



## FINANCIAL SERVICES COMMISSION

23<sup>rd</sup> August 2017

Dear Sir/Madam

**Ref: Tender for the Management of Construction of the Financial Services Commission Building – Little Bay**

You are invited to submit a Tender for the above named project. The tender documents consist of the following:

1. Instruction to Tenderers
2. Invitation to Tender
3. Form of Tender
4. Construction Agreement (Service contract)
5. Appendix A - Service Specification – Project Description
6. Appendix B - Cost and scope of service proposal
7. Appendix C - Site Survey Plan
8. Anti-Collusion Statement

The tender documents can be accessed on the Government of Montserrat website at [www.gov.ms](http://www.gov.ms) or [www.fscmontserrat.org](http://www.fscmontserrat.org) or can also be obtained from the office of the Financial Services Commission, P.O. Box 188, Valley View, Brades, Montserrat, MSR1110.

Please return the completed tender documents and the signed Form of Tender, Completed Document Check List, signed anti-collusion statement, and a copy of your tax compliance certificate (if locally based). These documents should be placed in a plain sealed inner envelope and addressed to:

Mrs. Dulcie James  
The Commissioner  
Financial Services Commission

Any queries or clarifications relating to the tender should be made in writing to:

Mrs. Dulcie James, Commissioner, at the above address or by email to [fsccomr@candw.ms](mailto:fsccomr@candw.ms)  
no later than **2:00pm on Thursday 7<sup>th</sup> September, 2017.**

Yours sincerely



.....  
Mrs. Dulcie James  
Commissioner

## **Instructions for Submitting a Tender**

**You will need 2 plain envelopes for the Tender submission**

**You must follow these instructions, failure to do so may result in the bid being non-compliant and not considered any further.**

### **Envelope 1.**

- 1. Write the name of the project on the envelope as written below;**

**“Tender for the Management of Construction of the Financial Services Commission Building – Little Bay”**

- 2. Write the name of the bidder (Tenderer, Supplier) on this envelope. Now put this envelope into another plain envelope (Envelope 2.)**

### **Envelope 2**

Envelope 1 should now be inside this envelope (Envelope 2), seal the envelope and then write the Project Title and address for Tender return:

**“Tender for the Management of Construction of the Financial Services Commission Building – Little Bay”**

Tenders are to be delivered to the address below (the tenderer will be given a receipt):

**Mrs Dulcie James  
Commissioner  
Financial Services Commission  
P.O. Box 188  
Valley View**

**Brades  
Montserrat MSR1110**

***\*NB: Envelope 2 must not have the Bidders name on it or any other markings.  
Tenders are to be received no later than 2:00 p.m. on 15th September 2017.***

**INVITATION TO TENDER FOR A PROJECT MANAGER TO MANAGE  
THE CONSTRUCTION OF A NEW  
FINANCIAL SERVICES COMMISSION BUILDING, LITTLE BAY,  
MONTserrat**

**Notice Type: Management Services**

**1. Contracting Authority's Details**

**1.1 Name and Address**

<b>Official Name:</b> Financial Services Commission	
<b>Postal Address:</b> P.O. Box 188, Valley View, Brades, Montserrat, MSR1110	
<b>For the attention of:</b>  Mrs Dulcie James Commissioner	<b>Tel. No.:</b> 1 664 491 6887/6888  <b>Fax No:</b> 1 664 491 9888
<b>E-Mail:</b> fsccomr@candw.ms	

**1.2 Address from where the Tender documentation can be obtained**

Government of Montserrat website follow link below;

<http://www.gov.ms/tenders>

Mrs Dulcie James  
Commissioner  
Financial Services Commission  
P.O. Box 188, Valley View, Brades, Montserrat, MSR1110

**1.3 Address to where Tenders must be sent**

For the Attention of;

Mrs Dulcie James  
Commissioner  
Financial Services Commission  
P.O. Box 188, Valley View, Brades, Montserrat, MSR1110

**2. Contract Details**

**2.1 Title:**

Project Manager, Financial Services Commission Building Project

**3. Site Visit**

**3.1** A site visit can be made. Copy of the Site Survey Plan is attached as

## Appendix C.

### 4. Tender Timetable

The timetable may be subject to change and any changes will be notified to bidders as soon as it practicable.

Action	Dates
Issue Invitation to Tender Notice	23 <sup>rd</sup> August 2017
Submissions of clarification Questions	7 <sup>th</sup> September 2017
Submission of Tenders	15 <sup>th</sup> September 2017 by 2.00pm
Contract Award	2 <sup>nd</sup> October 2017

**NB: All questions/clarifications must be sent in writing or by email to;**

Mrs Dulcie James

Commissioner

Financial Services Commission

P.O. Box 188, Valley View, Brades, Montserrat, MSR1110

Email; [fsccomr@candw.ms](mailto:fsccomr@candw.ms)

**Please note that all questions and answers will be issued to all tenderers that submit a bid.**

## 5. Evaluation Criteria

Evaluation Criteria	Scoring
<b>Quality</b>	
<p><b>Qualifications</b></p> <ul style="list-style-type: none"> <li>▪ Project Management Diploma level – Prince2 or MS Project;</li> <li>▪ Construction Management Bachelor’s Degree - Desirable</li> </ul>	<b>15%</b>
<ul style="list-style-type: none"> <li>▪ <b>Experience, knowledge and skills</b></li> <li>▪ A minimum of 5 years’ experience in project management/ construction</li> <li>▪ skills and vast knowledge in project management, construction, and knowledge of procurement processes and regulations;</li> <li>▪ Excellent contract management</li> <li>▪ Excellent Communication skills both verbal, written and IT.</li> </ul>	<b>25%</b>



<ul style="list-style-type: none"> <li>▪ Ability to work with a range of stakeholders including but not limited to;</li> <li>▪ Local suppliers, contractors to develop workmanship and quality control;</li> <li>▪ Ability to interpret architectural drawings, MS Project, and relevant specialist software;</li> </ul>	
<ul style="list-style-type: none"> <li>▪ 2 Satisfactory Independent References – including full contact details</li> </ul>	<b>10%</b>
<b>Price/cost</b>	<b>50%</b>
<b><u>Total scores available</u></b>	<b><u>100%</u></b>

**6. Cost**

**Please note** that an appointment is not guaranteed to any of the respondents and any costs incurred are at the sole expense of the applicant.

