
Bidding Document

for

Procurement of

**100,000 impg 30 ft. nominal height Glass
Fused to Steel Water Storage Tank**

Project: REPLACEMENT OF HOPE WATER
STORAGE TANK

Employer: The Government of Montserrat

Issued on: 29th August 2016

Preface

This Bidding Document for Procurement of Small Works has been prepared by Engineering Solutions Inc. on behalf of Basic Needs Trust Fund and is based on the Standard Bidding Document for Procurement of Small Works issued by the Caribbean Development Bank, dated April 2008.

This document reflects the structure and the provisions of the Master Document for the Procurement of Small Works, prepared by Multilateral Development Banks and International Financing Institutions, except where specific considerations within the respective institutions have required a change.

Summary Description

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 II. Bid Data Sheet (BDS)

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 and Qualification Criteria

This Section contains the criteria to determine the lowest evaluated bid and the qualifications of the Bidder to perform the contract.

Section IV. Bidding Forms

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

Section V. Eligible Countries

This Section contains information regarding eligible countries.

PART 2 – EMPLOYER’S REQUIREMENTS

Section VI. *Employer’s Requirements*

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

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section VII. General Conditions of Contract (GCC)

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 VIII. Particular Conditions of Contract (PCC)

This Section consists of Contract Data and Specific Provisions which contains clauses specific to each contract. The contents of this Section modify or supplement the General Conditions and shall be prepared by the *Employer*.

Section IX. 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

Section 1 - Instructions to Bidders

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Section I - Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 The Employer, as **indicated in Section II, Bid Data Sheet (BDS)**, issues this Bidding Document for the procurement of the Works as specified in Section VI Requirements. The name, identification, and number of lots **provided in the BDS**.
 - 1.2 Unless otherwise stated, throughout this Bidding Document, definitions and interpretations shall be as prescribed in Section VII, General Conditions.
2. **Source of Funds**
 - 2.1 The Recipient of CDB Financing (hereinafter called "Recipient") **indicated in the BDS** has applied for or received financing (hereinafter called "funds") from the Caribbean Development Bank (hereinafter called "the Bank") toward the cost of the project **named in the BDS**. The Recipient intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
 - 2.2 Payments by the Bank will be made only at the request of the Recipient and upon approval by the Bank in accordance with the terms and conditions of the financing agreement between the Recipient and the Bank (hereinafter called the Loan Agreement), and will be subject in all respects to the terms and conditions of that Loan Agreement. No party other than the Recipient shall derive any rights from the Loan Agreement or have any claim to the funds.
3. **Fraud and Corruption**
 - 3.1 The Bank requires that Recipients (including beneficiaries of Bank loans), as well as Bidders, Suppliers, Contractors, and Consultants under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Bank:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;

- (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
 - (iii) “collusive practice” means a scheme or arrangement between two or more bidders, with or without the knowledge of the Recipient, designed to establish bid prices at artificial, non-competitive levels; and
 - (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process or affect the execution of a contract;
- (b) 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 or coercive practices in competing for the Contract in question;
 - (c) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Recipient or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Recipient having taken timely and appropriate action satisfactory to the Bank to remedy the situation;
 - (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Bank-financed contract; and
 - (e) will have the right to require that a provision be included in Bidding Documents and in contracts financed by CDB, requiring bidders, suppliers, contractors and consultants to permit the Bank to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the Bank.

- 3.2 Furthermore, Bidders shall be aware of the provisions of GCC Sub-Clauses 22.2 and 56.2(h).
4. **Eligible Bidders**
- 4.1 A Bidder may be a natural person, private entity, or government-owned entity—subject to ITB 4.5—or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association (JVCA). In the case of a JVCA:
- (a) unless otherwise specified in the BDS, all partners shall be jointly and severally liable, and
 - (b) the JVCA shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the partners of the JVCA during the bidding process and, in the event the JVCA is awarded the Contract, during contract execution.
- 4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of an eligible country, in accordance with Section 5 (Eligible Countries). A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services.
- 4.3 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 it is involved. However, this does not limit the inclusion of the same subcontractor not otherwise participating as a Bidder, in more than one bid; or
- (f) a Bidder participated as a consultant in the preparation of the Section VI, Requirements that are 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 or Recipient for the supervision of the contract.

4.4 A firm that is under a declaration of ineligibility by the Bank at the date of the deadline for bid submission or thereafter, shall be disqualified.

4.5 Government-owned entities in the Recipient's country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under the principles of commercial law, and (iii) are not dependent agencies of the Employer.

4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.

4.7 Firms shall be excluded if:

- (a) as a matter of law or official regulation, the Recipient's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or related services required; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Recipient's country prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.

5. Eligible Goods and Services

5.1 All goods and services to be supplied under the Contract and financed by the Bank, shall have as their country of origin an eligible country of the Bank as listed in Section V, Eligible Countries.

- 5.2 For purposes of this Clause, the term goods includes commodities, raw material, machinery, equipment, and industrial plants; and services includes services such as insurance, transportation, installation, commissioning, training, and initial maintenance.
- 5.3 The term “country of origin” means the country where the goods have been mined, grown or produced when through manufacturing, processing or substantial and major assembling of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 5.4 The nationality of the firm that produces, assembles, distributes or sells the goods shall not determine the origin of the goods. Goods shall be considered to originate in a country if they meet the criterion of at least 50% by value derived from within that country.

B. Contents of Bidding Document

6. Sections of Bidding Document

- 6.1 The Bidding Document consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

PART 1 Bidding Procedures

Section I - Instructions to Bidders (ITB)

Section II - Bid Data Sheet (BDS)

Section III - Evaluation and Qualification Criteria

Section IV - Bidding Forms

Section V - Eligible Countries

PART 2 Requirements

Section VI - Requirements

PART 3 Conditions of Contract and Contract Forms

Section VII - General Conditions (GCC)

Section VIII - Particular Conditions (PCC)

Section IX - Contract Forms

- 6.2 The Invitation for Bids issued by the *Employer* is not part of the Bidding Document.
- 6.3 The *Bidder* shall obtain the Bidding Document from the source stated by the *Employer* in the Invitation for Bids; otherwise the Employer is not responsible for the completeness of the Bidding Document.

- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid
7. **Clarification of Bidding Document, Site Visit, Pre-Bid Meeting**
- 7.1 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** or raise his inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of bids, within number of days specified **in the BDS**. The Employer's response shall be in writing with copies to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. 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 8 and ITB 22.2.
- 7.2 Where applicable, the Bidder is advised to visit and examine the project site and obtain for itself, on its own responsibility, all information that may be necessary for preparing the bid and entering into a contract for provision of the Requirements. The costs of visiting the Site shall be at the Bidder's own expense.
- 7.3 Pursuant to ITB 7.2, where the Bidder and any of its personnel or agents have been granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the visit
- 7.4 The Bidder's designated representative is invited to attend a pre-bid meeting, if **provided for in the BDS**. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. If so provided in the BDS, the Employer will organize a site visit.

- 7.5 The Bidder is requested, as far as possible, to submit any questions in writing, to reach the *Employer* not later than one week before the meeting.
- 7.6 Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made by the *Employer* exclusively through the issue of an Addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting.
- 7.7 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.
8. **Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6.3.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 22.2

C. Preparation of Bids

9. **Cost of Bidding**
- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
10. **Language of Bid**
- 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern.

11. **Documents
Comprising the Bid**

11.1 The Bid shall comprise the following:

- (a) Letter of Bid;
- (b) Completed Schedules, as provided in Section IV, Bidding Forms;
- (c) Bid Security or Bid Securing Declaration, in accordance with ITB 19;
- (d) at the Bidder's option, alternative proposals if permissible, in accordance with ITB 13;
- (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
- (f) documentary evidence establishing the Bidder's qualifications in accordance with the requirements of Section III, Evaluation and Qualification Criteria, using the relevant forms furnished in Section IV, Bidding Forms;
- (g) documentary evidence as specified in the BDS, establishing the conformity of the Technical Proposal offered by the Bidder with the Bidding Document, using the relevant forms furnished in Section IV, Bidding Forms;
- (h) In the case of a bid submitted by a JVCA, JVCA agreement, or letter of intent to enter into a JVCA including a draft agreement, indicating at least the parts of the Requirements to be executed by the respective partners; and
- (i) Any other document **required in the BDS**.

