bidders extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing.

20. Bid Security/Bid Securing Declaration

20.1 The Bidder shall furnish either a subscription to a Bid Securing Declaration or a Bid Security in its original form with its bid as part of its bid, if so **required in the BDS**.

20.2 Bid Security shall be in the form of a Bank Guarantee from a local commercial bank as per the format contained in section IV and shall be valid for a period of 30 days beyond the validity period of the bid or beyond any period of extension.

20.3 Any bid not accompanied by an enforceable and substantially compliant Bid Security or a subscription to a Bid Securing

Declaration in the Bid Submission Form, if required in accordance with ITB 20.1, shall be rejected by the Employer as non-responsive.

20.4 Bid Security shall be forfeited or the Bid Securing declaration exercised for non-compliance on the part of the Bidder for reasons mentioned in the Bid Security format contained in Section III or the Bid Suring Declaration contained as Appendix to the Bid Submission Form.

21. Format and Signing of Bid

21.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 13.1 and clearly mark it “ORIGINAL”. In addition, the Bidder shall submit the number of copies **as specified in the BDS**, clearly mark with the label “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

21.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder.

D. Submission and Opening of Bids

22. Sealing and Marking of Bids

22.1 Bidders may always submit their bids by mail or by hand. Procedures for submission, sealing and marking are as follows:

(a) Bidders submitting bids by mail or by hand shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB 15, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL”, “ALTERNATIVE” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB sub-Clauses 22.2.

22.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Employer as indicated in ITB 22.1;
- (c) bear the specific identification of this bidding process indicated in accordance with ITB 1.1; and
- (d) bear a warning not to open before the time and date for bid opening.

23. Deadline for Submission of

23.1 Bids shall be delivered to the Employer at the address and no later than the time and date **specified in the BDS**.

- Bids** The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 10.
- 24. Late Bids** 24.1 Late bids shall not be considered. They will be returned unopened
- 25. Withdrawal, Substitution, and Modification of Bids** 25.1 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.
- 26. Bid Opening** 26.1 The Employer shall open the bids at the time place and address **specified in the BDS** in the presence of Bidders` designated representatives who choose to attend.
- 26.2 The bidders' names, the Bid Prices, the total amount of each bid, any discounts, any alternative bid, bid modifications and withdrawals, the presence or absence of bid security, and such other details as the Employer may consider appropriate, will be announced and recorded by the Employer at the opening.

E. Evaluation and Comparison of Bids

- 27. Confidentiality** 27.1 Information relating to the examination, evaluation, comparison, and post-qualification of bids and recommendation of contract award, shall not be disclosed to Bidders or any other person not officially concerned with such process.
- 27.2 Any attempt by a Bidder to influence the Employer in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.
- 28. Clarification of Bids** 28.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its bid. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetical errors discovered by the Employer in the evaluation of the bids, in accordance with ITB 31.
- 29. Determination of Responsiveness** 29.1 The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB13.
- 29.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission.
- 29.3 The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 18, Technical Proposal, in

particular, to confirm that all requirements of Section V (Employer's Requirements) have been met without any material deviation, reservation or omission.

29.4 If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

- 30. Nonconformities, Errors, and Omissions** 30.1 Provided that a bid is substantially responsive, the Employer may waive any non-material non-conformity in the bid, request that the Bidder submit the necessary information or documentation, to rectify nonmaterial nonconformities in the bid related to documentation requirements but not related to any aspect of the price of the bid; and shall rectify quantifiable nonmaterial nonconformities related to the Bid Price.
- 31. Correction of Arithmetical Errors** 31.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:
- (a) only for unit price contracts, if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 32. Margin of Preference** 32.1 **Unless otherwise specified in the BDS**, Margin of preference shall not apply.
- 33. Evaluation of Bids** 33.1 The Employer shall use the criteria and methodology defined in this clause and no other evaluation criteria or methodologies shall be permitted.
- 33.2 To evaluate a bid, the Employer shall consider the following:
- (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities for admeasurement contracts or Schedule of Prices for lump sum contracts, but including Daywork

items, where priced competitively; and

- (b) price adjustment for correction of arithmetic errors, discounts, non-conformities, due to the supplementary criteria as defined in Section III, and Margin of Preference, if applicable.

33.3 If this Bidding Document allows Bidders to quote separate prices for different contracts, and to award multiple contracts to a single Bidder, the methodology to determine the lowest evaluated price of the contract combinations, including any discount offered in the Bid Submission Form, is specified in Section III (Evaluation and Qualification Criteria).

33.4 If the bid for an admeasurement contract, which results in the lowest Evaluated Bid Price, is seriously unbalanced, front loaded or substantially below updated estimates or if any item in the Priced Activity Schedule is front loaded or contains an erroneous amount in the opinion of the Employer, the Employer may after clarification require the Bidder to produce detailed price analysis for any or all items that the amount of the performance security be increased at the expense of the Bidder.

- 34. Comparison of Bids** 34.1 The Employer shall compare all substantially responsive bids in accordance with ITB 33 to determine the lowest evaluated bid.
- 35. Qualification of the Bidder** 35.1 The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated substantially responsive bid meets the qualifying criteria.
- 36. Employer's Right to Accept Any Bid, and to Reject Any or All Bids** 36.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

F. Award of Contract

- 37. Award Criteria** 37.1 Subject to ITB 36.1, the Employer shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

- 38. Notification of Award** 38.1 Prior to the expiration of the period of bid validity, the Employer shall, for contract amount above the prescribed

threshold of N\$ 2 M, notify the selected bidder of the proposed award and accordingly notify unsuccessful bidders. Subject to Challenge, the Employer shall notify the selected Bidder, in writing, by a Notification of award for award of contract. The Notification of award shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”) and the requirement for the Contractor to remedy any defects therein as prescribed by the Contract. Within seven days from the issue of notification of award, the Purchaser shall publish on the Public Procurement Portal (www.mof.gov.na/procurement-policy-unit) and the Purchaser’s website, the results of the Bidding Process identifying the bid and lot numbers and the following information:

(i) name of the successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded; and

(ii) an executive summary of the Bid Evaluation Report.

38.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

39. Signing Contract of 39.1 Promptly upon issue of notification of award, the Employer shall send to the successful Bidder the Contract Agreement.

39.2 Within thirty (30) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.

40. Performance Security 40.1 Within thirty (30) days of the receipt of the notification of award from the Employer, the successful Bidder shall furnish the Performance Security in accordance with the conditions of contract, using for that purpose the Performance Security Form included in Section VIII (Contract Forms).

40.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or to sign the Contract Agreement within the prescribed delay shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security.

41. Advance Payment Security and 41.1 The Public Entity shall provide an Advance Payment on the Contract Price as stipulated in the GCC, subject to a maximum amount, **as stated in the BDS**. The Advance Payment shall be guaranteed by a security as per the format contained in Section VIII.

42. Plant and Materials on site 42.1 Unless otherwise **specified in BDS** interim payment for Plant and Material on site is applicable as per GCC 39.7.

43. Debriefing

43.1 The Purchaser shall promptly attend to all debriefing for the contract made in writing and within 30 days from the date of the publication of the award or date the unsuccessful bidders are informed about the award.

Section II. Bidding Data Sheet (BDS)

The following specific data for the works to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

A. General	
ITB 1.1	The Public Entity is: Oshikoto Regional Council The Works are:. The name and identification of the Contract: W/ONB/ORC-05/2024
ITB 1.2	The Intended Completion period is 3 Calendar Months including all the public holidays from the date of possession of site.
ITB 2.1	The Funding Agency is: Oshikoto Regional Council
ITB 5.3	A list of firms debarred from participating in Public Procurement in Namibia is available at http://www.mof.gov.na/procurement-policy-unit A list of firms debarred by World Bank is available at http://www.worldbank.org/debarr
ITB 6.2	The information required from bidders in ITB Sub-Clause 5.2 is modified as follows: None
ITB 6.2 (d)	Contractors should have at least Five (5) years of experience in similar works
ITB 6.3 (a)	The Contractor must have a minimum average annual financial amount of construction of N\$ 350 0000.00 Over the last 5 years.
ITB 6.3 (b)	The number of works is: 2 similar projects The period is: 5 years
ITB 6.3 (c)	The essential equipment to be made available for the Contract by the successful Bidder shall be: <ul style="list-style-type: none"> • Hydraulic Excavator/TLB • Compactor • Construction Vehicle • Concrete mixer
ITB 6.3 (d)	The Contract Manager shall have at least five (5) years' relevant experience in works of an equivalent nature and a qualification in Engineering. The Site Agent / Supervisor shall have at least 3 years' relevant experience in similar projects of this nature and a qualification in Engineering or relevant qualification from vocational training institution.
ITB 6.3 (e)	The minimum amount of liquid assets and/or credit facilities net of other

	contractual commitments of the successful Bidder shall be 15% of the bidder's price offered.
B. Bidding Documents	
ITB 8.1	The Public Entity's address for clarification is: Technical queries: Attention: Ms, Elizabeth Aimwata Requests for clarification should be received by the Employer no later than 14 calendar days prior to the bid submission deadline.
ITB 9.2	N/A
C. Preparation of Bids	
ITB 13.1(e)	Any additional materials required to be completed and submitted by the Bidders are: None.
ITB 17.1	The Contract is not subject to price adjustment in accordance with GCC Clause 44.
ITB 17.2	Interim Payment for Plant and Material on site is applicable as follows: 20% payment for materials on site for the full value of all material on presentation of the supplier's tax invoices and by cession of rights to the Employer and as elaborated further in per GCC 39.7.
ITB 19.1	The Bid validity period shall be 120 days after the deadline set for the submission of bid, the deadline being counted as day one of the validity period.
ITB 20.1	Bid shall include a subscription to a Bid Securing Declaration.
D. Submission and Opening of Bids	
ITB 21.1	In addition to the original of the bid, the number of copies is: One (1)
ITB 23.1	The deadline for submission of bids shall be Venue : Oshikoto Regional Council Date : Friday, 11 October 2024 Time : 11H00 am
ITB 23.1	The Employer's address for the purpose of Bid submission is Address: Oshikoto Regional Council P. O. Box 19247 Omuthiya

