



BAC Resolution No. 2020-0146
June 24, 2020
Series of 2020

RESOLUTION RECOMMENDING THE AWARD OF THE CONTRACT FOR THE CANAL IMPROVEMENT OF NEW ABRA DIVERSION DAM (DD) WITH A BID PRICE OF FOUR MILLION SEVEN HUNDRED FOUR THOUSAND FOUR HUNDRED THIRTY-SIX PESOS AND 80/100 (PHP4,704,436.80)

Whereas, a public bidding was conducted on June 2, 2020 9:00 o'clock in the morning at DA XII Conference Room, Koronadal City, South Cotabato. It was presided by the BAC Vice-Chairman.

Whereas, there were six (6) bidders who participated and applied for eligibility check for the **Canal Improvement of New Abra Diversion Dam (DD)** under **ITB Reference No. 6991200** with an Approved Budget for the Contract (ABC) of **Six Million Fifty-Six Thousand Pesos (Php6,056,000.00)**, i.e.;

NAME OF BIDDERS	BID AMOUNT (Submitted)	BID AMOUNT (Calculated)	RANK
Eco Construction & Supply	Php4,476,872.71	Php4,476,829.12	LCB/Rank 1
John Ray Developer and Supplies	Php4,704,508.37	Php4,704,436.80	Rank 2
CEK Construction & Water Supply	Php5,147,593.99	Php5,147,614.94	Rank 3
High Beam Construction	Php5,244,934.90	Php5,245,004.25	Rank 4
NN Martin Construction	Php5,571,389.97	Php5,571,457.84	Rank 5
Dingo Builders and Supply	Php5,886,365.47	Php5,886,365.47	Rank 6

Whereas, after thorough deliberation of the Bids and Awards Committee (BAC) and the Technical Working Group (TWG), the bid submitted by **Eco Construction & Supply** in the amount of **Four Million Four Hundred Seventy-Six Thousand Eight Hundred Twenty-Nine Pesos and 12/100 (Php4,476,829.12)** met the minimum requirements and was determined as the **Lowest Calculated Bid**. Therefore, subjected for Post-Qualification;





Whereas, per post-qualification of the TWG of all the submitted documents of **Eco Construction & Supply** it was found out that the latter was post-disqualified due to non-compliance of the following specifications:

Requirements / Conditions	Findings
ITB Clause 12.1(b)(ii.2) Minimum work experience for key personnel: - Project Engineer (Civil Engineer with at least 2 years relevant experience as PE)	The assigned Project Engineer (PE) has no experience in handling projects related to irrigation system or other infrastructure being a fresh graduate and is connected with the construction firm for three (3) months. This was confirmed by the assigned PE during interview. Also, the firm has no experience also in irrigation related projects.

Whereas, Section 34.6, Rule X of RA 9184 states that *"Immediately after the BAC has notified the first bidder of its post-disqualification, and notwithstanding any pending request for reconsideration thereof, the BAC shall initiate and complete the same post-qualification process on the bidder with the second Lowest Calculated/Highest Rated Bid. If the second bidder passes the post-qualification, and provided that the request for reconsideration of the first bidder has been denied, the second bidder shall be post-qualified as the bidder with the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid."*

Whereas, the Bids and Awards Committee (BAC) immediately notified **Eco Construction & Supply** in writing of its post-disqualification and the grounds for it.

Whereas, no motion for reconsideration was filed by **Eco Construction & Supply** within three (3) calendar days upon receipt of the Notice of Post-Disqualification. Thus, the BAC initiated and completed the same qualification process on the bidder with the Second Lowest Calculated Bid which was **John Ray Developer and Supplies**.