12. **Letter of Bid and
Schedules**

12.1 The Letter of Bid and Schedules shall be prepared using the relevant forms in Section IV, Bidding Forms. The forms must be completed as indicated in each form

13. **Alternative Proposals**

13.1 Unless otherwise **indicated in the BDS**, alternative proposals shall not be considered. If alternative proposals are permitted, their method of evaluation shall be as stipulated in Section III, Evaluation and Qualification Criteria.

- 13.2 When alternative times for completion are explicitly invited, a statement to that effect will be **included in the BDS**, as will the method of evaluating different times for completion.
- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Document must first price the *Employer's* requirements as described in the Bidding Document and shall further provide all information necessary for a complete evaluation of the alternative by the *Employer*, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the *Employer*.
- 13.4 When **specified in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Requirements and such parts will be **identified in the BDS** as will the method for their evaluation and described in Section VI, Requirements.
14. **Bid Prices and Discounts**
- 14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Schedules shall conform to the requirements specified in ITB 14.2.
- 14.2 Unless otherwise provided in the BDS and the GCC, the prices quoted by the Bidder shall be fixed.
- 14.3 The Bidder shall submit a bid for the whole of the works described in ITB 1.1 by filling in prices for all items of the Works, as identified in Section IV, Bidding Forms. In case of admeasurement contracts, the Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder will not be paid for by the *Employer* when executed and shall be deemed covered by the rates for other items and prices in the Bill of Quantities.
- 14.4 The price to be quoted in the Letter of Bid shall be the total price of the Bid, excluding any discounts offered.
- 14.5 Unconditional discounts, if any, and the methodology for their application shall be quoted in the Letter of Bid, in accordance with ITB 12.1

- 14.6 If so indicated in ITB 1.1, bids are invited for individual contracts or for any combination of contracts (packages). Bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Price reductions or discounts shall be submitted in accordance with ITB 14.4, provided the bids for all contracts are submitted and opened at the same time.
- 14.7 Unless otherwise **provided in the BDS** and the Conditions of Contract, the prices quoted by the Bidder shall be fixed. If the prices quoted by the Bidder are not fixed in accordance with ITB 14.2 but are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data in Section IV (Bidding Forms) and the *Employer* may require the Bidder to justify its proposed indices and weightings.
- 14.8 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total bid price submitted by the Bidder.
15. **Currencies of Bid and Payment** 15.1 The currency(ies) of the bid and the currency(ies) of payment shall be as **specified in the BDS**.
16. **Documents Establishing the Qualifications of the Bidder** 16.1 To establish its qualifications to perform the Contract, the Bidder shall provide the information requested in Section III (Evaluation and Qualification Criteria).
- 16.2 If so required in the BDS, a Bidder shall submit the Manufacturers Authorization using the form included in Section IV, Bidding Forms, where the Bidder does not manufacture or produce the goods it offers to supply.
- 16.3 If so required in the BDS, a Bidder shall submit evidence that it will be represented by an agent in the country, equipped and able to carry out the supplier's maintenance, repair and spare parts stocking obligations prescribed in the Conditions of Contract and requirements where a Bidder does not conduct business within the Employer's country.

- 16.4 Regional Bidders, individually or in joint ventures, applying for eligibility for regional margin of preference shall supply all information required to satisfy the criteria for eligibility as described in ITB 33.
17. **Documents
Establishing the
Eligibility of the
Goods and Services**
- 17.1 To establish the eligibility of the Good and Services in accordance with ITB 5, Bidders shall complete the forms included in Section IV, Bidding Forms.
18. **Period of Validity of
Bids**
- 18.1 Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the Employer. A bid which is valid for a shorter period shall be rejected by the Employer as non-responsive.
- 18.2 In exceptional circumstances, prior to the expiration of the bid validity period, the *Employer* may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, the bidder granting the request shall also extend the bid security for 28 days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid except as provided in ITB 19.3.
- 18.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be adjusted by a factor specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.
19. **Bid Security**
- 19.1 The Bidder shall furnish as part of its bid, the original of either a Bid-Securing Declaration or a bid security using the relevant form included in Section IV, Bidding Forms. In the case of a bid security, the amount shall be **as specified in the BDS**.
- 19.2 A Bid Securing Declaration shall use the form included in Section IV Bidding Forms.
- 19.3 If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee, in any of the following forms at the Bidder's option:
- (a) an unconditional guarantee, issued by a bank *or surety*;

- (b) an irrevocable letter of credit; or
- (c) a cashier's or certified check.

from a reputable source from an eligible country. If the unconditional guarantee is issued by an insurance company or bonding company located outside the Employer's Country, the issuer shall have a correspondent financial institution located in the Employer's Country to make it enforceable. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms or in another substantially similar format approved by the *Employer* prior to bid submission. In either case, the form must include the complete name of the Bidder. The bid security shall be valid for twenty-eight days (28) beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.

- 19.4 Any bid not accompanied by a *substantially* responsive bid security or *Bid Securing Declaration*, if required in accordance with ITB 19.1, shall be rejected by the *Employer* as non-responsive.
- 19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security pursuant to ITB 37.
- 19.6 If a bid security is specified pursuant to ITB 19.1, the bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security.
- 19.7 The bid security may be forfeited or the Bid Securing Declaration executed:
 - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 40; or
 - (ii) furnish a performance security in accordance with ITB 37.

19.8 The Bid Security or the Bid Securing Declaration of a *JVCA* shall be in the name of the *JVCA* that submits the bid. If the *JVCA* has not been constituted into a legally-enforceable *JVCA*, at the time of bidding, the Bid Security or the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent mentioned in ITB 4.1.

20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL". Alternative proposals, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid in the number **specified in the BDS**, and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 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. This authorization shall consist of a written confirmation as **specified in the BDS** and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries have been made shall be signed or initialed by the person signing the bid.

20.3 A bid submitted by a *JVCA* shall comply with the following requirements:

(a) unless not required in accordance with ITB 4.1 (a), be signed so as to be legally binding on all partners; and

(b) include the representatives authorization referred to in ITB 4.1 (b) consisting of a Power of Attorney signed by those legally authorized to sign on behalf of the *JVCA*.

20.4 Any amendments, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

21. **Sealing and Marking of Bids**
- 21.1 Bidders may always submit their bids by mail or by hand. If so **specified in the BDS**, bidders shall have the option of submitting their bids electronically. 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 13, 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 21.2 and 21.3.
 - (b) Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**.
- 21.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the *Employer* in accordance with 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.
- 21.3 If envelopes and packages are not sealed and marked as required, the *Employer* will assume no responsibility for the misplacement or premature opening of the bid.
22. **Deadline for Submission of Bids**
- 22.1 Bids must be received by the *Employer* at the address and no later than the date and time **indicated in the BDS**.
- 22.2 The *Employer* may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the *Employer* and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. **Late Bids**
- 23.1 The *Employer* shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the *Employer* after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.
24. **Withdrawal, Substitution, and Modification of Bids**
- 24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:
- (a) prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” “MODIFICATION;” and
 - (b) received by the *Employer* prior to the deadline prescribed for submission of bids, in accordance with ITB 22.
- 24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.
- 24.3 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 Letter of Bid or any extension thereof.
25. **Bid Opening**
- 25.1 The *Employer* shall conduct the bid opening in public in the presence of Bidders` designated representatives and anyone who choose to attend at the address, date and time **specified in the BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 21.1, shall be as **specified in the BDS**.
- 25.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at

bid opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.

25.3 The Employer shall open all other envelopes one at a time and read out: the name of the Bidder and the Bid Price(s), any discounts and their application methodology, alternative bids; the presence of a bid security or Bid-Securing Declaration; and any other details as the *Employer* may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation. No bid shall be rejected at bid opening except for late bids, in accordance with ITB 23.1.

25.4 The *Employer* shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, including any discounts and alternative proposals; and the presence or absence of a bid security or a Bid-Securing Declaration. The Bidders’ representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted bids in time, and posted online when electronic bidding is permitted.

E. Examination of Bids

26. Confidentiality

26.1 Information relating to the evaluation of bids shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders

- 26.2 Any attempt by a Bidder to influence improperly the Employer in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.
- 26.3 Notwithstanding ITB 26.1, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the *Employer* on any matter related to the bidding process, it may do so in writing.
- 27. Clarification of Bids**
- 27.1 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 allowing a reasonable time for response. Any clarification submitted by a Bidder that is not in response to a request by the *Employer* shall not be considered. The *Employer's* request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the *Employer* in the evaluation of the bids, in accordance with ITB 29.
- 27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the *Employer's* request for clarification, its bid may be rejected.
- 28. Determination of Responsiveness**
- 28.1 The *Employer's* determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.
- 28.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission.
- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;
- (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
- (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.