ITB 26.1	The bid opening shall take place at: Oshikoto Regional Council Omuthiya Date: 11 October 2024 Time:11:30
E. Evaluation and Comparison of Bids	
ITB 32.1	A margin of preference shall not apply.
F. Award of Contract	
ITB 40.1	The Standard Form of Performance Security acceptable to the Public Entity shall be an unconditional “Bank Guarantee”. The Bank guarantee shall be 10% of the contract price inclusive of provisional and contingencies sum and VAT. The performance security shall be returned back to the Contractor 30 days after the Certificate of Completion of the Works is issued to the Contractor and the correction of defects identified on completion is completed to the satisfaction of the Employer.
ITB 41.1	The Advance Payment shall be limited to 0 percent of the Contract Price less the provisional and contingencies sums.
ITB 42.1	Interim Payment for Plant and Material on site is applicable as follows: 80% payment for materials on site for the full value of all material on presentation of the supplier’s tax invoices and by cession of rights to the Employer and as elaborated further in per GCC 39.7.

Section III - Evaluation Criteria

This section contains supplementary criteria that the Employer shall use to evaluate bids.

1. Evaluation

In addition to the criteria listed in ITB 33 the following criteria shall apply:

This bid is issued in terms of Section 29 (a) of the Public Procurement Act, 15 of 2015. Through this procurement method participation is limited to entities incorporated in Namibian with 100% shareholding or equity vested in Namibian citizens.

- (a) Bidders (Owners) should therefore provide valid certified copy of proof of citizenship in the form of Namibian Identity Document (ID) certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No.16 of 1963).
- (b) In the case of Joint Ventures (JV), all parties to the JV must comply with the requirement in (a).

In addition to the criteria listed above, the following criteria shall apply:

(a) Adequacy of Technical Proposal

Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section V (Employer's Requirements).

(b) Multiple Contracts

Pursuant sub-clause 1.1 of the Instructions to Bidders, if Works are grouped in multiple contracts, evaluation will be as follows: N/A

(c) Completion Time

An alternative Completion Time, if permitted under ITB 15.1, will be evaluated as follows: N/A

(d) Technical Alternatives

Technical alternatives, if permitted under ITB 15.1, will be evaluated as follows: N/A

(e) Margin of Preference

No Margin of preference shall apply.

In addition to the criteria listed above, the following criteria shall apply.

1.1 Preliminary Examination of Bids:

#	Description	Yes	No
1	Has the Bidder submitted the duly filled in, signed, stamped, and dated Bid Submission Sheet Form;		
2	Has the Original copy of the bid been typed or written in indelible ink and signed by a person duly authorized to sign on behalf of the Bidder (ITB sub-clause 21.2);		
3	Has the bidding document been signed, and all pages of the bid initialed by the person signing the bid (ITB Clause 21.2);		
4	Is the Bid written in English language? (Clause 12.1);		
5	Has the Bidder offered period of validity of the bid in line with the period stipulated in ITB Sub-clause 19.1		
6	Has the Bidder completed, signed and submitted a bid securing declaration (ITB Clause 20.1)		
	OVERALL ADMINISTRATIVE COMPLIANCE		

Bidder's that do not comply with the stipulated requirements will be deemed non-responsive, therefore disqualified, and excluded from further evaluation and comparison.

1.2 Eligibility Evaluation

No	Mandatory Requirements	Yes	No
1	Is the Bidder under a declaration of ineligibility by the Government of Namibia in accordance with applicable laws at the date of the deadline for bid submission or thereafter? ITB 5.4 (a)		
2	Does the bidder appear on the any of the development bank ineligibility lists (African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group and World Bank Group) ITB 5.4 (b)		

Bidders who appear on any of the ineligibility lists will be deemed non-responsive, therefore disqualified, and excluded from further evaluation and comparison

1.3 Legal Admissibility Evaluation:

#	Description	Yes	No
1.	Bidders (Owners/Shareholders) have provided valid proof of citizenship in the form of Namibian Identity Documents, certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act.1963 (Act No. 16 of 1963) and in the case of Joint Ventures (JV), each party to the JV are Namibian citizens and have provided proof as required above.		
2	Has the bidder submitted a valid original copy of company registration / founding statement? (Certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act.1963 (Act No. 16 of 1963)) In the case of Joint Ventures (JV), each JV partner must comply with the above.		
3	Has the Bidder submitted an original or original certified copy of valid good Standing TAX Certificate; (Certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act.1963 (Act No. 16 of 1963)) In the case of Joint Ventures (JV), each JV partner must comply with the above		
4	An original or certified copy of a valid Good Standing Certificate from BIPA		
5	Has the Bidder submitted an original or original certified copy of valid good Standing Social Security Certificate; (Certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act.1963 (Act No. 16 of 1963). The Good Standing Social Security Certificate is valid if issued on or after bid advertisement date. In the case of Joint Ventures (JV), each JV partner must comply with the above.		
6	Has the bidder submitted a certified original copy of a valid Affirmative Action Compliance Certificate, or proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998; (Certified by a Commissioner of Oath appointed in terms of the Justices of the Peace and Commissioners of Oaths Act.1963 (Act No. 16 of 1963)) In the case of Joint Ventures (JV), each JV partner must comply with the above.		
7	Has the bidder submitted an undertaking on the part of the Bidder that the salaries and wages payable to its personnel in respect of this proposal are compliant to the relevant laws, Remuneration Order, and Award, where applicable and that it will abide to sub-clause 52.1 of the General Conditions of Contract if it is awarded the contract or part thereof.		
8	In case of JV, Bidder has submitted the following additional documentation: a) Duly signed joint venture agreement outlining the following: (i) Roles and Responsibilities of each party. The Roles and Responsibility of		

	<p>each party shall not be altered at any point without the written consent of the employer</p> <p>(ii) That there will be a JV's bank account</p> <p>(iii) Percentages of partners in the JV and</p> <p>(iv) That the partners are jointly and severally liable</p> <p>b) Power of attorney for the signatory of the joint venture</p> <p>In the case of intended Joint Ventures (JV) has the bidders submitted a dully signed letter of intent by all parties to the JV outlining the above requirements in (i) to (iv)</p> <p>(Existing JVs shall comply with the above requirements; as well as Single and Lead Partner for a new JV)</p>		
8.	<p>Has the Bidder provided a <i>written</i> Power of Attorney that the undersigned person is herewith granted a special power of attorney to initial and sign the standard bidding document for the purposes of procurement process (Completion of Special Power of Attorney).</p> <p>(Not applicable to Close Corporations owned by sole owners, if the owner is the signatory)</p>		
OVERALL LEGAL COMPLIANCE			

Failure to submit all contract documents, the bidder shall be deemed non-responsive therefore disqualified and excluded from further evaluation and comparison.

1.4 Technical Evaluation Criteria:

#	Description	Yes	No
1.	Has the bidder submitted a preliminary works programme? (Preliminary works programme must encompasses all aspects of the works and indicate that construction will be completed within 4 calendar months.		
2.	Has the bidder submitted a list of similar work carried out by the bidder over the last five years.		
3.	Has the bidder submitted Curriculum Vitae (CVs) and qualifications of employees dedicated to this particular project, i.e. Project Manager and Site Engineer.		
4	Has the bidder submitted a list of all plant and equipment to be used on the works as listed in Section III – Evaluation and Qualification Criteria, and Evidentiary proof as required.		
OVERALL LEGAL COMPLIANCE			

Failure to submit all above-mentioned documents and references, the bidder shall be deemed non-compliant, therefore disqualified, and excluded from further evaluation and comparison.