**Please complete and return Appendix B**

# FORM OF TENDER

## Project Management for the Construction of the Financial Services Commission Building

The Commissioner  
Financial Services Commissioner  
Valley View  
Brades. Montserrat

Dear Madam,

**Re: Tender for the Management of Construction of the Financial Services Commission Building – Little Bay**

I/We the undersigned undertake to provide services in accordance with the Constructions management Agreement for the sum of:

EC\$.....

(words).....

.....

If my/our tender is accepted, I/We undertake to commence the Works within \_\_\_\_\_**week(s)** from the date of receipt by me/us of the official order and complete the works within \_\_\_\_\_**weeks** from the date of receipt by me/us of the official order.

I/We understand I/We shall not be reimbursed for any cost that may have been incurred in compiling this tender.

I/We confirm this tender shall remain valid for a period of 60 days from the date of submission of this tender.

Name:.....

Signed:.....

Address:.....  
.....  
Tel #.....  
Fax #.....  
Email Address.....  
Date.....

## Financial Services Commission – Tender Return Checklist

**Project Title:** Management for the Construction of the Financial Services Commission Building – Little Bay

**Date Tender Advertised:** Wednesday, 23rd August, 2017

**Date for clarifications** Thursday 7<sup>th</sup> September no later than 2.00pm.

**Tender Deadline Date:** 15th September, 2017

**Tender Deadline Time:** 2:00 p.m.

Below are the following documents that should be provided for a contractor's bid to be valid. Bidders are asked to supply and tick off the following information. Failure to provide any of the stated documents will result in the bid being considered non-compliant and rejected.

Signed Form of Tender

**(Including time for completion and notice period)** Completed

Details of Academic Qualifications

Details of Professional Qualifications

CV's

Proof of Similar Works Undertaken in the last 5 years

- Names and addresses of two independent referees
- Cost and Scope of Service Proposal
- Appendix B - Completed
- Signed Anti - Collusion Certificate

Dated .....

Signed .....

**CONSTRUCTION MANAGEMENT AGREEMENT (Service Contract)**

This Project Management Agreement (“the Agreement”) effective as of.....day of..... 2017 is by and between....., an entity having a mailing address of .....(“ the Project Manager” or “PM”), and the Financial Services Commission (“the Commission”), a Financial Services Regulator established as a statutory body in Montserrat having a mailing address of PO Box 188, Valley View, Brades, Montserrat.

**RECITALS:**

WHEREAS, the Commission intends to construct a building to be known as the “Financial Services Commission Building” to be located at Little Bay, Block 14/2, Parcel 39, Registration Section, St. John’s, Montserrat as indicated on the Survey document herewith, Schedule “C”; and

WHEREAS, the Commission desires to retain the PM to provide certain project management and construction consulting services and to undertake the objectives set out in Schedule “A”, in the Project Description; and

WHEREAS, the PM desires to perform such services as described in this Agreement.

NOW, THEREFORE, the Commission and the PM hereby agree as follows:

## **1. SCOPE OF WORK**

The PM agrees to perform the services in accordance with the terms of this agreement and the “Scope of Works” identified in Schedule “A”, section 3 of the Project Description, and which forms part of this Agreement. In addition to the Services set forth in Schedule “A”, the PM shall provide the following Pre-Construction and Construction Phase services:

### **Pre-Construction Phase**

- (a) Meet with the Commission and any involved agencies or organizations (collectively, the “Involved Organizations”), to review and discuss the Project and develop a consensus as to cost, schedule and building design and project objectives.
- (b) Prepare, for the Commission’s review and approval, requests for proposals from contractors to perform work on the Project.
- (c) Review, and consult with the Commission regarding, bid packages received from Contractors;
- (d) Participate in planning sessions with the Commission, the Commission’s counsel and any Involved Organizations.
- (e) Assist the Commission and the design and construction teams with permitting related issues.

### **Construction Phase**

- (a) Provide administrative, management and related services to coordinate scheduled activities and responsibilities of the contractor/s engaged on the Project and/or the design team with each other to manage the Project in accordance with the latest approved cost estimate and the Commission’s Project budget, the Project schedule agreed between the Commission, the selected contractor/s and the PM (the “Project Schedule”) and the contract documents identified in the agreements negotiated with the selected contractor and the design team (the “Contract Documents”).

- (b) Update and reissue the Project Schedule as required, to show current conditions. If an update indicates that the previously approved Project Schedule may not be met, the PM shall recommend corrective action to the Commission.
- (c) Use best efforts to obtain satisfactory performance from the contractor/s and/or a design team and recommend courses of action to the Commission when requirements of a contract are not being fulfilled.
- (d) Monitor the approved cost estimate and show actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with such approved estimate.
- (e) Develop cash flow reports and forecasts for the Project and advise the Commission as to variances between actual and budgeted or estimated costs. Provide detailed written monthly progress reports describing work completed during the preceding month, percentage of work completed to date, cost of work completed to date, percentage of budget utilized to date, change orders requested and approved, and identifying any variances from schedule or cost projections or noteworthy situations, all in a form that is capable of being submitted to and understood by the Commission and the Involved Organizations.
- (f) Maintain accounting records for authorized work performed under unit costs, additional work performed on the basis of actual costs of labour and materials, and other work requiring accounting records. All accounting records shall be maintained in a manner and level of detail that is acceptable to the Commission, its accountants, and the Involved Organizations and that the records are in accordance with generally accepted accounting and auditing practices.
- (g) Develop and implement procedures for the review and processing of applications for payment from any contractor working on the Project and/or a design team for progress and final payments.
- (h) Based on its observations and evaluations of each application for payment, review and certify the amounts due to a contractor working on the Project and/or a design team and submit such certification and application for payment, together with periodic draw requests, in a form acceptable to the Commission and the Involved Organizations, to the Commission for review and approval and, upon such approval, to the applicable Involved Organization. In the event the Commission fails to respond to any such submission within fourteen (14) days, the Commission's approval shall be deemed given. Upon receipt of the Commission's

(approval of each application for payment, the PM shall be authorized to sign, as agent of the Commission, any documents necessary to complete the requisition process.