Whereas, per post-qualification evaluation of all submitted documents of **John Ray Developer and Supplies**, it was determined that the latter was technically, legally and financially eligible and its bid was declared as the **Lowest Calculated Responsive Bid**;

Whereas, Section 34.4 Rule X of RA 9184 states that *"If the BAC determines that the bidder with the Lowest Calculated Bid/Highest Rated Bid passes all criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said bidder at its submitted bid price or its calculated bid price, whichever is lower..... xxx"*

Whereas, the bid amount submitted by **John Ray Developer and Supplies** which is advantageous to the government is **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)**;

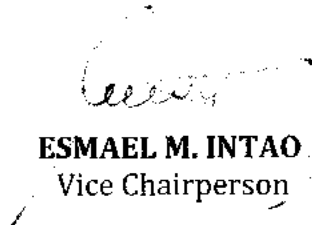


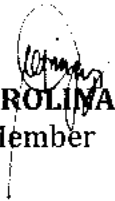
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Bids and Awards Committee Office - Telefax No. (083) 228-3411

Wherefore, premises considered, it is hereby **RESOLVED** to recommend to the Head of the Procuring Entity (HoPE) that the **Canal Improvement of New Abra Diversion Dam** in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)** which is the **Lowest Calculated Responsive Bid**, be awarded to **John Ray Developer and Supplies**.

RECOMMENDED BY THE BIDS AND AWARDS COMMITTEE


ROMIROSE B. PADIN
Chairperson



ESMAEL M. INTAO
Vice Chairperson


ENGR. CAROLINA T. GAYAPA
Member

ENGR. PETER PAUL S. PERALTA, EnP
Member

ENGR. NORBERTO S. LEYSA
Member

Approved by the Head of the Procuring Entity:


ARLAN M. MANGELEN
Regional Executive Director



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BAC Resolution No. 2020-0147
June 25, 2020
Series of 2020

RESOLUTION DECLARING THE WINNING BIDDER FOR THE CANAL IMPROVEMENT OF NEW ABRA DIVERSION DAM WITH A BID PRICE OF FOUR MILLION SEVEN HUNDRED FOUR THOUSAND FOUR HUNDRED THIRTY-SIX PESOS AND 80/100 (PHP4,704,436.80)


Whereas, in the public bidding conducted on June 2, 2020, 9:00 o'clock in the morning at DA XII Conference Room, Koronadal City, South Cotabato, **John Ray Developer and Supplies** submitted the **Lowest Calculated Responsive Bid** for the **Canal Improvement of New Abra Diversion Dam** in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)**;

Whereas, per Resolution No. 2020-0146 dated June 24, 2020, it was recommended by the Bids and Awards Committee (BAC) and was approved by the Head of the Procuring Entity (HoPE) that the above-mentioned project in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)** be awarded to **John Ray Developer and Supplies** being the bidder with the **Lowest Calculated Responsive Bid**;


Wherefore, premises considered, it is hereby RESOLVED to declare that **John Ray Developer and Supplies** is the winning bidder for the **Canal Improvement of New Abra Diversion Dam** in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)**. Hence, a Notice of Award shall be served.

DECLARED BY THE BIDS AND AWARDS COMMITTEE


ROMIROSE B. PADIN
Chairperson

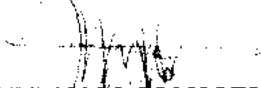

ESMAEL M. INTAO
Vice Chairperson


ENGR. CAROLINA T. GAYAPA
Member


ENGR. PETER PAUL S. PERALTA, EnP
Member

ENGR. NORBERTO S. LEYSA
Member

Approved by the Head of the Procuring Entity:


ARLAN M. MANGELEN
Regional Executive Director

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NOTICE OF AWARD

REYNALDO A. EMBODO

Proprietor

JOHN RAY DEVELOPER AND SUPPLIES

Brgy. Balindog

Kidapawan City, Cotabato

Dear Mr. Embodo,

You are hereby notified that the **Canal Improvement of New Abra Diversion Dam** in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)** with **ITB reference No. 6991200** is being awarded to your firm as the bidder who submitted the **Lowest Calculated Responsive Bid**.