1.5 Evaluation Scores:

Technical/Capacity/ Attributes	Max Points	Bidder's Score	Remarks
Relevant Experience			
Provision of a list of similar work carried out by the bidder over the last five years: 30 points			
Provision of two (2) or more signed and stamped practical completion/completion certificates indicating the project construction value with a minimum project value of N\$350,000.00	30		
Provision of One (1) signed and stamped practical completion/completion certificates indicating the project construction value with a minimum project value of N\$ 350,000.00	10		
Lack/No experience	0		
Financial Resources/ Capacity : 10 points			
Line of Credit/ Banking Rating (Minimum Financial Amount of Construction of N\$350,000.00 over the last 5 years)	10		
Relevant competence: staffs: 20 points			
(Attach Applicable trade qualifications, CV and ID)			
Contract Manager	5		
Site Agent	5		
Land Surveyor	5		
Foreman	5		
Provision of a list of all equipment and plant owned by the company (proof of registration from NATIS on applicable items) or/and other equipment and plant to be hired (attach letter from the company) to complete the proposed works: 20 points			
Excavator/TLB	5		
Compactor	5		

Construction Vehicle	5		
350L Concrete mixer small	5		
Proposed Programme of Works	5		
Technical scores	100		

A score of less than 70 out of 100 will deem the bidding contractor to be disqualified.

1.6 Financial Requirements

NO.	Financial Requirements	Yes	No
1.	Has the bidder submitted financial statements which are audited by a registered auditor (for (Pty) Ltd registered companies) or externally reviewed by a registered accountant for (Close Corporations) for the last recent Three [3] years to demonstrate the current soundness of the bidder's financial position and its prospective long-term profitability.		
2.	<p>Has the bidder submitted proof of credit facilities net of other contractual requirements for a minimum amount of 15% of the bidder's price offered of which the amount is broken as:</p> <ul style="list-style-type: none"> • 100% Liquid Assets (Statement from a financial institution as proof), a letter of intent from any Financial Institution registered with NAMFISA stating the above-mentioned amount or Credit Facilities or proof of working capital in the Bidders account from any Financial Institution. 		

Bidder who did not meet the requirements under 1.6 above will not be evaluated further.

FINANCIAL EVALUATION

- a) A Bid price which is abnormally low, i.e., 20% below the calculated standard 'Benchmark' Price will be deemed to be non-responsive.

- b) A Bid price that is 20% above the calculated standard 'Benchmark' Price will be deemed to be non-responsive
- c) Bidders will be ranked according to price quoted (from lowest to highest). The bid shall be awarded to the lowest evaluated substantially responsive bid in terms of Section 55 (1) of the Public Procurement Act, 2015 (Act No. 15 of 2015, as Amended).

Section IV - Bidding Forms

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Bid Submission Form

The Bidder must prepare the Bid Submission Form on stationery with its letterhead clearly showing the Bidder's complete name and address.

Note: All italicized text is for use in preparing these forms and shall be deleted from the final document.

Date: _____

Bidder's Reference No.: _____

Procurement Reference No.:.....

To:

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 10;
- (b) We offer to execute in conformity with the Bidding Documents the following Works:
_____;
- (c) The total price of our Bid after discounts, if any, offered in item (d) below is:

_____;
- (d) The discounts offered and the methodology for their application are:

_____;
- (e) Our bid shall be valid for a period of _____ [*insert validity period as specified in ITB 19.1.*] 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) We hereby confirm that we have read and understood the content of the Bid Securing Declaration attached hereto and subscribe fully to the terms and conditions contained therein, if required. We understand that non-compliance to the conditions mentioned may lead to disqualification.
- (g) If our bid is accepted, we commit to obtain a Performance Security and a Preference Security (if applicable) in accordance with the Bidding Document;
- (h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 5.2;

- (i) We are not participating, as a Bidder in more than one bid in this bidding process other than alternative offers submitted in accordance with ITB 15;
- (j) Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible under the laws of Namibia;
- (k) We are not a government owned entity / We are a government owned entity but meet the requirements of ITB 5.4;⁶
- (l) 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;
- (m) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive; and
- (n) If awarded the contract, the person named below shall act as Contractor's Representative:

Name: _____

In the capacity of: _____

Signed: _____

Duly authorized to sign the Bid for and on behalf of: _____

Date: _____

Seal of Company _____

⁶ Use one of the two options as appropriate.

Bid Securing Declaration

(Section 45 of Act)
(Regulation 37(1)(b) an 37(5))

Date:[Day/month/year].....

Procurement Ref No.:

To:[insert complete name of Public Entity and address].....

I/We* understand that in terms of section 45 of the Act a public entity must include in the bidding document the requirement for a declaration as an alternative form of bid security.

I/We* accept that under section 45 of the Act, I/we* may be suspended or disqualified in the event of

- (a) a modification or withdrawal of a bid after the deadline for submission of bids during the period of validity;
- (b) refusal by a bidder to accept a correction of an error appearing on the face of a bid;
- (c) failure to sign a procurement contract in accordance with the terms and conditions set forth in the bidding document, should I/We* be successful bidder; or
- (d) failure to provide security for the performance of the procurement contract if required to do so by the bidding document.

I/We* understand this bid securing declaration ceases to be valid if I am/We are* not the successful Bidder

Signed:

.....

[insert signature of person whose name and capacity are shown]

Capacity of:

[indicate legal capacity of person(s) signing the Bid Securing Declaration]

Name:

.....

[insert complete name of person signing the Bid Securing Declaration]

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on _____ day of _____, _____

[insert date of signing]

Corporate Seal (where appropriate)

[Note*: In case of a joint venture, the bid securing declaration must be in the name of all partners to the joint venture that submits the bid.]

***delete if not applicable / appropriate**

Witten Undertaking



Republic of Namibia

Ministry of Labour, Industrial Relations and Employment Creation

Witten undertaking in terms of section 138 of the Labour Act, 2015 and section 50(2)(D) of the Public Procurement Act, 2015

1. EMPLOYERS DETAILS

Company Trade Name:.....

Registration Number :.....

Vat Number:

Industry/Sector:

Place of Business:.....

Physical Address:.....

Tell No.:.....

Fax No.:.....

Email Address:.....

Postal Address:.....

Full name of Owner/Accounting Officer:.....

.....

Email Address:.....

2. PROCUREMENT DETAILS

Procurement Reference No.:.....

Procurement Description:

.....

.....

Anticipated Contract Duration:

Location where work will be done, good/services will be delivered:

.....

3. UNDERTAKING

I[insert full name], owner/representative

of[insert full name of company]

hereby undertake in writing that my company will at all relevant times comply fully with the relevant provisions of the Labour Act and the Terms and Conditions of Collective Agreements as applicable.

I am fully aware that failure to abide to such shall lead to the action as stipulated in section 138 of the labour Act, 2007, which include but not limited to the cancellation of the contract/licence/grant/permit or concession.

Signature:

Date:

Seal:.....

Please take note:

1. *A labour inspector may conduct unannounced inspections to assess the level of compliance*
2. *This undertaking must be displayed at the workplace where it will be readily accessible and visible by the employees rendering service(s) in relations to the goods and services being procured under this contract.*

Special Power of Attorney

The Chairperson

Oshikoto Regional Council
Po Box 19247
Omuthiya
Namibia

Dear Sir/Madam,

RE: PROCUREMENT NO. W/ONB/ORC-05/2024: SPECIAL POWER OF ATTORNEY

The undersigned person is herewith granted a special power of attorney to initial and sign the standard bidding document for the purposes of procurement process *[insert procurement reference number]*.

Title _____ and _____ Name

Signature

Such authorization has been conferred by the Board of Directors by way of a Board Resolution/ Member's Resolution *[delete where appropriate]* dated *[insert date of board/member's resolution]* attached hereto, to act on our behalf and in our name. The actions and representations of the aforementioned person shall be binding upon the grantors.

Place

Date

Name

Signature and Company Stamp
(Duly authorized to confirm such Special Power of Attorney)

Note: Not Applicable to Close Corporations owned by sole Owners

Schedule of Work Executed by Bidder

Number of works of a nature and amount similar to the Works performed as prime Contractor over the last 5 years: [Also list details of work under way or committed, including expected completion date(s).]

Project / Contract Name and Country	Name of Client and Contact Person	Type of Work Performed	Value of Contract in NAD	Year of Completion

SIGNED ON BEHALF OF THE BIDDER:

.....

Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder. The Bidder shall provide all the information requested below, to the extent possible.

Equipment	
Equipment Information	Type of Equipment
	Capacity
Current Status	Current location
	Details of current commitments
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured

The following information shall be provided only for equipment not owned by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Email
Agreements	Details of rental / lease / manufacture agreements specific to the project	

[Bidders can duplicate this form should the need arise]

Schedule of Key Personnel and Cv's

Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer to ITB Sub-Clause 6.3 (d).

The Bidder shall submit with his Bid curriculum vitae for each candidate using as a minimum detail requirement. Bidders should provide the names of suitably qualified personnel to meet the specified requirements for each of the positions listed in Section III (Evaluation and Qualification Criteria).