- (i) Determine in general that the work performed by any contractor engaged on the Project and/or a design team is being performed in accordance with the requirements of the Contract Documents, endeavouring to guard the Commission against defects and deficiencies in the work. The PM, as agent for the Commission, shall have authority, upon written authorization from the Commission, to require additional inspection or testing of the work in accordance with the provisions of the Contract Documents, whether or not such work is fabricated, installed or completed. The PM, as agent for the Commission, in consultation with any appointed building design team and the Commission, may reject work which does not conform to the requirements of the Contract Documents or building regulatory standards.
- (j) Review requests for changes, assist in negotiating change order proposals, submit recommendations to the Commission and, if they are accepted, review change orders, construction change directives or other contract modifications which incorporate the design team's modifications to the Contract Documents.
- (k) Assist the Commission in the review, evaluation and documentation of any claims pursuant to the applicable construction or design agreements.
- (l) In collaboration with the design team and the contractor/s selected to work on the Project, establish and implement procedures for expediting the processing and approval of architectural drawings, plans, and other submittals, including meeting any statutory requirements.
- (m) Coordinate the correction and completion of the work. Following issuance of a Certificate of Substantial Completion of the work or a designated portion thereof, evaluate the completion of the work and make recommendations to the Commission when work is ready for final inspection. Assist the Commission and any representatives of the Involved Organizations in conducting final inspections.

## **2. PERFORMANCE OF SERVICES**

Performance shall commence on the date specified in a "Notice to Proceed" issued by the Commission to the PM and shall continue during the Defects Liability Period, which shall be one year, after Final Completion of the Project, unless earlier terminated in



accordance with the terms of this Agreement.

Additional services, if needed, will be completed within a time frame to be mutually decided and set by the parties to this Agreement. The PM shall perform the Services using the PM-owned materials, supplies and equipment to the extent possible.

In performing the Services, the PM shall assign qualified (and, if required by applicable law, licensed) personnel and perform in accordance with the professional standards and with the skill, diligence and quality control/quality assurance measures expected of a recognized professional project management and construction consulting firm performing services of a similar nature in Montserrat and that has experience performing such Services for a purpose built Office Building (“the Standard of Care”). The PM is hereby given notice that the Commission will be relying upon the accuracy, competence, and completeness of the PM’s Services.

The PM shall at all times comply with all applicable laws, ordinances, statutes, rules, and regulations. In addition, when at the Project, The PM and its employees and agents shall comply with all the safety rules required by statute and regulations and all applicable conditions or requirements of any permit or authorization, order or directive issued by any court or governmental regulatory agency with jurisdiction over the Project.

### **3. PM’S REPRESENTATIONS**

The PM represents that it is fully experienced and properly qualified to perform the Services as provided under this Agreement as set out in Schedule “A” and that it is, and will remain for the duration of this Agreement, properly permitted, licensed, equipped, organized and financed to perform such Services.

### **4. INDEPENDENT CONTRACTOR**

Except as otherwise expressly provided in this Agreement or otherwise authorized in writing by the Commission, in performing the Services and incurring expenses under this Agreement, the PM shall operate as, and have the status of, an independent contractor and shall not act as agent or be an agent of the Commission. As an independent contractor, the PM shall be solely responsible for determining the means and methods of performing the Services and shall have complete charge and responsibility for the PM’s

personnel engaged in the performance of the Services.

**5. PROJECT PERSONNEL**

The PM represents and warrants the Commission that its employees performing Services hereunder will have (a) sufficient expertise, training and experience to accomplish the Services; and (b) executed agreements which state that (i) all work done by the employee will be a work made for hire and will be owned by the PM; and (ii) the employee assigns all rights in and to all work done by the employee to PM. The PM agrees that all its personnel shall be compensated, taxes withheld, and other benefits made available as required by applicable law and regulations.

**6. ASSIGNMENT**

The PM shall not assign any of its rights, interests or obligations under this Agreement or subcontract any of the Services to be performed by it under this Agreement without the express written consent of the Commission. Any subcontract or Assignment shall be subject to all terms of this Agreement. The Commission shall have the right to assign this Agreement to a third party upon notice to the PM.

**7. COMPENSATION AND PAYMENT**

For satisfactory performance of the Services, or as may be modified by mutual agreement, the Commission agrees to compensate the PM an amount not to exceed ..... inclusive of reimbursable expenses, as set forth in Schedule "B" attached hereto.

The PM shall submit to the Commission a monthly invoice for Services performed and reimbursable expenses properly incurred, prepared in such form and supported by such documents as the Commission may reasonably require. The Commission will pay the proper amounts due the PM within thirty (30) days after receipt by the Commission of a properly prepared and completed invoice, or

will notify the PM in writing of the Commission's reasons for objecting to all or any portion of the invoice submitted by the PM. Any portion of the invoice not objected to in writing will be paid as provided above. However, the failure by the Commission to object, or payment made by the Commission, shall not constitute a waiver of any claim or objection which the Commission may have, nor shall any failure to object or make payment bar the Commission from refusing to make payment because of a breach by the PM of any warranty, representation or condition of this Agreement.

## **8. CONFIDENTIALITY**

**(a)** For purposes of this Clause:

(1) The term "Confidential Information" as used herein means all material and information, whether written or oral, received by the PM from or through the Commission or any other person connected with the Project, or developed or otherwise received or obtained by the PM in connection with the Project or the performance of Services under this Agreement. Confidential Information shall include, but not be limited to, samples, substances and other materials, conversations, correspondence, records, notes, reports and other documents, in draft or final form, including any documentation or data relating to the results of investigations, testing, sampling in laboratory or other analysis, and all conclusions, interpretations, recommendations and/or comments relating thereto.

(2) The term "PM" as used herein includes all officers, directors, employees, agents, representatives and sub-consultants of the PM.