28.3 A material deviation, reservation, or omission is one that,

(a) if accepted, would:

(i) affect in any substantial way the scope, quality, or performance of the Requirements as specified in Section VI; or

(ii) limit in any substantial way, inconsistent with the Bidding Document, the *Employer's* rights or the Bidder's obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.

28.4 The *Employer* shall examine the technical aspects of the bid in particular, to confirm that all requirements of Section VI have been met without any material deviation, reservation or omission.

28.5 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.

28.6 Provided that a bid is substantially responsive, the *Employer* may waive any quantifiable non-conformity in the bid that do not constitute a material deviation, reservation or omission.

28.7 Provided that a bid is substantially responsive, the *Employer* may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify non-material non-conformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.

28.8 Provided that a bid is substantially responsive, the *Employer* shall rectify quantifiable non-material non-

conformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of the non-conforming item or component. The adjustment shall be made using the methodology indicated in Section III, Evaluation and Qualification Criteria.

F. Bid Evaluation and Comparison

29. Correction of Arithmetical Errors

29.1 Provided that the bid is substantially responsive, the *Employer* shall correct arithmetical errors as indicated in Section III, Evaluation and Qualification Criteria.

29.2 If the Bidder does not accept the correction of errors, its bid shall be declared non-responsive and its Bid Security shall be forfeited or the Bid Securing Declaration executed.

30. Conversion to Single Currency

30.1 For evaluation and comparison purposes, the currency(ies) of the bid shall be converted into a single currency as specified in Section III, Evaluation and Qualification Criteria.

31. Bid Adjustments

31.1 For the evaluation and comparison purposes the *Employer* shall adjust the bid prices using the criteria and methodology specified in Section III, Evaluation and Qualification Criteria.

31.2 Unless otherwise specified in the BDS, no regional margin of preference shall apply. If a margin of preference applies, the application methodology shall be as specified in Section III, Evaluation and Qualification Criteria.

31.3 If in the opinion of the *Employer* the bid which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded *or substantially below the Employer's estimates*, the *Employer* may require the Bidder to produce detailed price analyses for any or all items of the *Bill of Quantities*, to demonstrate the internal consistency of those prices with the methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the *Employer* may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect the *Employer* against financial loss in the event of default of the successful Bidder under the Contract.

32. **Qualification of the Bidder**
- 32.1 The *Employer* shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 32.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 16.1.
- 32.3 An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the *Employer* shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.
- 32.4 The capabilities of the manufacturers and subcontractors proposed in its Bid to be used by the lowest evaluated Bidder for identified major items of the Requirements will also be evaluated for acceptability in accordance with the criteria and methodologies defined in Section III, Evaluation and Qualification Criteria. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a manufacturer or subcontractor be determined to be unacceptable, the Bid will not be rejected, but the Bidder will be required to substitute an acceptable manufacturer or subcontractor without any change to the bid price.
33. **Employer's Right to Accept Any Bid, and to Reject Any or All Bids**
- 33.1 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. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

G. Award of Contract

34. **Award Criteria**
- 34.1 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.

- 35. Notification of Award**
- 35.1 Prior to the expiration of the period of bid validity, the *Employer* shall notify the successful Bidder, in writing, that its bid has been accepted.
- 35.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract
- 35.3 At the same time, the *Employer* shall also notify all other Bidders of the results of the bidding, and shall publish in *UNDB online and in the Bank's website* the results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful bidders may request in writing to the *Employer* for a debriefing seeking explanations on the grounds on which their bids were not selected. The *Employer* shall promptly respond in writing to any unsuccessful Bidder who, after Publication of contract award, requests a debriefing.
- 36. Signing of Contract**
- 36.1 Promptly after notification, the *Employer* shall send the successful Bidder the Contract Agreement.
- 36.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the *Employer*.
- 36.3 Upon the successful Bidder's furnishing of the signed Contract Agreement and Performance Security pursuant to ITB 37, the *Employer* will discharge its Bid Security, pursuant to ITB 19.
- 36.4 *Notwithstanding ITB 36.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Employer, to the country of the Employer, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Bidder shall not be bound by its bid, always provided, however, that the Bidder can demonstrate to the satisfaction of the Employer and of the Bank that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and*

licenses necessary for the export of the products/goods, systems or services under the terms of the Contract Agreement.

**37. Performance
Security**

37.1 Within twenty-eight (28) days of the receipt of notification of award from the *Employer*, the successful Bidder shall furnish the performance security in accordance with the conditions of contract, subject to ITB 31.3, using for that purpose the Performance Security Form included in Section IX (Contract Forms), or another form acceptable to the Employer. If the performance security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country.

37.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or to sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, or execution of the Bid Security Declaration. In that event the *Employer* may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the *Employer* to be qualified to perform the Contract satisfactorily.

Section II - Bid Data Sheet (BDS)

A. Introduction

ITB 1.1	The <i>Employer</i> is: GOVERNMENT OF MONTSERRAT
ITB 1.1	The name of the bidding process is: Tender for Design and Construction of a circular 100,000 imperial gallon 30 ft. nominal height glass fused to steel Water Storage Tank
ITB 2.1	The Recipient of CDB Financing is: The Government of Montserrat
ITB 2.1	The name of the Project is: REPLACEMENT OF HOPE WATER STORAGE TANK
ITB 4.1(a)	<i>The individuals or firms in a JVCA shall be jointly and severally liable.</i>

B. Bidding Documents

ITB 7.1	<p>For <u>clarification purposes</u> only, bidders shall contact the Consultant whose address is:</p> <p>Attention: Vernon White</p> <p style="text-align: center;">Engineering Solutions Inc.</p> <p style="text-align: center;">Banks</p> <p style="text-align: center;">Montserrat, W.I</p> <p>Telephone: (664) 491-7826</p> <p>Cell: (664) 492-1336</p> <p>Electronic mail address: en_sol@hotmail.com</p> <p>Requests for clarification should be received by the <i>Employer</i> no later than: fourteen (14) days prior to the deadline for submission of bids.</p>
ITB 7.4	<p>A Pre-Bid meeting / site visit shall take place, it will be at the following date, time and place: 21st September 2016</p> <p>Time: 10:00 am</p> <p>Place: Proposed Site for the REPLACEMENT OF HOPE WATER STORAGE TANK</p>

C. Preparation of Bids

ITB 10.1	The language of the bid is: English
ITB 11.1 (b)	<p>The following schedules shall be submitted with the bid:</p> <ol style="list-style-type: none"> 1. Letter of Bid 2. Bill of Quantities 3. Form of Bid Security 4. Technical Proposal 5. Bidder's Qualification 6. Construction Programme
ITB 11.1 (i)	The Bidder shall submit with its bid the following additional documents:
ITB 13.1	Alternative bids shall not be permitted.
ITB 13.2	The time for completion shall be 112 calendar days.
ITB 13.4	Alternative technical solutions shall be permitted for the following parts of the Works: N/A
ITB 14.6	<p>The prices quoted by the Bidder shall be fixed and shall not be subject to adjustment during the performance of the contract.</p> <p>The bidder's attention is drawn to the fact that the bid price must include for all costs associated with labour, including the cost of any incentives necessary to attract and retain sufficient labour on site to meet requirements of the programme.</p> <p>The bid price shall include payments necessary to comply with all acts, laws, rules, work permits, national insurance contributions, government stamp tax, taxes and regulations current at the time of bidding including but not limited to those applicable in Montserrat and in the country of origin.</p> <p>Bids that are not fixed and firm in accordance with these requirements will be considered non-responsive and will be rejected.</p>
ITB 15.1	<p>The currency of the bid and the payment currency shall be as described below:</p> <p>Bidders to quote entirely in local currency:</p> <p>The unit rates and the prices shall be quoted by the Bidder in the Bill of Quantities, entirely in Eastern Caribbean Dollars XCD, further referred to</p>

	as “the local currency”.
ITB 18.1	The bid validity period shall be: 90 days.
ITB 19.1	The Bidder shall furnish a bid security in the amount of XCD \$4500
ITB 20.1	The original of the bid is <i>required</i> .
ITB 20.2	<p>The written confirmation of authorization to sign on behalf of the Bidder shall indicate:</p> <ul style="list-style-type: none">(a) Demonstrate the authority of the signatory to sign the Bid; and(b) In the case of Bids submitted by an existing or intended JVCA an undertaking signed by all parties (i) stating that all parties shall be jointly and severally liable, if so required in accordance with ITB 4.1(a), and (ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JVCA during the bidding process and, in the event the JV is awarded the Contract, during contract execution.