Position	Name	Years of Relevant Experience in Construction Industry	Years of Relevant Experience in Proposed Position	Nationality

Schedule of Proposed Sub-Contractors

Proposed subcontracts and firms involved. Refer to General Conditions of Contract Clause 7.

The Bidder shall list below the specialist subcontractors he intends to appoint for the various specialised items of work on this contract.

If the Bidder intends to carry out the specialised work himself, he shall state this.

The acceptance of this Bid shall not be construed as approval of all or any of the listed specialist subcontractors. Should any or all of the specialist subcontractors not be approved subsequent to the acceptance of this Bid, this shall in no way invalidate this Bid and the bidding unit rates for the various items of work shall remain final and binding even in the event of a subcontractor not listed below, being approved by the Project Manager.

Sections of the Works	% Value of Subcontract	Subcontractor (Name and Address)	Experience in Similar Work

Financial Statements and References

Financial reports for the last 3 years: Financial Statements, Audited Accounts, etc. [List below and attach copies]:

.....

.....

.....

Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. [List below and attached copies]:

.....

.....

.....

Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Public Entity:

.....

.....

.....

Information in current litigation(s) in which the Bidder is involved:

Other Party(ies)	Cause of Dispute	Amount Involved

Bill of Quantities

PART 2 – Employer’s Requirements

Section V - Employer's Requirements

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Preface to Project Specifications

The Project Specifications form an integral part of the contract documents and shall be deemed to be included in and form part of the specifications. In the case of any discrepancy or conflict with any part or parts of the Standard Specifications, or the drawings, the Project Specification shall take precedence and shall govern.

In certain clauses the Standard Specifications allow a choice to be specified in the Project Specifications between alternative materials or methods of construction and for additional requirements to be specified to suit a particular contract. Details of such alternatives or additional requirements applicable to this contract are contained in this part of the Project Specifications. It also contains some additional specifications required for this particular contract.

The number of each clause and each payment item in this part of the Project Specifications consists of the prefix PS followed by a number corresponding to the number of the relevant clause or payment item in the Standard Specifications. The number of a new clause or a new payment item which does not form part of a clause or a payment item in the Standard Specifications and which is included here, is also prefixed by PS followed by a new number. The new numbers follow on the last clause or item number used in the relevant section of the Standard Specifications.

The Standardized Specification for Civil Project Engineering Construction (SANS 1200) have been written to cover all phases of work usually encountered on Civil Engineering Projects, and they may therefore cover items of work not contemplated on this particular project.

The Project Specifications form an integral part of the Contract Documents and supplement the Standard Specifications. In the event of any discrepancy with a part or parts of the Standard Specifications or the Schedule of Quantities, the Project Specifications shall take precedence. The Standard Specifications which form part of this contract have been written to cover all phases of work normally required for Civil contracts, and they may therefore cover items not applicable to this particular contract.

Introduction

The Oshikoto Regional Council seeks to develop new water infrastructure at Onyuulaye settlement., Oshikoto Region.

The new water infrastructure shall be connected to the existing water infrastructure in the area.

General Description of Works

The Contractor should take note that the General Description of the Works serves to outline the extent of the works, but does not limit the amount of work which may be required of the Contractor under this contract. Reference must be made to the Project Specifications, the Bill of Quantities and the Construction Drawings for a more detailed description of the Works.

The following activities will form part of the Contract:

- a) Establishment of Plant, and Site Camp of the Contractor;
- b) Locate existing erf pegs and water infrastructure;
- c) Setting out of the works;
- d) Construction of water infrastructure (pipelines, fire hydrant, valves etc.);
- e) Finishing and trimming of the site.

Detail Description of Works

The water network that will be constructed will consist of 160mmØ, 110mmØ and 90mmØ uPVC class 9 pipelines and HDPE class 10 individual erf connections.

Nature of Ground and Subsoil Conditions

Bidders shall acquaint themselves with the accessibility and geological condition of the site and price the bid accordingly.

Construction Programme

The project duration will be as per **ITB 1.2** in the **BDS**, which time should include all periods during which the Contractor closes down (public holidays).

The construction programme required in terms of the General Conditions of Contract shall include all the important features of the work, the various operations to be carried out and must be submitted for approval to the Project Manager within 14 days from the date of the Notification of award.

Site Facilities Available

The Contractor shall make his own arrangements for the supply of water, telecommunications and power required by him for the execution of the works. The Bidder shall allow for the cost of all such arrangements.

Water, telecommunications, and electricity required for the Works may be taken from suitably situated supply points, with approval from the relevant authorities/owners.

Cost incurred in installing water, telecommunications or electrical supply line from the supply points to the construction camp and/or Works shall be for the Contractor's account.

The Contractor will be held responsible for any damages to the supply lines and fittings for the duration of the contract.

Site Facilities Required

Laboratory Facilities

The Contractor will not be required to have a testing laboratory on site. A recognised and Project Manager approved testing laboratory will be appointed by the contractor to carry out all acceptance control tests as required by the Project Specifications. No additional payments will be made towards the testing of work and the Contractor should allow for the required testing in his Bid.

Contractor's Site Sanitary Facilities

The Contractor shall provide and maintain adequate and proper ablution facilities for his site personnel. As the nature of the project will affect remote site areas, adequate toilet facilities within 200 m of the work area must be maintained at all times.

Latrines shall be effectively screened from view and maintained in a clean and sanitary condition. The Contractor shall make all the necessary arrangements for the regular removal and emptying of the sanitary pails at his own cost.

If at any time the contractor fails to observe the previously mentioned conditions and after being notified by the Project Manager, fails to rectify conditions, the Project Manager shall have the right to order such materials and appoint any workers as may be seen necessary to maintain the sanitary facilities as set out above. All related costs will be for the contractor's account.

Site Office and Associated Facilities

The contractor shall provide on the site of the works suitable office facilities and storage sheds. He shall establish a means of communication for the receiving of notices and instructions by telephone and fax / or e-mail during all office hours.

A site office is not required for the project manager. However, the contractor shall ensure that a complete set of all construction drawings is kept safely and neatly on site at all times.

Survey Beacons, Bench Marks and Reference Pegs

At the start of the project, the Contractor will receive a drawing indicating all of the erf pegs that have been placed by the surveyor. It will be the Contractor's responsibility to confirm that all of the pegs, as indicated on the drawing, have been placed and inform the Project Manager of any missing erf pegs, prior to starting with construction. The Contractor shall have a period of two weeks in which to verify the information. Should the Contractor not inform the Project Manager of any missing erf pegs during the two-week period, the Project Manager will accept that the supplied information is correct.

The Contractor is responsible for the setting out of the Works and no separate payment will be made therefore as the cost involved for the setting out of the Works is deemed to be included in the bidding sum for the item "Contractor's General Obligations".

The works shall be set out by a qualified land surveyor. The Contractor shall also ensure that no survey beacons, erf pegs, and bench marks are covered up or disturbed.

After the completion of the Construction and prior to the issue of the Practical Completion Certificate, the Contractor will supply a Land Surveyor's Certificate, certifying that all pegs have been checked and re-established where necessary. The cost of such a survey will also be for the account of the Contractor.

Location of Site Camp and Materials Storage Area

The Contractor will establish his site camp and material storage area at a location on Site which is approved by the Project Manager and Employer.

Before occupying the Site for the execution of this Contract, the Contractor shall submit for the Project Manager's approval, a proposal for the layout of all his camp and storage areas.

Accommodation of Employees

With the exception of a night watchman, employees may not be housed or accommodated on the site of the Works without permission from the Employer.

Contract Signboards

One contract Sign Board is required to be erected for this contract. The Sign Board shall be erected to the standards of the Association of Consulting Engineers of Namibia (ACEN), which will be made available to the Contractor.

Safety and Security on Site

Security

It shall be the responsibility of the Contractor to control access to the site during the execution of the Contract to prevent any unauthorised persons from entering the site.

The Contractor shall provide security guards for this Contract as he deems fit.

Safety

The Contractor will be responsible for the safety of his personnel and the site in general at all times. All laws, rules, and regulations including the Machinery and Occupational Safety Act shall be strictly followed in this regard and all the necessary precautions and measures shall be taken to ensure the safety of personnel, the public, and equipment.

Safeguarding of Excavations

The responsibility of safeguarding of excavations lies entirely with the Contractor.

Overhaul

All rates bidding for material or excavation shall allow for all hauling to or from the site. For this Contract "free haul" shall therefore continue indefinitely and no overhaul shall be paid, unless otherwise specified.

Sources of Materials

Selected Granular Bedding Material (Bedding for Pipes)

The Contractor will have to identify his own sources for selected granular material to be used for bedding flexible pipes which may be obtained from trench excavations. These materials will have to be tested and the results submitted to the Project Manager for approval prior to the construction activities involving these materials. Because no overhaul is paid, it is of utmost importance that each Bidder identifies suitable sources of materials at Bid stage, so as to establish the transport cost thereof to be included in the Bid.