The PM shall mark all Confidential Information as "Privileged and Confidential" and keep all Confidential Information in a secure location within the PM's offices. The Commission shall have the right, but not the obligation, to enter the PM's offices in order to inspect the arrangements of the PM for keeping the Confidential Information secure. No inspection by the Commission shall relieve the PM of the responsibility for the performance of its obligations hereunder.

**(b)** The PM shall hold the Confidential Information in trust and confidence, shall not disclose the Confidential Information or any portion thereof to any third party without the prior written consent of the Commission, and shall not use the Confidential Information or any portion thereof for any purpose whatsoever except in connection with the performance of the Services under the Agreement.

- (c) The PM shall notify the Commission immediately upon receipt by the PM of any request for Confidential Information. The PM is not prohibited by this Clause from disclosing portions of the Confidential Information if, and to the extent that, such portions have become generally available to the public other than by an act or omission of the PM or any of its subcontractors, or disclosure of such portions is required by subpoena, warrant or court order; PROVIDED, however, that in the event that any third party, including but not limited to a governmental employee, officer or entity, requests all or a portion of the Confidential Information, the PM shall oppose such request and cooperate with the Commission in obtaining a protective order or other appropriate remedy unless and until the Commission in writing –
- (i) waives compliance with the provisions of this Clause; or
  - (ii) determines that disclosure is legally required. In the event that such protective order or other remedy is not obtained, or the Commission waives compliance with this Clause or determines disclosure is legally required, the PM shall disclose only such portions of the Confidential Information that, in the opinion of the Commission, it is legally required to disclose, and the PM shall use its best efforts to obtain from the party to whom the Confidential Information is disclosed written assurance that confidential treatment will be accorded to such portions of the Confidential Information as are disclosed.
- (d) To the extent the copies of documentary Confidential Information are authorized by the Commission to be retained by the PM, they shall be retained in a secure location in the PM's office for a period of seven (7) years after completion of the Services or termination of this Agreement, and thereafter, disposed of at the Commission's direction.

## **9. COMMISSION'S OWNERSHIP OF DOCUMENTS**

Notwithstanding any other provision herein to the contrary:

- (a) Without payment of additional compensation to the PM, any documents prepared by the PM for this Project shall become the Commission's property upon completion, cancellation, suspension or termination of the Services or this Agreement and upon payment of all sums due to the PM for work properly performed. Reproducible copies of the original documents shall be turned over to the Commission at that time in a format reasonably acceptable to the Commission.

(b) Reuse of any of these documents by the Commission shall be at the Commission's risk.

The PM shall be permitted to retain copies, including reproducible copies, of any or all documents for such use as it may require, except that use of any document without substantial modification shall be attributed to the Commission and shall have the Commission's prior written consent. Any such re-use by the PM shall be at its own risk.

To the extent that the Commission has paid for the PM's Services under this Agreement, the PM hereby grants to the Commission a non-exclusive, perpetual, royalty-free license to the intellectual property embodied in the documents prepared by the PM in connection with the Project. The Commission may make any changes, additions, and deletions thereto, all without further permission or consent of the PM, although the PM shall not be liable to the Commission or any third party as a result of any such changes, additions, or deletions. The Commission agrees to indemnify, defend and hold harmless the PM from and against any damages, losses, costs or expenses (including reasonable attorneys' fees) arising out of any such changes, additions or deletions by the Commission.

## **10. INSURANCE**

The PM shall maintain, or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workmen's Compensation insurance, public liability insurance covering personal injury and property damage, and other insurance with minimum coverages as listed below. (To be negotiated as part of the contract)

Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the Commission who have been fully informed as to the nature of the Services to be performed and who are authorized to do business in Montserrat. Except for Workmen's Compensation, the Commission and the Involved Organizations shall be additional insureds on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligations of the PM and not those of the Commission and the Involved Organizations. Notwithstanding anything to the contrary in this Agreement, the PM irrevocably waives all claims against Commission for all losses, damages, claims or expenses resulting from risks commercially insurable under the insurance described in this section. The provisions of insurance by the PM shall not in any way limit the PM's liability under this Agreement.

Type of Coverage

Limits of Coverage

Workmen's Compensation

Statutory

To be finalised at contract negotiation stage  
Employer's Liability or  
similar insurance

Automobile Liability  
Bodily Injury  
Property Damage

Comprehensive General  
Liability, including broad form contractual  
liability, bodily injury, and property damage

Prior to commencing the Services, the PM shall provide to the Commission certificates of insurance evidencing the above coverages and additional insureds, and copies of required endorsements. The PM shall submit to the Commission upon the Commission's request certificates of insurance evidencing PM's ongoing compliance with these requirements.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the Commission with respect to its interests, and (ii) it shall not be cancelled, including without limitation, for non-payment of premium, or materially amended without thirty (30) days' prior written notice to the Commission. If the PM fails to obtain or maintain any of the foregoing insurance, the Commission shall have the right, but not the obligation, to obtain same on the PM's behalf and to offset the cost of doing so against any amounts owing to the PM hereunder.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance shall be provided on a "claims made" basis, all such policies shall provide that:

- (1) Policy retroactive dates coincide with or precede the PM's start of the performance of the Services (including subsequent policies purchased as renewals or replacements);
- (2) The PM will maintain similar insurance for at least three (3) years following final acceptance of the Services, including the

requirement of adding the Commission as an additional insured;

- (3) If the insurance is terminated for any reason, the PM agrees to purchase an unlimited extended reporting provision to report claims arising from the Services performed for the Commission; and
- (4) Immediate notice shall be given to the Commission of circumstances or incidents that might give rise to future claims with respect to the Services performed under this Agreement.

#### **11. INDEMNIFICATION**

The PM agrees to indemnify, defend and hold harmless the Commission, the Involved Organizations and their respective officers, directors, employees, representatives, and agents (collectively, the "Indemnified Parties"), against any and all claims, losses, damages, liabilities, costs or expenses (including, without limitation, attorney's fees and costs of litigation and or settlement, whether incurred as a result of a claim by a third party or an indemnity hereunder) arising out of the Services performed pursuant to this Agreement, except to the extent arising out of the negligence or wilful misconduct of the Indemnified Party that is seeking to be indemnified.