Thus, within ten (10) calendar days from receipt of this notice, you are required to post your Performance Security as per Section 39.2 of R.A. 9184 which shall be in an amount equal to a percentage of the total contract price in accordance with the following schedules:

Cash/Cashier's/Manager's check : 10% of (Php4,704,436.80)
(Php470,443.68)

or


Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, That it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank. : 10% of (Php4,704,436.80)
(Php470,443.68)

or

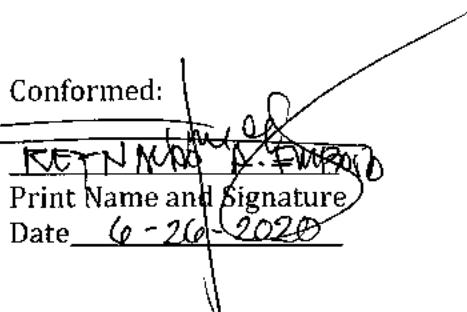
Surety Bond (Callable upon demand) : 30% of (Php4,704,436.80)
(Php1,411,331.04)

Done this 06 day of June 2020 at Koronadal City, Philippines.

Very truly yours,


ARLAN M. MANGELEN
Regional Executive Director

Conformed:


Print Name and Signature
Date 6-26-2020

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ITB Reference No. 6991200
Contract No. 2020-0350

CONTRACT

KNOW ALL MEN BY THESE PRESENTS:

This contract is made and entered this JUL 14 2020 day of _____ by and between:

The **DEPARTMENT OF AGRICULTURE, REGIONAL FIELD OFFICE XII**, with address at Regional Government Center, Brgy. Carpenter Hill, Koronadal City, South Cotabato represented herein by, **ARLAN M. MANGELEN, Regional Executive Director**, hereinafter referred to as the **First Party**;

-AND-

JOHN RAY DEVELOPER AND SUPPLIES, with principal address at Brgy. Balindog, Kidapawan City, Cotabato represented by its Proprietor, **REYNALDO A. EMBODO**, hereinafter referred to as the **Second Party**;

WITNESSETH:

Whereas, the **First Party** has a procurement of **Canal Improvement of New Abra Diversion Dam** with an **Approved Budget for the Contract (ABC) of Six Million Fifty-Six Thousand Pesos (Php6,056,000.00)**.

Whereas a public bidding was conducted on June 2, 2020 with six (6) participating bidders in which **John Ray Developer and Supplies** won in the bidding and was awarded the **Canal Improvement of New Abra Diversion Dam** in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)**;

Whereas, the **First Party** has accepted the bid of the **Second Party** in the amount of **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)** which shall be completely constructed within **120 calendar days** at **Brgy. Kabulacan, Matalam, Cotabato** upon receipt of the Notice to Proceed with the following specifications, to wit:

Project Description:

- Concrete of 1,588 linear meter concrete Lined Canal

NOW THEREFORE, for and in consideration of the following premises, the parties hereto agreed as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to;
2. The following documents shall be attached, deemed to form, and be read and construed as integral part of this Agreement, viz:
 - a) General and Special Conditions of Contract;
 - b) Drawings/Plans;
 - c) Specifications;



- d) Invitation to Bid;
 - e) Instructions to Bidders;
 - f) Bid Data Sheet;
 - g) Addenda and/or Supplemental/Bid Bulletins, if any;
 - h) Bid form, including all the documents/ statements contained in the Bidder's bidding envelopes, as annexes, and all other documents submitted (e.g. Bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;
 - i) Eligibility requirements, documents and/or statements;
 - j) Performance Security;
 - k) Notice of Award of Contract and the Bidder's conforme thereto; and
 - l) Other contract documents that may be required by existing laws and/or Entity.
3. In consideration of the payments to be made by the **First Party**, the **Second Party** hereby covenants/agrees with the Department of Agriculture to construct and complete the works in conformity with all aspects with the provisions of this contract;
 4. The **First Party** hereby covenants to pay the 15% mobilization fee of the total cost of the project to the **Second Party** as advance payment, upon compliance of the following:
 - a. Letter request for 15% advance payment;
 - b. Standby irrevocable letter of credit/security bond/bank guarantee which corresponds to the amount of the 15% mobilization fee;
 - c. Installation of project billboard;
 - d. Construction of bunkhouse; and
 - e. Mobilization of initial equipment and personnel.
 5. The Second Party shall strictly observe the one (1) year warranty to reckon from the completion of the project up to final acceptance for the necessary repairs, maintenance and services and such other obligations as provided under Section 62 of the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184;
 6. The obligation for the warranty shall be covered by retention money, in an amount equivalent to ten (10%) percent of the total contract price, or a bank guarantee in a form of an irrevocable stand-by letter of credit. Said amount shall be released after the lapse of the warranty period;
 7. In case the **Second Party** incurs delay in its performance, as stipulated herein, Rule XXII, Section 68 of the 2016 revised IRR of RA 9184 shall be applied, which partly states, "*xxx. The amount of the liquidated damages shall be at least equal to one-tenth of one percent (0.001) of the cost of the unperformed portion for every day of delay. xxx*";
 8. In consideration of the payments to be made by the Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Entity to execute and complete the works and remedy the defects therein in conformity with the provisions of this Contract in all respects;