Selected Fill Material (Bedding for Pipes)

Selected fill may be obtained from the specified trench excavations on the site.

Features Requiring Special Attention

Existing Services

The Contractor shall make himself acquainted with the position of all existing services before any excavation or other work likely to affect the existing services is commenced. The cost of working alongside or next to existing services should be included in this rate or in the Bidder's excavation rates.

The Contractor will be held responsible for any damage to "known" existing services caused by or arising out of his operations. Existing services will be considered "known" if it is either shown on the construction drawings or shown to the Contractor on site. The cost of repairing and reinstating "known" existing services will be borne by the Contractor.

Site Supervision and Testing

The Contractor shall ensure that sufficient supervisory staff, the required transport, instruments, equipment, and tools are available to control works on site. The Project Manager or his representative will not act as supervisor, foreman or surveyor.

All construction activities shall be executed and supervised by suitably qualified and experienced personnel. The responsibility of proving quality of work lies with the Contractor. With the assistance of the Project Manager, an acceptable quality assurance system shall be implemented. The Contractor will be required to follow the procedures set by this Quality Assurance system. Failure to do so will result in the rejection of work constructed in non-compliance with the approved Quality Assurance system.

Disposal of Spoil or Surplus Material

All costs related to the disposal of unwanted rubble and waste shall be deemed to be included in the bidding rates and no additional claims in this regard will be considered. Good quality surplus material obtained from on-site excavations and

not used as selected fill upon instruction to do so, can be spread on site upon approval of the Project Manager.

Building rubble and domestic waste shall be removed from site and be dumped at a location approved by the Project manager and Employer. Burning of any kind of waste on site will not be allowed.

Traffic Control and Access to Property

The successful Contractor must allow for provision and erection of all necessary barricading and road traffic sign-boarding.

Quality Control

It will be the full responsibility of the Contractor to undertake appropriate quality control and quality assurance measures on site. The Project Manager shall audit the Contractor's Quality Assurance system on a regular basis to ensure that adequate independent checks and tests are being carried out and to ensure that the Contractor's own controls are sufficient to identify any possible quality problems which could cause a delay on the programme. The Project Manager will submit a Quality Assurance Manual to the successful Contractor at the site handover.

Quality control tests on materials and work executed will be very important on this Contract. Materials not tested and approved will not be allowed on site.

Re-Measurement

The contractor shall be given the opportunity to re-measure the entire works at completion, and may submit his quantities for consideration by the project manager.

Guarantee & Maintenance

The contractor will be required to guarantee the complete new installation and all equipment installed for a period of twelve (12) months, commencing from date which the practical completion certificate is issued. He shall make good any defects in material and workmanship which may arise during this defect liability period, including making adjustments to ensure satisfactory operation of any equipment supplied under this contract.

Fair wear and tear is excluded from the guarantee. The guarantee shall provide that all parts, spares and appurtenances that become defective during the guarantee period be replaced free of charge of any nature. Costs of labour and transportation required to replace such part of a defective installation shall be borne by the contractor and be included in his guarantee. Any remaining portion of an equipment guarantee which the contractor has obtained from his supplier shall be ceded to the Ministry of Safety and Security, Namibian Correctional Service facilities with effect from the date of expiry of the above-mentioned period of twelve (12) months.

All faults and defects shall be immediately attended to during this period in order to keep the system fully operational.

Retention payments will therefore only be processed upon receipt of the final completion certificate after the expiry of the maintenance & defect liability period.

Extension of Time for Completion

PS 22.1 ABNORMAL RAINFALL

Abnormal rainfall will be regarded as one of the only two exceptionally adverse weather conditions in terms of Clause 41.1(l)(a) of the General Conditions of Contract. No claim for extension of time will be considered where working time was lost as a result of rain that could normally have been expected to fall during a certain time.

The term "Exceptionally" in terms of rain shall be satisfied when the actual number of rain days on which 20 mm or more rainfall in one day during a specific calendar month, exceeds the value given in **Table 1**. The Contractor shall therefore be deemed to have allowed in his Program and rates tendered for at least the number of days per month listed as days lost as a result of normal rainfall.

Table 1: Normal Rainfall Days

Month	Expected Number of Days Lost due to Normal Rainfall
January	4
February	4
March	4
April	3
May	1
June	0
July	0
August	0
September	1
October	1
November	2
December	3
Total	23

Extension of time as a result of abnormal rainfall shall be calculated monthly and shall be regarded as the total number of work days on which no work was possible less the number of days listed in **Table 1** above, provided that the project manager certifies lost day(s) due to adverse weather conditions, which he will do only if:

1. No work on the critical path could be carried out during the specific working day(s); or if
2. Only 30% or less of the work force and plant on Site could be employed during the specific working day(s).

Copyright

All records connected with or referring to the contract in any way shall become the property of the Employer in whom the copyright shall rest.

Applicable Standardized and General Specifications

The applicable specifications for this Contract will be "Standardized Specification for Civil Engineering Construction, **SANS 1200, 1986** of the South African Bureau of Standards"

Any reference to the General Conditions of Contract of the SANS 1200 will be interpreted to be the General Conditions of Contract.

None of the above standard specifications are included into this document.

Drawings

Drawings will be issued together with the bid documents and will consist of A3 size drawings not to scale for bidding purposes. Once the successful Bidder is appointed, 3 sets of complete, to scale A1 drawings will be issued for construction purposes.

TABLE OF DRAWINGS

Drawing No	Description
A246/CW/SP/01	Water Reticulation Site Plan
A246/CW/TD/01	Typical Detail 1 of 2
A246/CW/TD/02	Typical Detail 2 of 2

PART 3 – Conditions of Contract and Contract Forms

Section VI - General Conditions of Contract

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General Conditions of Contract

A. General

- 1. Definitions**
- 1.1 Boldface type is used to identify defined terms.
- (a) The Accepted Contract Amount means the amount accepted in the Notification of award for the execution and completion of the Works and the remedying of any defects.
 - (b) The Activity Schedule is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity.
 - (c) The Adjudicator is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.
 - (d) Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.
 - (e) Compensation Events are those defined in GCC Clause 41 hereunder.
 - (f) The Completion Date is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 53.1.
 - (g) The Contract is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.
 - (h) The Contractor is the party whose Bid to carry out the Works has been accepted by the Employer.
 - (i) The Contractor's Bid is the completed bidding document submitted by the Contractor to the Employer.
 - (j) The Contract Price is the Accepted Contract Amount stated in the Notification of award and thereafter as adjusted in accordance with the Contract.
 - (k) Days are calendar days; months are calendar months unless otherwise stated.
 - (l) Dayworks are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
 - (m) A Defect is any part of the Works not completed in accordance with the Contract.

- (n) The Defects Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor.
- (o) The Defects Liability Period is the period **named in the SCC** pursuant to Sub-Clause 33.1 and calculated from the Completion Date.
- (p) Adjudicator means the single person appointed under Clause 23.
- (q) Drawings means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- (r) The Employer is the party who employs the Contractor to carry out the Works, **as specified in the SCC**.
- (s) Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- (t) "In writing" or "written" means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- (u) The Initial Contract Price is the Contract Price listed in the Employer's Notification of award.
- (v) The Intended Completion Date is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is **specified in the SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (w) Materials are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (x) Plant is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (y) The Project Manager is the person **named in the SCC** (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- (z) SCC means Special Conditions of Contract
- (aa) The Site is the area **defined as such in the SCC**.
- (bb) Site Investigation Reports are those that were included in

the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

- (cc) Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (dd) The Start Date is **given in the SCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- (ee) A Subcontractor is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (ff) Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (gg) A Variation is an instruction given by the Project Manager which varies the Works.
- (hh) The Works are what the Contract requires the Contractor to construct, install, and turn over to the Employer, **as defined in the SCC**.

2. Interpretation

2.1 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.

2.2 If sectional completion is **specified in the SCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the following order of priority:

- (a) Agreement,
- (b) Notification of award,
- (c) Contractor's Bid,
- (d) Special Conditions of Contract,
- (e) General Conditions of Contract,
- (f) Specifications,

- (g) Drawings,
 - (h) Bill of Quantities, and
 - (i) any other document **listed in the SCC** as forming part of the Contract.
- 3. Language and Law** 3.1 The language of the Contract must be English and the law governing the Contract is the Law of Namibia.
- 4. Project Manager's Decisions** 4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Employer and the Contractor in the role representing the Employer.
- 5. Delegation** 5.1 Otherwise **specified in the SCC**, the Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may revoke any delegation after notifying the Contractor.
- 6. Communications** 6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing to the addresses **specified in the SCC**. A notice shall be effective only when it is delivered.
- 7. Subcontracting** 7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.
- 8. Other Contractors** 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as **referred to in the SCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.
- 9. Personnel and Equipment** 9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.
- 9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.
- 10. Employer's** 10.1 The Employer carries the risks which this Contract states are

- and Contractor's Risks** Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.
- 11. Employer's Risks**
- 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Employer's risks:
- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
 - (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
 - (ii) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
 - (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to
- (a) a Defect which existed on the Completion Date,
 - (b) an event occurring before the Completion Date, which was not itself an Employer's risk, or
 - (c) the activities of the Contractor on the Site after the Completion Date.
- 12. Contractor's Risks**
- 12.1 From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.
- 13. Insurance**
- 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the SCC** for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;

- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval within 21 days after issue of notification of award. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

13.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.