#### **12. DISCOVERY OF CONFLICTS, ERRORS, OMISSIONS OR DISCREPANCIES**

In the case of conflicts, discrepancies, errors or omissions among the various parts of this Agreement, the PM shall submit the matter immediately to the Commission for clarification. Any Services affected by such conflicts, discrepancies, errors or omissions which are performed by the PM prior to clarification by the Commission shall be at the PM's risk.

#### **13. RESPONSIBILITY TO CORRECT DEFICIENCIES**

It shall be the PM's responsibility to correct, in a timely fashion and at the PM's sole expense, any deficiencies in its Services resulting from the PM's failure to act in accordance with the Standard of Care, provided such deficiencies are reported to PM within one hundred

twenty (120) days after completion of the Services, i.e., on expiry of the Defects Liability Period.

#### **14. TERMINATION**

The Commission may, by written notice to the PM effective upon receipt, terminate this Agreement in whole or in part at any time (subject to the provisions of Clause 16 of this Agreement), either for the Commission's convenience or for the default of the PM, provided, however, that such termination shall not relieve the Commission of its obligation to pay charges justly due to the PM for Services properly performed and expenses properly incurred prior to such termination. Upon termination, the PM shall deliver to the Commission all documents required to be delivered pursuant to Clauses 10 and 11.

#### **15. SURVIVAL OF OBLIGATIONS**

The PM's obligations, and those of the PM's employees, agents, successors and assignees assumed pursuant to Clauses 3 (PM's Representations), 8 (Confidentiality), 9 (Commission's Ownership of Documents), 11 (Indemnification), and 13 (Responsibility to Correct Deficiencies) shall survive completion of Services, expiration or termination of this Agreement.

#### **16. FORCE MAJEURE**

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party, and which by that party's exercise of due diligence and foresight could not reasonably have been avoided. Upon removal of such cause, the party affected shall resume its performance as soon as reasonably possible. Neither the PM's financial inability to perform nor an event which could have been prevented had the PM acted in accordance with the Standard of Care shall be deemed to be an event of Force Majeure.

#### **17. WAIVER**



The failure of the Commission to enforce, at any time, the provisions of this Agreement does not constitute a waiver of such provisions in any way or waive the right of the Commission at any time to avail itself of such remedies as it may have for any breach or breaches of such provisions. None of the conditions of this Agreement shall be considered waived by the Commission unless such waiver is explicitly given in writing by the Commission. No such waiver shall be a waiver of any past or future default, breach or modification of any of the terms or conditions of this Agreement unless expressly stipulated in such waiver.

#### **18. GOVERNING LAW**

This Agreement shall be governed by the laws of Montserrat, without regard to its conflict of law's provisions.

#### **19. ENTIRE AGREEMENT AND SEVERABILITY**

The rights and obligations of the parties, and their respective agents, successors and assignees hereunder shall be subject to and governed by this Agreement, including Schedules "A", "B" and "C", which supersedes any other understandings or writings between the parties. No changes, amendments or modifications of any of the terms and conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. The invalidity of one provision, or invalid application thereof, of this Agreement shall not affect the validity of any other provision or any other application of any provision of the Agreement.

#### **20. DISPUTE RESOLUTION**

- (a) Any controversy or claim arising out of or relating to this Agreement or the breach hereof, shall be subject to good faith negotiation and/or mediation as a condition precedent to binding dispute resolution. The Commission and the PM will attempt in good faith to promptly resolve any controversy or claim arising out of or relating to this Agreement or the breach thereof by negotiations between representatives of each party who have authority to settle the controversy. The disputing party shall give the other party written notice of the dispute, which notice shall include a general description of the dispute, and the name and title of the individual who will represent that party. The representatives shall meet at a mutually acceptable time and place within seven (7) calendar days after the date of the disputing party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

(b) If good faith negotiations are not successful, the parties shall endeavour to resolve their disputes by mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 45 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If binding dispute resolution is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the mediators (s) and agree upon a schedule for later proceedings.

(c) If the dispute has not been settled within 45 calendar days after the date of the disputing party's notice under Clause 20 (a) above, any lawsuit or proceeding regarding or relating to an unresolved dispute between the parties, regardless of whether there are other parties to the dispute, shall be commenced and filed in Montserrat.

(d) The PM shall and shall cause its sub consultants, if any, to continue full performance under this Agreement pending the above claim resolution procedures and the ensuing litigation proceedings, if any, unless and until either Commissioner the PM terminates this Agreement or the Final Completion Date occurs.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the dates set forth below, to be deemed effective as of the date first written above.

PROJECT MANAGER:

.....

By: \_\_\_\_\_

Printed Name:

\_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 201\_

COMMISSIONER:

FINANCIAL SERVICES COMMISSION

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 201\_

**APPENDIX A**

**SERVICE SPECIFICATION**

**PROJECT DESCRIPTION**

## **1.0 BACKGROUND**

In 2001, the Government of Montserrat took the decision to move the regulatory functions of the financial services mandate out of the Ministry of Finance and establish an independent body to regulate the industry in Montserrat in line with international regulatory standards. The Financial Services Commission Act, 2001 created the Financial Services Commission (“the Commission”) and its functions are now governed by the Financial Services Act, Cap.11.02.

In furtherance of its aim to have one single regulatory and registry unit, the Government of Montserrat in 2001, introduced legislation to transfer the administrative and registry functions of Companies and Intellectual Property Registries from the Registrar of the High Court to the Financial Services Commission.

The transfer became effective in January 2012.

In 2013 the Government of Montserrat increased the functions of the Commission introducing legislation to make the Financial Services Commissioner the Registrar of Business Names and the Registrar of Friendly Societies. In addition, the Micro and Small Business Act, introduced in 2013 designated the Registrar of Companies to be the Registrar of Micro and Small Business.

The decision to erect a building to house the staff and records of the Financial Services Commission was taken by the Board of Directors of the Financial Services Commission in 2010, a decision supported by the Government of Montserrat.