D. Submission and Opening of Bids

ITB 21.1	Bidders <i>shall not</i> have the option of submitting their bids electronically.
ITB 21.1 (b)	The electronic bidding submission procedures shall be: N/A.
ITB 22.1	<p>For <u>bid submission purposes</u> only, the <i>Employer's</i> address is:</p> <p style="text-align: center;">The Chairman Public Procurement Board Ministry of Finance and Economic Management Government Headquarters Brades Montserrat</p> <p>The deadline for bid submission is:</p> <p>Date: 05th October 2016</p> <p>Time: 2:00 PM Local Time</p>
ITB 25.1	<p>The bid opening shall take place at:</p> <p style="text-align: center;">Ministry of Finance and Economic Management Government headquarters Brades Montserrat</p> <p>Date: 05th October 2016</p> <p>Time: Immediately after the deadline for submission</p>
ITB 25.1	If electronic bid submission is permitted in accordance with ITB 21.1, the specific bid opening procedures shall be: <i>N/A</i>

E. Evaluation and Comparison of Bids

ITB 30.1	The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: <i>Eastern Caribbean Dollars (XCD)</i>
ITB 31.2	<i>A regional margin of preference shall not apply.</i>
ITB 34.2	The procedure and method for assessing bidders shall be as follows: Initial Review Bids will initially be reviewed to confirm: (I) the bids are duly signed; (II) the bids comply substantially with the requirements of the bidding documents; (III) bidders meet the requirements of the prequalification application post tender submission; (IV) the bids contain no calculation errors. Bids will be checked for arithmetical accuracy and will be corrected by the procedure as detailed in clause ITB 31. If any bidder has deviated to a substantial degree from the specified requirements, then his bid will be rejected.

Section III - Evaluation and Qualification Criteria

This section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders if the bidding was not preceded by a prequalification exercise and post-qualification is applied. In accordance with ITB 34 and ITB 36, no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).

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1. Evaluation

In addition to the criteria listed in ITB 34.2 (a) – (e) the following criteria shall apply:

1.1 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 6 (*Employer's Requirements*).

1.2 Multiple Contracts

Pursuant to Sub-Clause 34.4 of the Instructions to Bidders, if Works are grouped in multiple contracts, evaluation will be as follows: N/A

1.3 Completion Time

Completion Time shall be in accordance with ITB 13.2.

1.4 Technical Alternatives

Technical alternatives, if permitted under ITB 13.4, will be evaluated as follows: N/A

1.5 Margin of Preference

If a margin of preference shall apply under ITB 33.1, the procedure will be as follows as:N/A

2. Qualification

Factor	2.1 Eligibility					
Sub-Factor	Criteria					Documentation Required
	Requirement	Single Entity	Bidder			
			Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
<i>2.1.1 Nationality</i>	<i>Nationality in accordance with ITB 4.2.</i>	<i>Must meet requirement</i>	<i>Existing or intended JVCA must meet requirement</i>	<i>Must meet requirement</i>	<i>N / A</i>	<i>Form ELI –1.1 and 1.2, with attachments</i>
<i>2.1.2 Conflict of Interest</i>	<i>No- conflicts of interests as described in ITB 4.3.</i>	<i>Must meet requirement</i>	<i>Existing or intended JVCA must meet requirement</i>	<i>Must meet requirement</i>	<i>N / A</i>	<i>Letter of Bid</i>
<i>2.1.3 Bank Ineligibility</i>	<i>Not having been declared ineligible by the Bank as described in ITB 4.4.</i>	<i>Must meet requirement</i>	<i>Existing JVCA must meet requirement</i>	<i>Must meet requirement</i>	<i>N / A</i>	<i>Letter of Bid</i>
<i>2.1.4 Government Owned Entity</i>	<i>Compliance with conditions of ITB 4.5</i>	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N / A</i>	<i>Form ELI –1.1 and 1.2, with attachments</i>
<i>2.1.5 Ineligibility based on a United Nations resolution or Recipient’s country law</i>	<i>Not having been excluded as a result of the Recipient’s country laws or official regulations, or by an act of compliance with UN Security Council resolution, in accordance with ITB 4.8</i>	<i>Must meet requirement</i>	<i>Existing JVCA must meet requirement</i>	<i>Must meet requirement</i>	<i>N / A</i>	<i>Letter of Bid</i>

Factor	2.2 Historical Contract Non-Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
				All partners combined		Each partner
2.2.1 History of non-performing contracts	Non-performance of a contract did not occur within the last three (3) years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the bidder have been exhausted.	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Form CON - 2
2.2.2 Pending Litigation	All pending litigation shall in total not represent more than seventy five percent (75%) of the Bidder's net worth and shall be treated as resolved against the Bidder.	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Form CON – 2

Factor	2.3 Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
2.3.1 Historical Financial Performance	Submission of audited balance sheets or if not required by the law of the bidder’s country, other financial statements acceptable to the Employer, for the last two [2] years to demonstrate the current soundness of the bidders financial position and its prospective long term profitability. Or a letter from a local Financial Institution or Surety stating that it is willing to provide a Performance Bond to the Bidder.	Must meet requirement	N / A	Must meet requirement	N / A	Form FIN – 3.1 with attachments
2.3.2. Average Annual Turnover	Minimum average annual turnover of \$200,000.00, calculated as total certified payments received for contracts in progress or completed, within the last	Must meet requirement	Must meet requirement	Must meet _____ percent (50%) of the requirement	Must meet _____ percent (50%) of the requirement	Form FIN –3.2

Factor	2.3 Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
	<i>three (3) years</i>					
<i>2.3.3. Financial Resources</i>	<i>The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet: the overall cash flow requirements for this contract and its concurrent commitments.</i>	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>Must meet _____ percent (50%) of the requirement</i>	<i>Must meet _____ percent (50%) of the requirement</i>	<i>Form FIN –3.3</i>

Factor	2.4 Experience					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
2.4.1 General Experience	Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last five [5] years prior to the applications submission deadline, and with activity in at least nine (9) months in each year.	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP-4.1
2.4.2 Specific Experience	(a) Participation as contractor, management contractor, or subcontractor, in at least two (2) contracts within the last five (5) years, each with a value of at least \$100,000.00, that have been successfully and substantially completed and that are similar to the proposed Works. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section VI, Employer's Requirements.	Must meet requirement	Must meet requirements for all characteristics	N/A	Must meet requirement for one characteristic	Form EXP 2.4.2(a)

<i>Factor</i>	2.4 Experience					
<i>Sub-Factor</i>	<i>Criteria</i>					<i>Documentation Required</i>
	<i>Requirement</i>	<i>Bidder</i>				
		<i>Single Entity</i>	<i>Joint Venture, Consortium or Association</i>			
2.4.2 Specific Experience	b) For the above or other contracts executed during the period stipulated in 2.4.2(a) above, a minimum experience in the following key activities: General contract administration or general contractor.		Must meet requirements	All partners combined	Each partner	At least one partner
			Must meet requirements	N / A	Must meet requirements	

2.5 Personnel

The Bidder must demonstrate that it will have the personnel for the key positions that meet the following requirements:

<i>No.</i>	<i>Position</i>	<i>Total Work Similar Experience (years)</i>	<i>In Similar Works Experience (years)</i>
1			
2			
3			
4			
5			

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Bidding Forms.

2.6 Equipment

The Bidder must demonstrate that it will have access to the key Contractor's equipment listed hereafter:

<i>No.</i>	<i>Equipment Type and Characteristics</i>	<i>Minimum Number required</i>
1		
2		
3		
4		
5		

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section IV.

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Letter of Bid

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

Date: _____

To: The Chairman
Public Procurement Board
Ministry of Finance and Economic Management
Government Headquarters
Brades
Montserrat

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) Clause 8;
- (b) We offer to execute in conformity with the Bidding Documents the following Works:
Design and Construction of a circular 100,000 imperial gallon 30 ft. nominal height glass fused to steel Water Storage Tank on reinforced concrete base;
- (c) The total price of our Bid is: _____
_____ (\$_____);
- (d) Our bid shall be valid for a period of 90 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;
- (e) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Document;
- (f) Our firm, including any employees, subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries;
- (g) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3;
- (h) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.3;

- (i) Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible by the Bank, under the *Employer's* country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council;
- (j) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:¹

Name of Recipient	Address	Reason	Amount
.....
.....