13.5 Both parties shall comply with any conditions of the insurance policies.

13.6 The policies which are in the joint names of the Contractor and the Employer shall contain a clause to include a waiver of subrogation of the Contractor's rights to the insurance carrier against the Employer.

14. Site Data

14.1 The Contractor shall be deemed to have examined any Site Data **referred to in the SCC**, supplemented by any information available to the Contractor.

15. Contractor to Construct the Works

15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

16. The Works to Be Completed by the Intended Completion Date

16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

17. Approval by the Project Manager

17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.

17.2 The Contractor shall be responsible for design of Temporary

Works.

17.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

17.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

17.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.

18. Safety

18.1 The Contractor shall be responsible for the safety of all activities on the Site.

19. Discoveries

19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

20. Possession of the Site

20.1 The Employer shall, after receiving the Performance security, the insurance covers and the Program for the Works all as per requirements, give possession of all parts of the Site to the Contractor within thirty days for execution of works in accordance to the Program for the Works. If possession of a part is not given by the date **stated in the SCC**, the Employer shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

21. Access to the Site

21.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

22. Instructions

22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.

22.2 The Contractor shall permit persons appointed by the Employer to inspect the Site and/or the accounts and records of the Contractor and its sub-contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the Employer if required by the Employer. The Contractor's attention is drawn to Sub-Clause 57.1 which provides, inter alia, that acts intended to materially impede the exercise of the inspection and audit rights provided for under Sub-Clause 22.2 constitute a prohibited practice subject to contract termination.

23. Appointment of the Adjudicator

23.1 The Adjudicator shall be appointed jointly by the Employer and the Contractor, at the time of the Employer's issuance of the Notification of award. If, in the notification of award, the

Employer does not agree on the appointment of the Adjudicator, the Employer will request the Appointing Authority **designated in the SCC**, to appoint the Adjudicator within 15 days of receipt of such request.

23.2 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract; a new Adjudicator shall be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the SCC** at the request of either party, within 30 days of receipt of such request.

24. Procedure for Disputes

24.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 15 days of the notification of the Project Manager's decision.

24.2 The Adjudicator shall give a decision in writing within 30 days of receipt of a notification of a dispute.

24.3 The Adjudicator shall be paid by the hour at the **rate specified in the SCC**, together with reimbursable expenses of the types **specified in the SCC**, and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within thirty (30) days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above thirty (30) days, the Adjudicator's decision shall be final and binding.

24.4 The arbitration shall be conducted in accordance with the arbitration procedures published by the institution named and in the place specified **in the SCC**.

B. Time Control

25. Program

25.1 Within the time **stated in the SCC**, after the date of the Notification of award, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.

25.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.

- 25.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period **stated in the SCC**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the SCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 15 days of being instructed to by the Project Manager.
- 25.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.
- 26. Extension of the Intended Completion Date**
- 26.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event(as defined in GCC 41) occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 26.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.
- 27. Acceleration**
- 27.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 27.2 If the Contractor's priced proposals for acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.
- 28. Delays Ordered by the Project Manager**
- 28.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.
- 29. Management Meetings**
- 29.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a

management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.

29.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

30. Early Warning 30.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

30.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

31. Identifying Defects 31.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

32. Tests 32.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

33. Correction of Defects 33.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is **defined in the SCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

33.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

- 34. Uncorrected Defects** 34.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

- 35. Contract Price** 35.1 In the case of an admeasurement contract, the Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

- 35.2 In the case of a lump sum contract, the Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to prepare interim valuations of works done.

Any errors or inconsistencies including front loading detected in the Activity Schedule at any time during the execution of the project shall be resolved as directed as by the Project Manager.

- 36. Changes in the Contract Price** 36.1 In the case of an admeasurement contract:
- (a) If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
 - (b) The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.
 - (c) If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

- 36.2 In the case of a lump sum contract, the Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

- 37. Variations** 37.1 All Variations shall be included in updated Programs, and, in the case of a lump sum contract, also in the Activity Schedule, produced by the Contractor.
- 37.2 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the

quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

37.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

37.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

37.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

37.6 In the case of an admeasurement contract, if the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 38.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.

38. Cash Flow Forecasts

38.1 When the Program, or, in the case of a lump sum contract, the Activity Schedule, is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast.

39. Payment Certificates

39.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

39.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

39.3 The value of work executed shall be determined by the Project Manager.

39.4 The value of work executed shall comprise:

(a) In the case of an admeasurement contract, the value of the quantities of work in the Bill of Quantities that have been completed; or

(b) In the case of a lump sum contract, the value of work executed shall comprise the value of completed activities in

the Activity Schedule.

39.5 The value of work executed shall include the valuation of Variations and Compensation Events.

39.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

39.7 Unless **otherwise specified in the SCC** Interim Payment may be made for Plant and Material delivered on site ready for incorporation within reasonable period of time in the permanent works, subject to the Contractor transferring ownership to the Employer and providing, where applicable, the right of the transfer of ownership vested upon the Contractor by its supplier.

Notwithstanding the transfer of ownership, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor until taking over of the works or part thereof in which such Plant and Materials are incorporated and shall make good at its own cost any loss or damage that may occur to the works or part thereof from any cause whatsoever during such period prior to the taking over.

40. Payments

40.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest at the legal rate.

40.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

40.3 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions to the Contract Price.

40.4 Items of the Works for which no rate or price has been entered in shall not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

41. Compensation Events

41.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.
- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Notification of award from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the Employer's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
- (l) In situations of Force Majeure which makes the contractor's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances. Such events shall be limited to:
 - (a) reason of any exceptionally adverse weather conditions (as specified in the BDS) and

- (b) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works.

41.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

41.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.

41.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

42. Tax

42.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 30 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 44.

43. Currencies

43.1 Where payments are made in currencies other than the currency of the Employer's country **specified in the SCC**, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

44. Price Adjustment

44.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \text{ Imc/Ioc}$$

where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency “c.”

A_c and B_c are coefficients⁷ **specified in the SCC**, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency “c;” and

I_{mc} is the index prevailing at the end of the month being invoiced and I_{oc} is the index prevailing 28 days before Bid opening for inputs payable; both in the specific currency “c.”

44.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

45. Retention

45.1 The Employer shall retain from each payment due to the Contractor the proportion **stated in the SCC** until Completion of the whole of the Works.

45.2 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 53.1, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an “on demand” Bank guarantee.

46. Liquidated Damages

46.1 The Contractor shall pay liquidated damages to the Employer at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.

46.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC

Sub-Clause 40.1.

- 47. Bonus**
- 47.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.
- 48. Advance Payment**
- 48.1 The Employer shall make advance payment to the Contractor of the amounts **stated in the SCC** by the date **stated in the SCC**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.
- 48.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 48.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.
- 49. Securities**
- 49.1 The Performance Security shall be provided to the Employer no later than the date specified in the Notification of award and shall be issued in an amount **specified in the SCC**, by a bank and denominated in the Namibian Dollars. The Performance Security shall be valid until a date 30 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee.
- 49.2 (a) Where the contractor has benefitted from the application of the Margin of Preference for employment of local manpower, it shall:
- (i) in the execution of the contract, fulfill its obligation of maintaining local manpower force for 80 % or more of the man-days deployed in the execution of the Works with which it satisfied the criteria of eligibility for being awarded the contract in application of the Margin of Preference; and

- (ii) concurrently with the above performance security, provide a preference security to guarantee it will fulfill its obligation in that respect.
- (b) For contracts above N\$ 5 M, the preference security shall be in the form of an “on demand” bank guarantee for an amount in a convertible currency equivalent to the difference between its bid price and the bid price of the lowest bid if the Margin of Preference was not applicable. It shall be issued by a commercial bank located in the Republic of [Insert name of country].
- (c) For contracts up to N\$ 5 M, an amount equal to the value of the preference security shall be retained from progressive payments to the contractor, to constitute the guarantee for the preference security.
- (d) The preference security shall be valid until the Contractor has completed the Works and a Completion Certificate has been issued by the Employer’s Representative as per GCC 53.
- (e) The cost of providing the security shall be borne by the Contractor.