These terms of reference have been developed to acquire the technical resources to ensure a quality focussed, timely and successful<sup>1</sup> completion is achieved within a scheduled timeframe and within an agreed budget, meeting the needs of the Commission.

## **2.0 OBJECTIVES**

It is intended to secure the services of a Project Manager (PM) who will coordinate the requisite support and be responsible for the day to day management of the construction of the FSC Building during the term of the project. The services provided will enhance the

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<sup>1</sup>KPI's and KRI's will be agreed

capacity of the Financial Services Commission to deliver in a timely manner a building constructed to the satisfaction of the Board of Directors of the Commission and other stakeholders for the development of the project.

It is anticipated that the PM will form part of the Project Board that will report into the FSC and for that purpose be under the supervision of the Commission. The PM will be working closely with the Project Board and the Senior person Responsible at the Commission (the Commissioner of the Financial Services Commission) but will work out of their own office.

The PM will be responsible for coordinating planning, organisation and collation of all project documents such as project proposals, tender's documents, bill of quantities contracts, reports (weekly, monthly and quarterly as agreed), tender reports etc. and will assist in overseeing all aspects of the project; design, planning, implementing, monitoring, controlling, reporting and closing of the projects as required or assigned in a timely and cost effective manner and at the same time ensure that the Financial Services Commission receives value for money.

To ensure the implementation and management of the project is in accordance with best practices and to manage project related risks, the scope will require the PM to:

1. Plan, organise and collate all the requisite project proposal documents pertaining to; scope, budgets, expenditure, schedules, technical specifications and quality control as assigned by the Commission. This is to ensure that the targets are achieved within the agreed parameters of the project.
2. Ensure all relevant government objectives, legislation, codes and national policies which are necessary to promote positive outcomes are adhered to including, procurement, land take and contract regulations.
3. Prepare, endorse and manage communications and stakeholder management plan
4. Ensure that all work is completed to a high standard, meeting planning approval requirements and other relevant standards, safely, on time and within budget. The role involves coordinating the scope and specification and endorsing the technical sign off of works with the recommendation of acceptance to the Project Board for their deliberation. The PM will also manage and maintain good relationships with contractors and all other stakeholders.

### 3.0 SCOPE OF WORKS<sup>2</sup>

To ensure the effective planning, execution, reporting, monitoring and closing of the project the scope of works for the PM will include, but is not limited to the following:

- Coordinate all the required preliminary and final project documents the assigned project or assigned aspect of the project to include project proposals, tender or bid documents;
- Review the project schedule, implementation plan and milestones activities; Critical paths on the schedule and ensure measures are in place to prevent project slippage or scope creep;
- Agree on the Change Control Process and ensure compliance;
- Prepare a risk register together with mitigation and contingency costs associated with the risk evaluation (should the risk become an issue and require the funds to resolve the risk once it comes an issue);
- Establish and maintain an issues register;
- Develop and finalise the tender/bid documents as per projects or works assigned by the Commissioner or person designated;
- Assist with the completion of tender assessments and tender reports;
- The timely completion of all contractual agreements for the assigned project including the specifications;
- Obtain and manage a resource loaded schedule of all activities required to move from the planning, procurement to implementation and closing of the project;
- Work with the Main Contractor using the Last Planner Method to produce a pull schedule;
- Ensure that utilities/services are liaised with and that applications and all relevant documentation and fees have been completed to ensure timely availability;
- Ensure the contractor carries out the work as planned, designed and in accordance with engineering standards and practices;
- Conduct Value Management and Value Engineering;
- Review the specification of materials and ensure alignment of specification and materials specified and used in the design and construction;
- Ensure the timely requisition of material and equipment where necessary;

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<sup>2</sup>This is not an exhaustive list and will require the Project Manager to undertake this work in accordance with the Project Charter and Project Management Ethics together with observing all government and statutory compliance.

- Provide payment certificates for certification and process by the relevant authority;
  - Monitor and ensure that the project is being implemented in accordance with the plans, on schedule, with scope, quality and budget;
  - Ensure that all payments and invoices or payment certificates are produced, certified and submitted to the FSC in a timely manner;
  - To liaise with relevant third parties (e.g. planning authorities and Utility Companies) to put in place the necessary agreement for the project;
  - Promote and adhere to Health and Safety guidelines, standards and procedures are followed and to undertake Health and Safety Risk Assessments as required; and
  - Undertake all activities that are required to ensure the successful completion of the project to the satisfaction of the client, the Financial Services Commission.

#### **4.0 DELIVERABLES AND MILESTONES**

The PM will provide all day-to-day project management support with regular reporting to the Project Board, the Commissioner and the Board of Directors of the Commission as may be agreed. It is anticipated that this will include:

- Complete all documentation in a timely manner that will allow the project to be completed by no later than the scheduled contractual date;
- Monitor and Control Project activities, progress and expenditure to ensure they are as planned;  
All works are completed according to scope, schedule, quality and budget.
- Project management support, and the timely and efficient completion of the project or works assigned;
- Change requirements, identified, appraised and raised for the attention of the Project Board comparing any change and its impact to the baseline;
- Report/review of all Risk Assessment and Method Statements (RAMS);
- All works are carried out in safe and secure manner in accordance to the Health & Safety plans;
- All requisite quality assurance tests are carried out;

- A report is produced and signed off on the status of the activities (to include the activities outlined above and or included in this document as required/instructed).

## **5.0 REPORTING REQUIREMENTS**

The PM will report weekly and directly to the Project Board (and Commissioner of the FSC or her designate) and will provide any requested information pertaining to the project. Upon completion of the construction activities, the PM shall prepare a Project Completion Report (PCR) in accordance with internationally accepted standards for the building industry. The PCR will form a comprehensive record of the design, construction and erection of the works accomplished including: -

- A description of changes or modifications to the design;
- Problems encountered and solutions adopted (Lessons learned);
- All operations and maintenance documentation (accessible database)
- Overall construction volume, quantities and costs;

All reports will be submitted in electronic and hard copy format and sent to the Commissioner at the Financial Services Commission. All drawings and designs must be provided in Word and PDF format. Reports should be written (in English) in Microsoft Word and spreadsheets must be compatible with Microsoft Excel.