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- 9. Other provisions of RA 9184 and its IRR not stipulated in this contract are deemed applicable; and
- 10. This Agreement shall be valid and binding upon approval of both parties.

IN WITNESS WHEREOF, the parties hereto set their respective signatures on the day written above.

Department of Agriculture – RFO XII

John Ray Developer and Supplies

By:
ARLAN M. MANGELEN
 Regional Executive Director

By:
REYNALDO A. EMBODO
 Proprietor

Reviewed and Witnessed by:

OK as to Allocation of Funds:

RUBYLYN J. CARDENAS
 Administrative Assistant III
 OIC – Regional Budget Officer

Availability of Funds:

MAY-ANN G. DALENGGA
 Accountant II
 OIC - Regional Accountant

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
 CITY OF KORONADAL) SS
 X-----X

Before me, a Notary Public for Koronadal City this _____ of _____ 2020, personally appeared the following persons:

- | NAME | PROOF OF IDENTITY |
|-----------------------|--------------------------|
| 1. ARLAN M. MANGELEN | LTD ID NO. MDI-9A-042886 |
| 2. REYNALDO A. EMBODO | LTD ID NO MDI-83-078871 |

Known to me to be the same persons who executed the foregoing instrument and acknowledged that the same is their voluntary acts and deeds.

This instrument consists of three (3) pages including this page in which this acknowledgement is written, and signed by the parties and their witnesses on each and every page.

WITNESS MY HAND AND SEAL.

Doc No. : 321
 Page No. : 65
 Book No. : XXXIV
 Series of : 2020

JOFFREY L. MONTERRIO
 Notary Public
 Koronadal City/Tampakan Province of South Cotabato
 Rooms 2/6 3, 2/F Supermarket Bldg., Koronadal City
 PTA No. 2243301, 1-2 2020, Koronadal City
 IBP NO. 055751, 11/26/18; GSC
 Roll Number 24228; TIN: 194-690-562
 Notarial Commission No. 492-43
 Valid Until December 31, 2021

Contract for the Canal Improvement of New Abra Diversion Dam
 Php4,704,436.80
 Page 3 of 3

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NOTICE TO PROCEED

REYNALDO A. EMBODO
Proprietor
JOHN RAY DEVELOPER AND SUPPLIES
Brgy. Balindog
Kidapawan City, Cotabato

Dear Mr. Embodo,

Having entered into a contract with the Department of Agriculture RFO XII, Koronadal City, you are hereby authorized to proceed with the **Canal Improvement of New Abra Diversion Dam** in the amount **Four Million Seven Hundred Four Thousand Four Hundred Thirty-Six Pesos and 80/100 (Php4,704,436.80)** with **ITB Reference No. 6991200** subject to the terms and conditions of the contract agreement specifically the provision on "LIQUIDATED DAMAGES" (LD) as stipulated under RA No. 9184 with the following specifications:

Project Description:

- Concrete of 1,588 linear meter concrete Lined Canal

Project duration: 120 calendar days

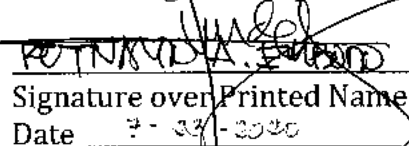
Project Site: Barangay Kabulacan, Matalam, Cotabato

Done this 7 day of July 2020 at Koronadal City, Philippines.

Very truly yours,

ARLAN M. MANGELEN
Regional Executive Director

Acknowledged Receipt:


REYNALDO A. EMBODO
Signature over Printed Name
Date 7 - 31 - 2020