49.3 Where a Preference Security is applicable:

- (i) the Employer’s Representative shall monitor the employment of local manpower throughout the execution of the contract and shall from time to time request a report from the contractor on the percentage of total men-days deployed using local manpower.
- (ii) the Contractor shall submit the local manpower employment reports as often as it is reasonably requested by the Employer’s Representative.
- (iii) the Employer’s and Contractor’s representatives shall consult each other to ensure that the Contractor’s obligation towards local manpower employment is met during the Works execution.
- (iv) At the time of works completion, the Contractor shall submit a certified audited report to the Employer to substantiate the actual percentage of local manpower employed throughout the execution of the works.
- (v) The preference security shall be forfeited by the employer in case of failure on the part of the contractor to employ at least 80% of the local manpower in the execution of the Works.

50. Dayworks

- 50.1 If applicable, the Dayworks rates in the Contractor’s Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

50.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.

50.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

**51. Cost
of Repairs**

51.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

52. Labour Clause

52.1 (a) The rates of remuneration and other conditions of work of the employees of the Contractor shall not be less favorable than those established for work of the same character in the trade concerned-

(i) by collective agreement applying to a substantial proportion of the workers and employers in the trade concerned;

(ii) by arbitration awards; or

(iii) by Remuneration Regulations made under the Labour Act, 2007.

(b) Where remuneration and conditions of work are not regulated in a manner referred to at (a) above, the rates of the remuneration and other conditions of work shall be not less favorable than the general level observed in the trade in which the contractor is engaged by employers whose general circumstances are similar.

52.2 No Contractor shall be entitled to any payment in respect of work performed in the execution of the contract unless he has, together with his claim for payment, filed a certificate:

(a) stating the rates of remuneration and hours of work of the various categories of employees employed in the execution of the contracts;

(b) stating whether any remuneration payable in respect of work done is due;

(c) containing such other information as the Chief Executive Officer of the Public Body administering the contract may require to satisfy himself that the provisions under this clause have been complied with.

52.3 Where the Chief Executive Officer of the Public Entity administering the contract is satisfied that remuneration is still

due to an employee employed under this contract at the time the claim for payment is filed under subsection 4.3, he may, unless the remuneration is sooner paid by the Contractor, arrange for the payment of the remuneration out of the money payable under this contract.

52.4 Every Contractor shall display a copy of this clause of the contract at the place at which the work required by the contract is performed.

E. Finishing the Contract

53. Completion 53.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

54. Taking Over 54.1 The Employer shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

55. Final Account 55.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 60 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 60 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

56. Operating and Maintenance Manuals 56.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates **stated in the SCC**.

56.2 If the Contractor does not supply the Drawings and/or manuals by the dates **stated in the SCC** pursuant to GCC Sub-Clause 55.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount **stated in the SCC** from payments due to the Contractor.

57. Termination 57.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

57.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

(a) the Contractor stops work for 30 days when no stoppage of work is shown on the current Program and the stoppage has

- not been authorized by the Project Manager;
- (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 30 days;
 - (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 60 days of the date of the Project Manager's certificate;
 - (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) the Contractor does not maintain a Security, which is required;
 - (g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as **defined in the SCC**; or
 - (h) if the Contractor, in the judgment of the Employer, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, pursuant to GCC Clause 57.1.

57.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.

57.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

57.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

58. Fraud and Corruption

58.1 If the Employer determines that the Contractor has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Employer may, after giving 15 days' notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of Clause 57 shall apply as if such expulsion had been made under Sub-Clause 57.5 [Termination by Employer].

58.2 Should any employee of the Contractor be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the execution of the Works, then that employee

shall be removed in accordance with Clause 9.

58.3 For the purposes of this Sub-Clause:

- (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
 - (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) acts intended to materially impede the exercise of an inspection and audit rights provided for under Sub-Clause 22.2.

59. Payment upon Termination

59.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as **indicated in the SCC**. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.

59.2 If the Contract is terminated for the Employer’s convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the

date of the certificate.

60. Property

60.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default.

61. Release from Performance

61.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

Section VII. Special Conditions of Contract

These clauses should be read in conjunction with the General Conditions of Contract

A. General	
GCC 1.1 (r)	<p>The Employer is</p> <p>Name: Oshikoto Regional Council</p> <p>Address: Penda Ya Ndakolo Street</p> <p style="padding-left: 40px;">P. O. Box 19247</p> <p style="padding-left: 40px;">Omuthiya</p> <p>Name of authorized representative: Ms. Elizabeth K. Aimwata</p>
GCC 1.1 (v)	<p>The Intended Completion Date for the whole of the Works shall be:</p> <p style="text-align: center;">3 Calendar Months from the date of possession of site</p>
GCC 1.1 (y)	<p>The Project Manager is</p> <p>Name: AIJ Consulting Engineers and Infrastructure Managers</p> <p>Address:</p> <p>c/o of Feld & Thorer Street., No.3, Windhoek, Namibia</p> <p>Tel: +264 61 308 106</p> <p>P O Box 20261, Windhoek, Namibia</p> <p>Email: jshikufinde@aijceim.com</p> <p>Name of authorized representative: Johannes Shikufinde</p>
GCC 1.1 (aa)	<p>The Site is located at Onyuulaye Settlement, Oshikoto Region.</p>
GCC 1.1 (dd)	<p>“The Start Date shall be: On site handover to the Contractor or date of possession of the site by the Contractor.</p>
GCC 1.1 (hh)	<p>The Works consist of:</p> <p style="padding-left: 40px;">The as per the drawings.</p>
GCC 2.2	<p>Sectional Completions are: None</p>
GCC 2.3(i)	<p>The following documents also form part of the Contract:</p> <ul style="list-style-type: none"> • Correspondence during bid and evaluation process; • Notification of Award; • Letter of Acceptance; • Bid Document.
GCC 5.1	<p>The Project manager may delegate any of his duties and responsibilities.</p>

GCC 6.1	<p>Delivery address for notices is:</p> <p>Employer: Oshikoto Regional Council P. O. Box 19247, Penda Ya Ndakolo Street Omuthiya</p> <p>Contractor:</p> <p>.....</p> <p>.....</p> <p>.....</p>
GCC 8.1	Schedule of other contractors: None
GCC 13.1	<p>Except for the cover mentioned in (d)(i) hereunder, the other insurance covers shall be in the joint names of the Contractor and the Employer and the minimum insurance amounts shall be:</p> <p>(a) for the Works, Plant and Materials: for the full amount of the works including removal of debris, professional fee etc. plus 10%.</p> <p>(b) for loss or damage to Equipment: for the replacement value of the equipment that the contractor intends to use on site until the taking over by the Employer.</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract for an amount representing the value of the properties that are exposed to the action of the contractor in the execution of the works. It will extend to the property of the Procuring Entity as well.</p> <p>(d) for personal injury or death:</p> <p>(i) of the Contractor's employees: The Contractor shall take an adequate insurance cover for its employees for any claim arising in the execution of the works.</p> <p>(ii) of other people: This cover shall be for an adequate amount for Third Party extended to the Employer and its representatives and shall be a minimum of N\$ 1,000,000.00 per claim, number of claims unlimited.</p> <p>(e) for loss or damage to materials on-site and for which payment have been included in the Interim Payment Certificate, where applicable.</p> <p>The Contractor shall choose to take the insurance covers indicated above as separate covers or a combination of the Contractor's All Risks coupled with</p>

	the Employer's liability and First Loss Burglary, after approval of the Employer. All insurance covers shall be of nil or the minimum possible deductibles at sole expense of the contractor.
GCC 14.1	Site Data are: All drawings submitted to the Contractor including setting out data and the Quality Assurance Manual.
GCC 20.1	The Site Possession Date(s) shall be: 7 (Seven) days after signing of Contract.
GCC 23.1 & GCC 23.2	Appointing Authority for the Adjudicator: The Association of Consulting Engineers of Namibia (ACEN)
GCC 24.	<p>In case a dispute of any kind arises between the Employer and the Contractor in connection with, or arising out of, the contract or the execution of works or after completion of works and whether before or after repudiation or other termination of Contract, including any dispute as to any opinion, instruction, determination, certificate or valuation of the Employer's Representative, the matter in dispute shall, in the first place, be referred in writing to the employer's representative, with a copy to the other party.</p> <p>The Employer and the Contractor shall make every effort to resolve the dispute amicably by direct informal negotiation. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Public Entity or the Contractor may give notice to the other party of its intention to refer the matter to:</p> <p>Commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.</p>
GCC 24.3	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: Government approved hourly tariff.
GCC 24.4	Any dispute or difference in respect of which a notice of intention to commence arbitration has been given shall be finally settled by arbitration in accordance with Namibian Laws by an Arbitrator to be appointed by both parties to the dispute or in any case of disagreement, by an Arbitrator to be appointed by a judge in Chambers of Namibia. The Arbitrator fees will be borne by the losing party. Any decision of the Arbitrator shall be final and binding to both parties.
B. Time Control	
GCC 25.1	The Contractor shall submit for approval a Program for the Works within 21 days from the date of the Notification of award.
GCC 25.3	<p>The period between Program updates is 30 (thirty) days or unless otherwise instructed by the Project Manager</p> <p>The amount to be withheld for late submission of an updated Program is 5% of the amount of the next payment certificate.</p>