Any variations to the original project must first have the approval of the Board of Directors through the Commissioner.

The PM shall prepare and submit weekly, monthly and quarterly progress reports to the Project Board and Commission which will be prepared in a format following best practice. These reports shall be agreed with the Project Board and as a minimum include written descriptions of: -

- Progress of the works during the month and expenditure to-date;
- Any technical or operational problems or issues raised with recommendations for remedies/solutions;
- Any delays in timeframe and proposed adjustment to maintain schedule according to the Gantt chart;
- Earned Value Management;
- Updates on any other issues which could facilitate or affect the progress of the work;



- Request for variations;
- Future planned works and expenditure;
- Compile weekly reports on quality assurance and quality testing.

## **6.0 REQUIRED PROFILE AND QUALIFICATIONS**

- The PM will be a suitable and fit for purpose professionally qualified Project Manager (or similar discipline) and have at least Diploma in Project Management, or Construction Management or Equivalent, a bachelors' degree in the area of practice is preferred;
- The preference is for Prince2 and/or MSP qualified;
- The PM will require a minimum of 5 years' experience in project management/construction skills and vast knowledge in project management, construction, and knowledge of GoM<sup>3</sup> procurement processes and regulations;
- The PM will be competent in contract and contract management and include;
- Full knowledge of, but not limited to, the preparation of all project documents to include; project proposals, tender documents, contract documents, bill of quantities, project reports and project closing reports;
- Have good report writing, project planning and reviewing skills;
- Have the ability to work with local contractors to develop workmanship and quality control;
- Be computer literate in MS Office, able to understand and comprehend architectural drawings, MS Project, and relevant specialist software;
- The PM must have good communication skills with the ability to present progress reports to the Project Board, Directors of the Commission and other stakeholders on the project and help raise positive awareness of the project, its potential benefits and address concerns as required.

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<sup>3</sup>The PM will need to know of and understand the procurement process and be both willing and able to learn the fundamentals of procurement as required to understand the procurement process

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**Appendix B**

**Please complete fully and return with Tender submission**  
**Failure to provide the information in your tender submission may lead to you tender being disqualified.**

**Cost and Scope of Services Proposal**

<u>Phase</u>	<u>Period</u>	<u>Duration</u> (weeks)	<u>Hrs./Week</u>	<u>Hrs./Phase</u>
<hr/>				
Preconstruction				
<hr/>				
Project Manager				
Construction				
<hr/>				
Project Manager				
Post Construction				
<hr/>				
Project Manager				
Project Manager		(Insert No. of Hours)		
Rate		(Insert EC\$ per hour)		

**Please confirm the name of the full name or the name of your organisation:**

**Please provide your business address:**

**Please provide the following contact details:**

**Contact Name:**

**E-mail address:**

**Telephone Number:**

**Postal Address:**

Registration Section ST. JOHNS

Block 14/2

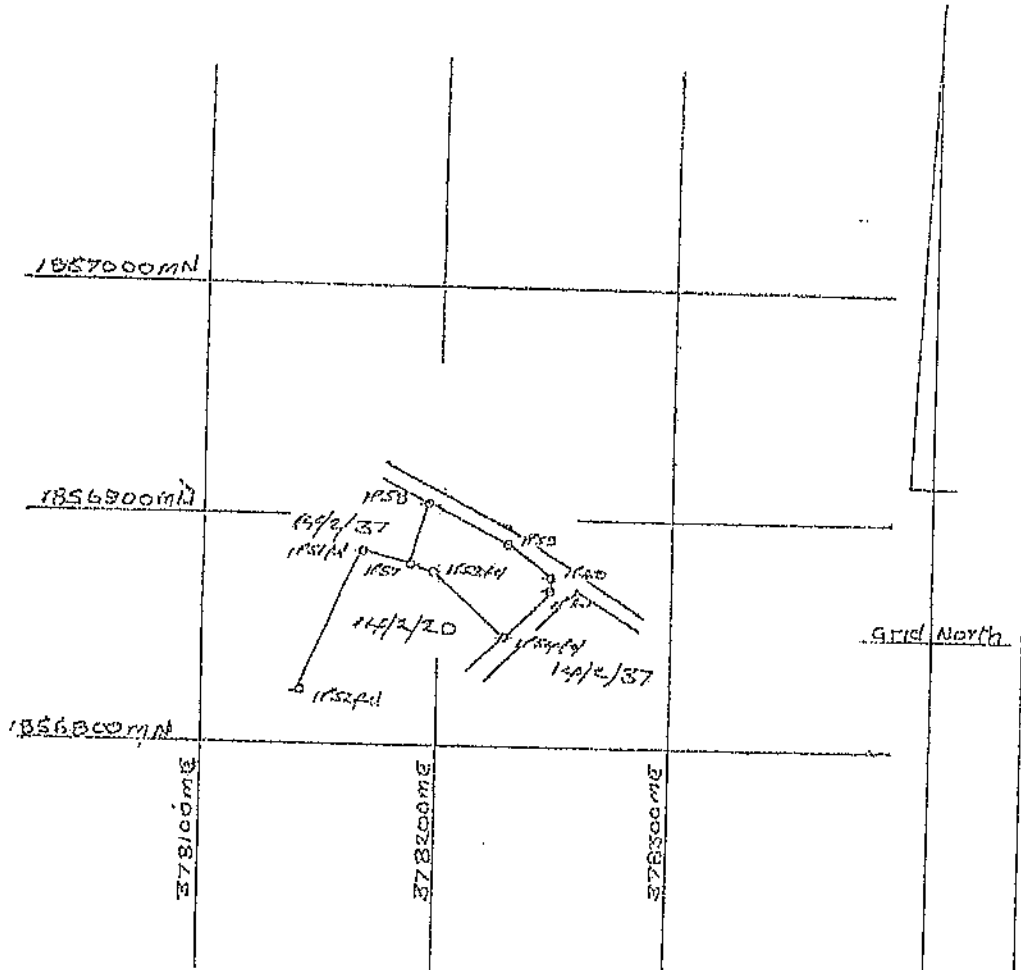
Parcel 39

Filed Plan No.  
Filed

Registrar of Lands

LOCATION - LITTLE BAY.