- (k) 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;
- (l) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive; and
- (m) 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:

¹ *If none has been paid or is to be paid, indicate "none".*

Schedules

Bill of Quantities/ Schedules of Prices

100,000 impg 30 ft. nominal height Glass Fused to Steel Bolted Water Storage Tank					
Item	Description	Qty	Unit	Rate	Total XCD
1.00	Preliminaries				
1.01	Contractor Preliminary including mobilization		item		
1.02	Insurance of the works		item		
2.00	Water Tank				
2.01	* Construction of reinforced concrete tank foundation including earthworks in accordance with tank manufacturer's design		item		
2.02	Purchase and Deliver to Site - glass fused to steel bolted Tank with two (2) additional 6" diameter inlet pipes in addition to the manufacture standard inlet in accordance with Specifications.	1.00	item		
2.03	Erection of Tank including cleaning, sterilization and Pressure Testing		item		
	Total				

* Attached drawings shows the general arrangement of the foundation for indicative estimating purposes only and is not meant to supersede manufacturer's design for which the bidder is responsible.

Form of Bid Security (Bank Guarantee)

_____ *[Bank's Name, and Address of Issuing Branch or Office]*

Beneficiary: The Government of Montserrat, Brades, Montserrat, West Indies

Date: _____

BID GUARANTEE No.: _____

We have been informed that _____ *[name of the Bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated _____ (hereinafter called "the Bid") for the execution of _____ *[name of contract]* under Invitation for Bids No. _____ ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we _____ *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of _____ *[amount in figures]* (_____) *[amount in words]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by the *Employer* during the period of bid validity, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB.

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy your notification to the Bidder of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[signature(s)]

Form of Bid Security (Bid Bond)

BOND NO. _____

BY THIS BOND [*name of Bidder*] as Principal (hereinafter called “the Principal”), and [*name, legal title, and address of surety*], **authorized to transact business in** [*name of country of Employer*], as Surety (hereinafter called “the Surety”), are held and firmly bound unto [*name of Employer*] as Obligee (hereinafter called “the Employer”) in the sum of [*amount of Bond*]² [*amount in words*], for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the *Employer* dated the ____ day of _____, 20__, for the construction of [*name of Contract*] (hereinafter called the “Bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (a) withdraws its Bid during the period of bid validity specified in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by the *Employer* during the period of Bid validity; (i) fails or refuses to execute the Contract Form, if required; or (ii) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders;

then the Surety undertakes to immediately pay to the *Employer* up to the above amount upon receipt of the *Employer*'s first written demand, without the *Employer* having to substantiate its demand, provided that in its demand the *Employer* shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration of the Bid validity as stated in the Invitation to Bid or extended by the *Employer* at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ____ day of _____ 20__.

Principal: _____

Surety: _____
Corporate Seal (where appropriate)

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

² The amount of the Bond shall be denominated in the currency of the *Employer*'s country or the equivalent amount in a freely convertible currency.

Technical Proposal

Technical Proposal Forms

Personnel

Equipment

Site Organization

Method Statement

Mobilization Schedule

Construction Schedule

Others

Forms for Personnel

Form PER – 1: Proposed Personnel

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). The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name
4.	Title of position
	Name
5.	Title of position
	Name
6.	Title of position
	Name
etc.	Title of position
	Name

Forms for 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. Fields with asterisk (*) shall be used for evaluation.

Type of Equipment*					
Equipment Information	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;">Name of manufacturer</td> <td style="padding: 5px;">Model and power rating</td> </tr> <tr> <td style="padding: 5px;">Capacity*</td> <td style="padding: 5px;">Year of manufacture*</td> </tr> </table>	Name of manufacturer	Model and power rating	Capacity*	Year of manufacture*
Name of manufacturer	Model and power rating				
Capacity*	Year of manufacture*				
Current Status	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Current location</td> </tr> <tr> <td style="padding: 5px;">Details of current commitments</td> </tr> </table>	Current location	Details of current commitments		
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				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;">Telephone</td> <td style="padding: 5px;">Contact name and title</td> </tr> <tr> <td style="padding: 5px;">Fax</td> <td style="padding: 5px;">Telex</td> </tr> </table>	Telephone	Contact name and title	Fax	Telex
Telephone	Contact name and title				
Fax	Telex				
Agreements	Details of rental / lease / manufacture agreements specific to the project				

Bidder's Qualification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder

Form ELI 1.1
Bidder Information Sheet

Date: _____

Page _____ of _____ pages

1. Bidder's Legal Name
2. In case of <i>JVCA</i> , legal name of each party:
3. Bidder's actual or intended Country of Registration:
4. Bidder's Year of Registration:
5. Bidder's Legal Address in Country of Registration:
6. Bidder's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITB Sub-Clauses 4.1 and 4.2. <input type="checkbox"/> In case of <i>JVCA</i> , letter of intent to form <i>JVCA</i> including a draft agreement, or <i>JVCA</i> agreement, in accordance with ITB Sub-Clauses 4.1

Form ELI 1.2
Party to JVCA Information Sheet

Date: _____

Page _____ of _____ pages

1. Bidder's Legal Name:
2. JVCA's Party legal name:
3. JVCA's Party Country of Registration:
4. JVCA's Party Year of Registration:
5. JVCA's Party Legal Address in Country of Registration:
6. JVCA's Party Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Articles of Incorporation or Registration of firm name in 1, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.

Form CON – 2

Historical Contract Non-Performance

Bidder’s Legal Name: _____ Date: _____
 JVCA Partner Legal Name: _____

Page _____ of _____ pages

Non-Performing Contracts in accordance with (Evaluation and Qualification Criteria)			
<input type="checkbox"/> Contract non-performance did not occur during the stipulated period, in accordance with Sub-Factor 2.2.1 of Section III (Evaluation and Qualification Criteria)			
<input type="checkbox"/> Contract non-performance during the stipulated period, in accordance with Sub-Factor 2.2.1 of Section III(Evaluation and Qualification Criteria).			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
_____	_____	Contract Identification: Name of <i>Employer</i> : Address of <i>Employer</i> : Matter in dispute:	_____
Pending Litigation, in accordance with Section III (Evaluation and Qualification Criteria)			
<input type="checkbox"/> No pending litigation in accordance with Sub-Factor 2.2.2 of Section III(Evaluation and Qualification Criteria)			
<input type="checkbox"/> Pending litigation in accordance with Sub-Factor 2.2.2 of Section III(Evaluation and Qualification Criteria), as indicated below			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
_____	_____	Contract Identification: Name of <i>Employer</i> : Address of <i>Employer</i> : Matter in dispute:	_____
_____	_____	Contract Identification: Name of <i>Employer</i> : Address of <i>Employer</i> : Matter in dispute:	_____

Form CCC

Current Contract Commitments / Works in Progress

Bidders and each partner to a *JVCA* should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Name of contract	<i>Employer,</i> contact address/tel/fax	Value of outstanding work (current US\$ equivalent)	Estimated completion date	Average monthly invoicing over last six months (US\$/month)
1.				
2.				
3.				
4.				
5.				
etc.				

Financial Situation

Historical Financial Performance

Bidder's Legal Name: _____ Date: _____

JVCA Partner Legal Name: _____ Page _____ of _____ pages

To be completed by the Bidder and, if JVCA, by each partner

Financial information in US\$ equivalent	Historic information for previous _____ (__) years (US\$ equivalent in 000s)						
	Year 1	Year 2	Year 3	Year ...	Year n	Avg.	Avg. Ratio
Information from Balance Sheet							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW)							
Current Assets (CA)							
Current Liabilities (CL)							
Information from Income Statement							
Total Revenue (TR)							
Profits Before Taxes (PBT)							

--

- Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:
- Must reflect the financial situation of the Bidder or partner to a *JVCA*, and not sister or parent companies
 - Historic financial statements must be audited by a certified accountant
 - Historic financial statements must be complete, including all notes to the financial statements
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)

Form FIN – 3.2

Average Annual Turnover

Bidder’s Legal Name: _____ Date: _____

JVCA Partner Legal Name: _____ Page _____ of _____ pages

Annual turnover data (construction only)		
Year	Amount and Currency	US\$ equivalent
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
*Average Annual Construction Turnover	_____	_____

*Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in Section III(Evaluation and Qualification Criteria), Sub-Factor 2.3.2, divided by that same number of years.