C. Quality Control																													
GCC 33.1	The Defects Liability Period is: 365 (three hundred sixty-five) calendar days.																												
GCC 39.7	Interim Payment for Plant and Material on site is applicable. 80% payment for materials on site for the full value of all material on presentation of the supplier's tax invoices and by cession of rights to the Employer and as elaborated further in per GCC 39.7.																												
D. Cost Control																													
GCC 41.1 (l)	<p>Extension of time for completion shall be granted for "exceptionally adverse climatic conditions" which shall include but will not be limited to abnormal rainfall.</p> <p>Abnormal rainfall will be regarded as one of the only two exceptionally adverse weather conditions in terms of Clause 41.1(l)(a) of the General Conditions of Contract. No claim for extension of time will be considered where working time was lost as a result of rain that could normally have been expected to fall during a certain time.</p> <p>The term "Exceptionally" in terms of rain shall be satisfied when the actual number of rain days on which 20 mm or more rainfall in one day during a specific calendar month, exceeds the value given in Table 1. The Contractor shall therefore be deemed to have allowed in his Program and rates tendered for at least the number of days per month listed as days lost as a result of normal rainfall.</p> <p>Table 1: Normal Rainfall Days</p> <table border="1"> <thead> <tr> <th>Month</th> <th>Expected Number of Days Lost due to Normal Rainfall</th> </tr> </thead> <tbody> <tr><td>January</td><td>4</td></tr> <tr><td>February</td><td>4</td></tr> <tr><td>March</td><td>4</td></tr> <tr><td>April</td><td>3</td></tr> <tr><td>May</td><td>1</td></tr> <tr><td>June</td><td>0</td></tr> <tr><td>July</td><td>0</td></tr> <tr><td>August</td><td>0</td></tr> <tr><td>September</td><td>1</td></tr> <tr><td>October</td><td>1</td></tr> <tr><td>November</td><td>2</td></tr> <tr><td>December</td><td>3</td></tr> <tr><td>Total</td><td>23</td></tr> </tbody> </table>	Month	Expected Number of Days Lost due to Normal Rainfall	January	4	February	4	March	4	April	3	May	1	June	0	July	0	August	0	September	1	October	1	November	2	December	3	Total	23
Month	Expected Number of Days Lost due to Normal Rainfall																												
January	4																												
February	4																												
March	4																												
April	3																												
May	1																												
June	0																												
July	0																												
August	0																												
September	1																												
October	1																												
November	2																												
December	3																												
Total	23																												

	<p>Extension of time as a result of abnormal rainfall shall be calculated monthly and shall be regarded as the total number of work days on which no work was possible less the number of days listed in Table 1 above, provided that the project manager certifies lost day(s) due to adverse weather conditions, which he will do only if:</p> <ol style="list-style-type: none"> 1. No work on the critical path could be carried out during the specific working day(s); or if 2. Only 30% or less of the work force and plant on Site could be employed during the specific working day(s). <p>The Project Manager must be notified in writing that a day will be lost due to adverse climatic conditions in order to allow the Project Manager to assess if the day lost will be approved taking the above-mentioned criteria into consideration.</p>
GCC 43.1	The currency of the Employer's country is: Namibian Dollars.
GCC 44.1	The Contract is not subject to price adjustment in accordance with GCC Clause 44, and the following information regarding coefficients does not apply.
GCC 45.1	<p>The proportion of payments retained is:</p> <p>10% (ten percent) of the value of the works and materials valued, until such time as the amount retained equals 5% (five percent) of the contract sum, excluding value added tax (V.A.T).</p> <p>Half of the retained payment should be released at completion date and the remaining amount released after the defect notification period.</p>
GCC 46.1	<p>The liquidated damages for the whole of the Works are 1% per week of the contract value.</p> <p>i.e. 0.143% per calendar day</p> <p>The maximum amount of liquidated damages for the whole of the Works is 10% of the contract value.</p>
GCC 47.1	The Bonus for the whole of the Works is NOT APPLICABLE
GCC 48.1	The Advance Payments shall be: NOT APPLICABLE.
GCC 49.1	<p>The Performance Security amount is:</p> <ol style="list-style-type: none"> (a) Bank Guarantee: 10% (ten percent) of Accepted Contract Amount stated in the Notification Award (Incl. VAT and Contingencies). The performance security shall be returned back to the Contractor 30 days after the Certificate of Completion of the Works is issued to the Contractor and the correction of defects identified on completion is completed to the satisfaction of the Employer.

E. Finishing the Contract	
GCC 56.1	The date by which operating and maintenance manuals are required is <i>14 calendar days prior to the completion of the works.</i> The date by which “as built” drawings are required is <i>14 calendar days prior to the completion of the works.</i>
GCC 56.2	The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required in GCC 56.1 is 5% of the final payment.
GCC 56.1	Operating and maintenance manuals should be supplied to the employer by the contractor no later than: as stated above
GCC 56.1	Amount to be withheld should the maintenance and operation manuals not be provided is: as stated above
GCC 57.2 (g)	The maximum number of days is: 70 calendar days
GCC 59.1	The percentage to apply to the value of the work not completed, representing the Employer’s additional cost for completing the Works, is 20% .

Section VIII - Contract Forms

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Contract Agreement

THIS AGREEMENT made on the day of,, between [*name of the Employer*]. (hereinafter “the Employer”), of the one part, and [*name of the Contractor*]. (hereinafter “the Contractor”), of the other part:

WHEREAS the Employer desires that the Works known as [*name of the Contract*]. 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 Notification of award
 - (b) the Bid
 - (c) the Addenda Nos [*insert addenda numbers if any*].
 - (d) the Appendix to the General Conditions of Contract
 - (e) the General Conditions of Contract;
 - (f) the Specification
 - (g) the Drawings; and
 - (h) the completed Schedules,
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.

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

Signed by: _____
for and on behalf of the Employer

Signed by: _____
for and on behalf the Contractor

in the
presence of: _____
Witness, Name, Signature, Address, Date

in the
presence of: _____
Witness, Name, Signature, Address, Date

Sample Form of Preference Security

Form of Preference Security (Bank Guarantee)

To: _____ [*name of Employer*]
 _____ [*address of Employer*]

WHEREAS _____ [*name and addresses of the contractor*] (hereinafter called "the Contractor"), has undertaken in pursuance to Contract No. _____ dated _____ to execute _____ [*name of Contract and brief Description of Works*], (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a local commercial bank for the sum specified therein as security for compliance with his obligation stated in Sub-Clause 49.2 of the Conditions of Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of _____ [*amount of Guarantee*]⁸, we undertake to pay you, upon your first written demand and without your having to substantiate such demand any sum within the limit of _____ [*amount of Guarantee*].¹

We hereby waive the necessity of demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in anyway release us from liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee is valid until the date of the Completion Certificate.

Signature _____ and Seal _____ of the Guarantor

Name of Bank _____

Address _____

Date _____

⁸ Amount to be inserted by the Guarantor in accordance with Sub-Clause 49.2 of the General Conditions of Contract



Oshikoto Regional Council

Invitation for Bids (IFB)

The

IFB Number - W/ONB/ORC-05/2024

1. This bid is issued in terms of Section 29 (a) of the Public Procurement Act, 15 of 2015. Through this procurement method participation is limited to entities incorporated in Namibia with 100% shareholding or equity vested in Namibian citizens.

2. Bid Details:

Name of Public Entity	Oshikoto Regional Council
Description of the Bid	The. Procurement Ref: W/ONB/ORC-05/2024.
Bidding Document Price & Method of Payment	A Non-refundable amount of N\$ 300-00 is payable into the public entity's bank account at the collection of the bid document.
Bidding Document	The Bidding Document is non-transferable
Address for the Collection & Submission of Documents	A set of complete documents with detailed specifications can be obtained from and submitted at: <i>Oshikoto Regional Council, Penda Ya Ndakolo Street, Omuthiya.</i>
Date of Issue	Friday, 30 August 2024
Closing Date and Time	On or before: 11 October 2024, 11H00 AM. <i>(No late submissions/offers will be accepted)</i>
Opening of Bids	Bids will be opened in the presence of the Bidder's representatives in attendance at: <i>Oshikoto Regional Council, Penda Ya Ndakolo Street, Omuthiya.</i> On 11 October 2024, 11H30 AM.
General Enquiries	<i>Oshikoto Regional Council, Penda Ya Ndakolo Street, Omuthiya Tel: +264 65 244800 Email Address: procurement@oshikotorc.gov.na</i>
Bid Clarifications	All Requests for Clarifications should be addressed in writing to the Head of Procurement Management Unit and reach the Public Entity not later than 24 September 2024 (14 days prior to the closing date for submission of bids). Late requests will NOT be responded to.
Pre-Bid Meeting/Site Visit	Not Applicable. Bidders to make own arrangements to familiarize themselves with the site conditions.