Area - 1761m<sup>2</sup> or 18953 sq ft. or 0.4351 acres.



FIELD NOTES

- 1P54 - 1P61 74° 25' 30.20m
- 1P60 357° 24' 5.33m
- 1P59 306° 48' 21.50m
- 1P58 297° 00' 37.94m
- 1P57 197° 47' 27.93m
- 1P55 105° 34' 10.40m
- 1P56 132° 42' 12.54m

1P - IRON PEG (in conc.)  
SCALE 1:2500

Surveyed by me in accordance with the provisions of the Land Surveyors' Ordinance 1975.

Approved

*Jan H. H. S.*

I, *Jan H. H. S.* Chief Surveyor of the Territory of Montserrat, DO HEREBY CERTIFY that this is a true copy of the

## **THE FINANCIAL SERVICES COMMISSION, MONTSERRAT**

### **TENDER SUBMISSION ANTI-COLLUSION CERTIFICATE**

**I/WE CERTIFY THAT THIS TENDER IS MADE IN GOOD FAITH, AND THAT WE HAVE NOT FIXED OR ADJUSTED THE AMOUNT OF THE TENDER BY OR UNDER OR IN ACCORDANCE WITH ANY AGREEMENT OR ARRANGEMENT WITH ANY OTHER PERSON. I/WE ALSO CERTIFY THAT WE HAVE NOT AND I/WE UNDERTAKE THAT WE WILL NOT BEFORE THE AWARD OF ANY CONTRACT FOR THE WORK:**

**DISCLOSE THE TENDER PRICE OR ANY OTHER FIGURES OR OTHER INFORMATION IN CONNECTION WITH THE TENDER TO ANY OTHER PARTY (INCLUDING ANY OTHER COMPANY OR PART OF A COMPANY FORMING PART OF A GROUP OF COMPANIES OF WHICH I AM/WE ARE A PART OF) NOR TO ANY SUB-CONTRACTOR (WHETHER NOMINATED OR DOMESTIC) NOR SUPPLIER (WHETHER NOMINATED OR DOMESTIC) OR ANY OTHER PERSON TO WHOM SUCH DISCLOSURE COULD HAVE THE EFFECT OF PREVENTING OR RESTRICTING FULL COMPETITION IN THIS TENDERING EXERCISE**

**ENTER INTO ANY AGREEMENT OR ARRANGEMENT WITH ANY PERSON THAT THEY SHALL REFRAIN FROM TENDERING, THAT THEY SHALL WITHDRAW ANY TENDER ONCE OFFERED OR VARY THE AMOUNT OF ANY TENDER TO BE SUBMITTED OR OTHERWISE COLLUDE WITH ANY PERSON WITH THE INTENT OF PREVENTING OR RESTRICTING FULL COMPETITION**

**PAY, GIVE OR OFFER PAY OR GIVE ANY SUM OF MONEY OR OTHER VALUABLE CONSIDERATION DIRECTLY OR INDIRECTLY TO ANY PERSON FOR DOING OR HAVING DONE OR CAUSING OR HAVING CAUSED TO BE DONE IN RELATION TO ANOTHER TENDER OR PROPOSED TENDER FOR THE WORK ANY ACT OR THING OF THE SORT DESCRIBED AT I), II) OR III) ABOVE.**

**I/WE FURTHER DECLARE THAT I/WE HAVE NO KNOWLEDGE EITHER OF ANY SUM QUOTED OR OF ANY OTHER PARTICULARS OF ANY OTHER TENDER FOR THIS CONTRACT BY ANY OTHER PARTY.**

**I/WE FURTHER CERTIFY THAT THE PRINCIPLES DESCRIBED ABOVE HAVE BEEN, OR WILL BE, BROUGHT TO THE ATTENTION OF ALL SUB-CONTRACTORS, SUPPLIERS AND ASSOCIATED COMPANIES PROVIDING SERVICES OR MATERIALS CONNECTED WITH THE TENDER AND ANY CONTRACT ENTERED INTO WITH SUCH SUB-CONTRACTORS, SUPPLIERS OR ASSOCIATED COMPANIES WILL BE MADE ON THE BASIS OF COMPLIANCE WITH THE ABOVE PRINCIPLES BY ALL PARTIES.**

**I/WE ACKNOWLEDGE THAT ANY BREACH OF THE FOREGOING PROVISIONS SHALL LEAD AUTOMATICALLY TO THIS TENDER BEING DISQUALIFIED AND MAY LEAD TO CRIMINAL OR CIVIL PROCEEDINGS. THE GOVERNMENT OF MONTSERRAT SHALL TREAT ANY TENDER RECEIVED IN CONFIDENCE BUT RESERVES THE RIGHT TO MAKE THE SAME AVAILABLE TO ANY OTHER FUNDING ORGANISATION OR STATUTORY REGULATORY AUTHORITY EITHER HAVING JURISDICTION OVER THE WORKS OR WHO MAY NOW OR AT ANY TIME IN THE FUTURE HAVE STATUTORY POWER TO REQUIRE DISCLOSURE OF THIS TENDER.**

**IN THIS CERTIFICATE, THE WORD 'PERSON' INCLUDES ANY PERSONS AND ANY BODY OR ASSOCIATION, INCORPORATED OR UNINCORPORATED; ANY AGREEMENT OR ARRANGEMENT INCLUDES ANY TRANSACTIONS, FORMAL OR INFORMAL AND WHETHER LEGALLY BINDING OR NOT; AND 'THE WORK' MEANS THE WORK IN RELATION TO WHICH THIS TENDER IS MADE.**

**SIGNATURE..... IN CAPACITY OF**  
.....

**DATE.....2017**

**DULY AUTHORISED TO SIGN TENDERS AND ACKNOWLEDGE THE CONTENTS OF THE ANTI-COLLUSION CERTIFICATE FOR AND ON BEHALF OF:**

NAME OF  
FIRM.....

FULL POSTAL ADDRESS.....

TELEPHONE NO..... FAX NO .....