Form FIN3.3
Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section III (Evaluation and Qualification Criteria)

Source of financing	Amount (US\$ equivalent)
1.	
2.	
3.	
4.	

Experience

General Experience

Bidder's Legal Name: _____ Date: _____

JVCA Partner Legal Name: _____ Page _____ of _____ pages

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Bidder
_____	_____	_____	Contract name: Brief Description of the Works performed by the Bidder: Name of <i>Employer</i> : Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Bidder: Name of <i>Employer</i> : Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Bidder: Name of <i>Employer</i> : Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Bidder: Name of <i>Employer</i> : Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Bidder: Name of <i>Employer</i> : Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Bidder: Name of <i>Employer</i> : Address:	_____

*List calendar year for years with contracts *with at least nine (9) months activity per year starting with the earliest year*

Form EXP – 2.4.2(a)
Specific Experience

Bidder’s Legal Name: _____ Date: _____

JVCA Partner Legal Name: _____

Page _____ of _____ pages

Similar Contract Number: ___ [insert specific number] of ___ [insert total number of contracts required].	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		US\$ _____
If partner in a JVCA or subcontractor, specify participation of total contract amount	_____ %	_____	US\$ _____
Employer’s Name:	_____		
Address:	_____ _____ _____		
Telephone/fax number:	_____ _____		
E-mail:	_____		

**Form EXP – 2.4.2(a) (cont.)
Specific Experience (cont.)**

Bidder’s Legal Name: _____ Page _____ of _____ pages

JVCA Partner Legal Name: _____

Similar Contract No. __[insert specific number] of __[insert total number of contracts] required	Information
Description of the similarity in accordance with Sub-Factor 2.4.2a) of Section III (Evaluation and Qualification Criteria):	
<i>Amount</i>	_____
<i>Physical size</i>	_____
<i>Complexity</i>	_____
<i>Methods/Technology</i>	_____
<i>Physical Production Rate</i>	_____

Form EXP – 2.4.2(b)

Specific Experience in Key Activities

Bidder’s Legal Name: _____ Date: _____

JVCA Partner Legal Name: _____

Subcontractor’s Legal Name: _____ Page _____ of _____ pages

	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		US\$_____
If partner in a JVCA or subcontractor, specify participation of total contract amount	_____ %	_____	US\$_____
Employer’s Name:	_____		
Address:	_____ _____		
Telephone/fax number:	_____ _____		
E-mail:	_____ _____		

Form EXP – 2.4.2 (b)(cont.)
Specific Experience in Key Activities (cont.)

Bidder’s Legal Name: _____ Page _____ of _____ pages
 JVCA Partner Legal Name: _____
 Subcontractor’s Legal Name: _____

	Information
Description of the key activities in accordance with Sub-Factor 2.4.2b) of Section III (Evaluation and Qualification Criteria):	

Section V - Eligible Countries

The eligible countries shall be in accordance with CDB rules.

PART 2 – *Employer's* Requirements

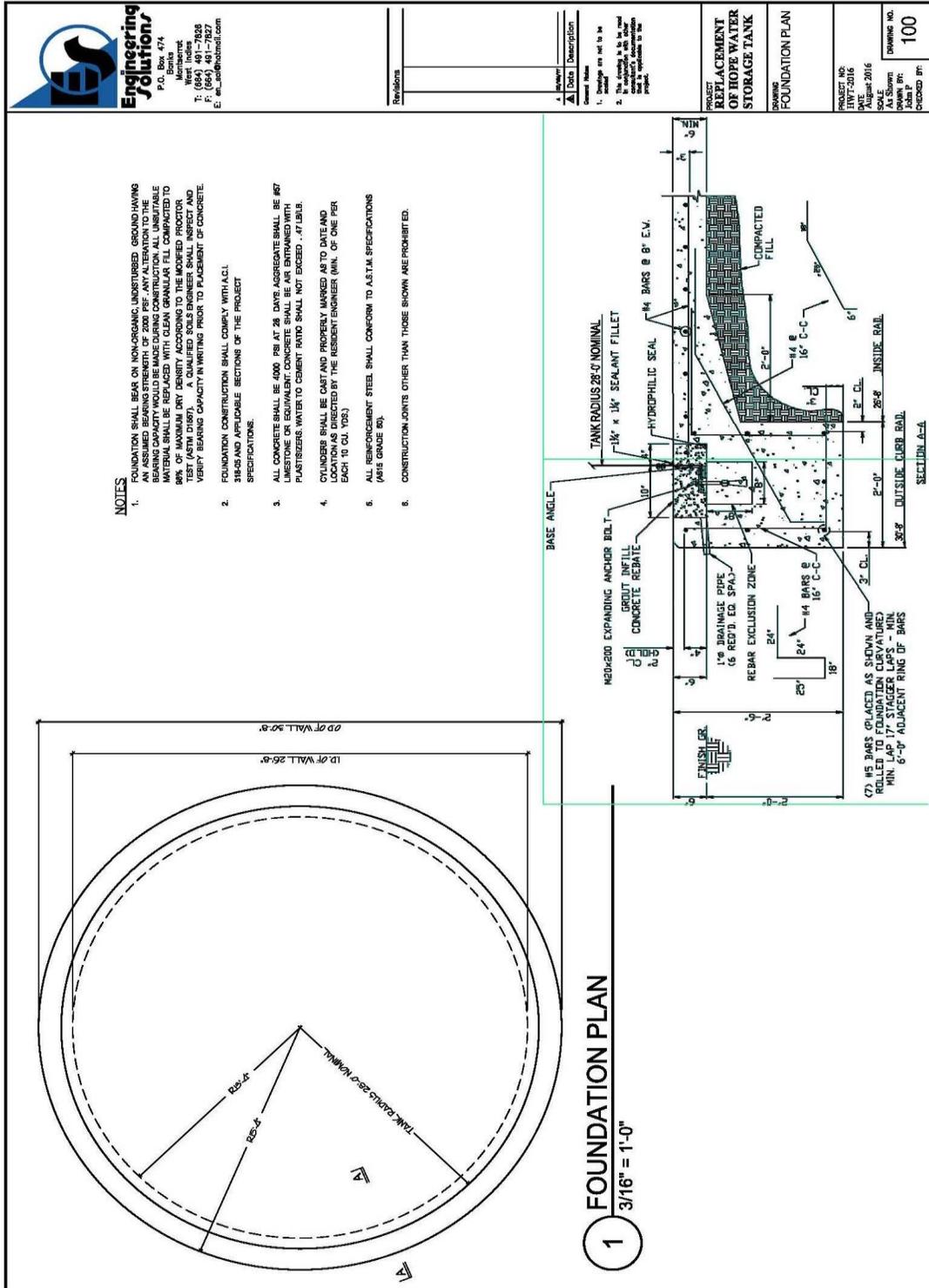
Section VI - *Employer's* Requirements

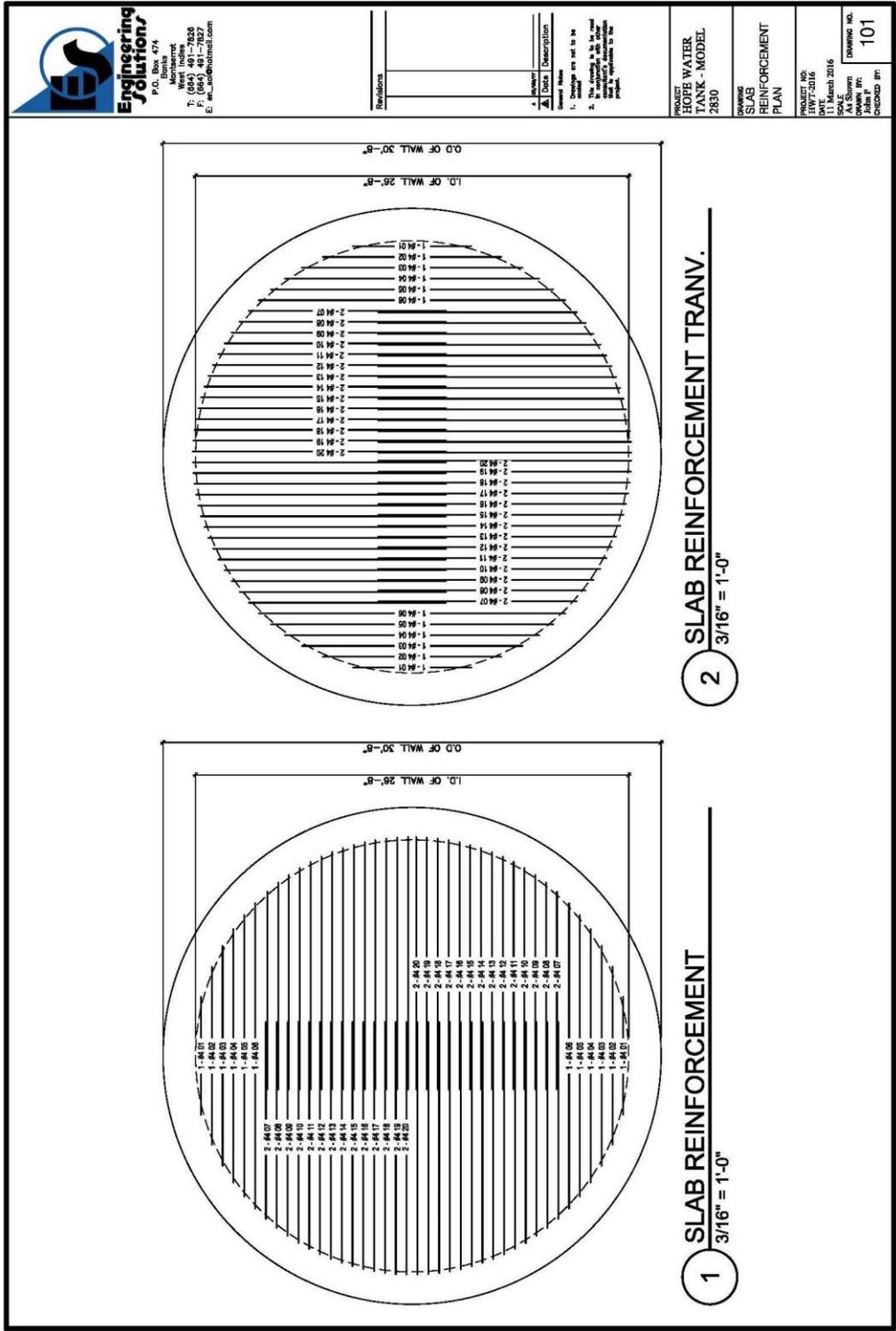
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Specifications

Drawings





ES
Engineering Solutions
 P.O. Box 474
 Ellettsville, Indiana
 46120
 T: (815) 481-7000
 F: (815) 481-7000
 E: es_solutions@esolutions.com

Revisions

PROJECT: HOPE WATER TANK - MODEL 2830
 DRAWING: SLAB REINFORCEMENT PLAN
 PROJECT NO: HW-2016
 DATE: 11 March 2016
 DRAWN BY: [Blank]
 CHECKED BY: [Blank]

2 SLAB REINFORCEMENT TRANSVERSE
 3/16" = 1'-0"

1 SLAB REINFORCEMENT
 3/16" = 1'-0"

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Supplementary Information

PART 3 – Conditions of Contract and Contract Forms

Section VII. General Conditions of Contract

These General Conditions of Contract (GCC), read in conjunction with the Particular Conditions of Contract (PCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

These General Conditions of Contract have been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

The GCC can be used for both smaller admeasurement contracts and lump sum contracts.

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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 Letter of Acceptance 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, which is used for valuations and for assessing the effects of Variations and Compensation Events.
- (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) Bank means the financing institution **named in the PCC**.
- (e) Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.
- (f) Compensation Events are those defined in GCC Clause 41 hereunder.
- (g) The Completion Date is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 52.1.
- (h) 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.
- (i) The Contractor is the party whose Bid to carry out the Works has been accepted by the *Employer*.
- (j) The Contractor's Bid is the completed bidding document submitted by the Contractor to the *Employer*.
- (k) The Contract Price is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
- (l) Days are calendar days; months are calendar months.
- (m) 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.

- (n) A Defect is any part of the Works not completed in accordance with the Contract.
- (o) The Defects Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor.
- (p) The Defects Liability Period is the period **named in the PCC** pursuant to Sub-Clause 33.1 and calculated from the Completion Date.
- (q) Adjudicator means the single person appointed under Clause 23.
- (r) 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.
- (s) The *Employer* is the party who employs the Contractor to carry out the Works, **as specified in the PCC**.
- (t) Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- (u) "In writing" or "written" means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- (v) The Initial Contract Price is the Contract Price listed in the *Employer's* Letter of Acceptance.
- (w) 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 PCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (x) Materials are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (y) Plant is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (z) The Project Manager is the person **named in the PCC**

(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.

- (aa) PCC means Particular Conditions of Contract
- (bb) The Site is the area **defined as such in the PCC**.
- (cc) 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.
- (dd) Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (ee) The Start Date is **given in the PCC**. 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.
- (ff) 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.
- (gg) Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (hh) A Variation is an instruction given by the Project Manager which varies the Works.
- (ii) The Works are what the Contract requires the Contractor to construct, install, and turn over to the *Employer*, **as defined in the PCC**.

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 PCC**, 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) Letter of Acceptance,
 - (c) Contractor's Bid,
 - (d) Particular Conditions of Contract,
 - (e) General Conditions of Contract,
 - (f) Specifications,
 - (g) Drawings,
 - (h) Bill of Quantities,³ and
 - (i) any other document **listed in the PCC** as forming part of the Contract.
- 3. Language and Law** 3.1 The language of the Contract and the law governing the Contract are **stated in the PCC**.
- 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 PCC, 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. 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 PCC**. The Contractor shall also provide

³ In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."

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 and Contractor's Risks

10.1 The *Employer* carries the risks which this Contract states are *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 PCC** 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 before the Start Date. 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 an 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.

14. Site Data

14.1 The Contractor shall be deemed to have examined any Site Data

referred to in the PCC, 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 give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date **stated in the PCC**, 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, Inspections and Audits

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 the Bank to inspect the Contractor's accounts, records and other documents relating to the submission of bids and contract performance and to have them audited by auditors appointed by the Bank. The Contractor shall maintain all documents and records related to the Contract for a period of *three (3)* years after completion of the Works. The Contractor shall *provide* any documents necessary for the investigation of allegations of fraud, *collusion*, *coercion*, or corruption and require its employees or agents with knowledge of the Contract to respond to questions from the Bank.

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 Letter of Acceptance. If, in the Letter of Acceptance, the *Employer* does not agree on the appointment of the Adjudicator, the *Employer* will request the Appointing Authority **designated in the PCC**, to appoint the Adjudicator within 14 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 PCC** at the request of either party, within 14 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 14 days of the notification of the Project Manager's decision.

24.2 The Adjudicator shall give a decision in writing within 28 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 PCC**, together with reimbursable expenses of the types **specified in the PCC**, 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 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 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 PCC**.

B. Time Control

25. Program

25.1 Within the time **stated in the PCC**, after the date of the Letter of Acceptance, 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 PCC**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the PCC** 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 14 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 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 an 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 PCC**. 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 monitor and control the performance of activities on which basis the Contractor will

be paid. *If payment for Materials on Site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.*

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. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

**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.

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 28 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 for commercial borrowing for each of the currencies in which payments are made.
- 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 of currencies comprising the Contract Price.
- 40.4 Items of the Works for which no rate or price has been entered 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 Letter of Acceptance 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.

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 28 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 PCC**, 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 PCC**. 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 coefficients⁴ **specified in the PCC**, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency "c;" and

Imc is the index prevailing at the end of the month being invoiced and Ioc 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 PCC** 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 51.1, half the total

⁴ *The sum of the two coefficients A_c and B_c should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the nonadjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other nonadjustable components. The sum of the adjustments for each currency are added to the Contract Price. [To be transferred to the User Guide]*

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 PCC** 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 PCC**. 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 PCC** 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 PCC** by the date **stated in the PCC**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the *Employer* in amounts and currencies 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 Letter of Acceptance and shall be issued in an amount **specified in the PCC**, by a bank or surety acceptable to the *Employer*, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.

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.

E. Finishing the Contract

52. Completion

52.1 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.

53. Taking Over

53.1 The *Employer* shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

- 54. Final Account** 54.1 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 56 days of receiving the Contractor’s account if it is correct and complete. If it is not, the Project Manager shall issue within 56 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.
- 55. Operating and Maintenance Manuals** 55.1 If “as built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates **stated in the PCC**.
- 55.2 If the Contractor does not supply the Drawings and/or manuals by the dates **stated in the PCC** 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 PCC** from payments due to the Contractor.
- 56. Termination** 56.1 The *Employer* or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 56.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) the Contractor stops work for 28 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 28 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 84 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 PCC**; 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.

56.3 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.

56.4 Notwithstanding the above, the *Employer* may terminate the Contract for convenience.

56.5 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.

57. Fraud and Corruption

57.1 The Bank requires that Recipients (including beneficiaries of Bank loans), as well as Contractors, Subcontractors, manufacturers, and Consultants under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract;
 - (iii) “collusive practice” means a scheme or arrangement between two or more bidders, with or without the knowledge of the Recipient, designed to establish bid prices at artificial, noncompetitive levels; and

- (iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (b) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Recipient or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Recipient having taken timely and appropriate action satisfactory to the Bank to remedy the situation; and
- (c) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Bank-financed contract.

58. Payment upon Termination

58.1 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 PCC**. 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*.

58.2 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.

59. Property

59.1 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.

60. Release from Performance

60.1 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.

61. Suspension of Bank Loan or Grant

61.1 In the event that the Bank suspends the Loan or Grant to the *Employer*, from which part of the payments to the Contractor are being made:

(a) The *Employer* is obligated to notify the Contractor of such suspension within 7 days of having received the Bank's suspension notice.

(b) If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 40.1, the Contractor may immediately issue a 14-day termination notice.

62. Eligibility

62.1 The Contractor shall have the nationality of an eligible country. The Contractor shall be deemed to have the nationality of a country if the Contractor is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.

62.2 The materials, equipment and services to be supplied under the Contract shall have their origin in eligible source countries and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, the Contractor may be required to provide evidence of the origin of materials, equipment and services.

62.3 For purposes of GCC 62.2, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components.

Section VIII. *Particular Conditions of Contract*

Except where otherwise indicated, all PCC should be filled in by the Employer prior to issuance of the Bidding Documents. Schedules and reports to be provided by the Employer should be annexed.

A. General	
GCC 1.1 (d)	The financing institution is: Caribbean Development Bank
GCC 1.1 (s)	The <i>Employer</i> is <i>Government of Montserrat, Government Headquarters, Brades, Montserrat.</i>
GCC 1.1 (w)	The Intended Completion Date for the whole of the Works shall be within 112 calendar days
GCC 1.1 (z)	The Project Manager is <i>Mervin Browne, Basic Needs trust Fund, Little Bay, Montserrat.</i>
GCC 1.1 (bb)	The Site is located at Block 11/2 Parcel 58, Hope Salem, Montserrat
GCC 1.1 (ee)	The Start Date shall be no later than 1 day after contract execution
GCC 1.1 (ii)	The Works consist of Design and Construction of a circular 100,000 imperial gallon 30 ft. nominal height glass fused to steel Water Storage Tank on reinforced concrete base.
GCC 2.2	Sectional Completions are: <i>N/A</i>
GCC 2.3(i)	The following documents also form part of the Contract: <i>as listed in clause GCC 2.3</i>
GCC 3.1	The language of the contract is <i>English</i> . The law that applies to the Contract is the law of Montserrat.
GCC 5.1	The Project manager may delegate any of his duties and responsibilities.
GCC 8.1	Schedule of other contractors: <i>N/A</i>
GCC 13.1	The minimum insurance amounts and deductibles shall be: <ul style="list-style-type: none"> (a) for loss or damage to the Works, Plant and Materials: the full reinstatement value of the Works. (b) for loss or damage to Equipment: <i>\$50,000.00.</i> (c) for loss or damage to property (except the Works, Plant, Materials, and

	Equipment) in connection with Contract \$75,000.00. (d) for personal injury or death: (i) of the Contractor's employees: \$1,000,000.00. (ii) of other people: \$1,000,000,00.
GCC 14.1	Site Data are: <i>as per drawing</i>
GCC 20.1	The Site Possession Date(s) shall be: <i>no later than 64 days after contract execution</i>
GCC 23.1 & GCC 23.2	Appointing Authority for the Adjudicator: Montserrat Bar Association.
GCC 24.3	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: Shall be as agreed between parties.
GCC 24.4	The arbitration laws of Montserrat All disputes arising in connection with the present Contract shall be finally settled under the Arbitration Laws of Montserrat by one or more arbitrators appointed in accordance with said laws.
B. Time Control	
GCC 25.1	The Contractor shall submit for approval a Program for the Works within [7] days from the date of the Letter of Acceptance.
GCC 25.3	The period between Program updates is 30 days. The amount to be withheld for late submission of an updated Program is \$500.00.
C. Quality Control	
GCC 33.1	The Defects Liability Period is: 365 days.
D. Cost Control	
GCC 43.1	The currency of the <i>Employer's</i> country is: Eastern Caribbean Dollars (XCD).
GCC 44.1	The Contract <i>is</i> not subject to price adjustment in accordance with GCC Clause 44, and the following information regarding coefficients does not apply.
GCC 45.1	The proportion of payments retained is: <i>5 percent</i> .
GCC 46.1	The liquidated damages for the whole of the Works are 0.10 percent per day.

	The maximum amount of liquidated damages for the whole of the Works is 10 percent of the final Contract Price.
GCC 48.1	The Advance Payments shall be: 10 % and shall be paid to the Contractor.
GCC 49.1	The Performance Security amount is 10 % of the Contract Price <i>denominated in the types and proportions of the currencies in which the Contract Price is payable, or in a freely convertible currency acceptable to the Employer</i> (a) Bank Guarantee: 10 % of the Contract Price. (b) Performance Bond: 10 % of the Contract Price.
E. Finishing the Contract	
GCC 55.1	The date by which operating and maintenance manuals are required is prior to the issuance of the practical completion certificate.
GCC 55.2	The amount to be withheld for failing to produce operating and maintenance manuals by the date required in GCC 58.1 is 0.5 % of the Contract Price.
GCC 58.1	The percentage to apply to the value of the work not completed, representing the <i>Employer's</i> additional cost for completing the Works, is 10 percent.

Section IX - 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.

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Letter of Acceptance

[on letterhead paper of the Employer]

..... *[date]*

To: *[name and address of the Contractor]*

Subject: *[Notification of Award Contract No]*

This is to notify you that your Bid dated *[insert date]* for execution of the
. . . . *[insert name of the contract and identification number, as given in the Appendix to Bid]*
. . . . for the Accepted Contract Amount of the equivalent of *[insert amount in numbers and words and name of currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

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

[Choose one of the following statements:]

We accept that _____ *[insert the name of Adjudicator proposed by the Bidder]* be appointed as the Adjudicator.

[or]

We do not accept that _____ *[insert the name of the Adjudicator proposed by the Bidder]* be appointed as the Adjudicator, and by sending a copy of this Letter of Acceptance to _____ *[insert name of the Appointing Authority]*, the Appointing Authority, we are hereby requesting such Authority to appoint the Adjudicator in accordance with ITB 42.1 and GCC 23.1.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made theday 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 Letter of Acceptance
 - (b) the Bid
 - (c) the Addenda Nos *[insert addenda numbers if any]*.
 - (d) the Particular Conditions
 - (e) the General Conditions;
 - (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 *[name of the borrowing country]*.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

Performance Security

[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: *[Name and Address of Employer]*

Date:

Performance Guarantee No.:

We have been informed that *[name of the Contractor]*. (hereinafter called “the Contractor”) has entered into Contract No. *[reference number of the Contract]*. dated with you, for the execution of *[name of contract and brief description of Works]*. (hereinafter called “the Contract”).

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we *[name of the Bank]*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[name of the currency and amount in figures]* ¹. (. *[amount in words]*.) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of , ², and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

.....
[Seal of Bank and Signature(s)]

Note –

All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹ *The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.*

² *Insert the date twenty-eight days after the expected completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the*

expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Advance Payment Security

[Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: *[Name and Address of Employer]*

Date:

Advance Payment Guarantee No.:

We have been informed that *[name of the Contractor]*. (hereinafter called “the Contractor”) has entered into Contract No. *[reference number of the Contract]*. datedwith you, for the execution of *[name of contract and brief description of Works]*. (hereinafter called “the Contract”).

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum *[name of the currency and amount in figures]* ¹. (. *[amount in words]*.) is to be made against an advance payment guarantee.

At the request of the Contractor, we *[name of the Bank]*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[name of the currency and amount in figures]**. (. *[amount in words]*.) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number *[Contractor’s account number]*. at *[name and address of the Bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the . . . day of ,², whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

..... *[Seal of Bank and Signature(s)]*.

Note –

All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

1 The Guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

2 *Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.*