



## REPUBLIC OF NAMIBIA

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### MINISTRY OF FINANCE AND PUBLIC ENTERPRISES

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Tel.: (00 264 61) 209 9111  
Fax: (00 264 61) 230 179

Enquiries: Mr P Nsundano (061-2099413)

Head Office,  
Moltke Street,  
Private Bag 13295,  
**WINDHOEK**

06 May 2024

Our Ref.: ..... Your Ref.: .....

Mr. John Esterhuizen  
Acting Chief Executive Officer  
Municipality of Walvis Bay  
Private Bag 5017  
Walvis Bay  
Namibia

Dear Mr. Esterhuizen

**RE: REQUEST FOR AN EXEMPTION IN TERMS OF THE PUBLIC PROCUREMENT ACT, 2015 AND APPROVAL FOR THE DIRECT PROCUREMENT OF A QUANTITY SURVEYOR AND ENGINEERS FOR THE PROPOSED WALVIS BAY INDEPENDENCE BEACH PROMENADE.**

1. Reference is made to your letter dated 04<sup>th</sup> April 2024 and an email send to your office on the 25<sup>th</sup> April 2024 on the above-mentioned subject matter.
2. In the above-mentioned letter, the Municipality of Walvis Bay (“the Municipality”) sought exemption in terms of Section 4(2) of the Public Procurement Act, 2015 (Act No. 15 of 2015) (hereinafter referred to as “the Act”) to use Direct Procurement method to procure the services of a quantity surveyor and engineers for the construction of the Walvis Bay Independence Beach Promenade.
3. According to the Municipality, they have collaborated with the City of Czerwonak, Poland to implement a project named “*Erongo Sustainable Governance LAB*”, under the theme ‘Local Authorities Partnership for Sustainable Cities 2021’. The European Union (EU) provided co-funding for the project, which is running for a for a period of three (3) years (January 2022 to December 2024).
4. The Municipality stated that, the project is implemented in terms of the Cooperation Agreement of the 09 August 2022 between the Municipality of Walvis Bay and the City of Czerwonak, Poland and as such the grant beneficiaries are subjected to the EU procurement principles. The design and construction of the Walvis Bay Independence



Promenade is one of expected outputs of the “*Erongo Sustainable Governance LAB*’ project.

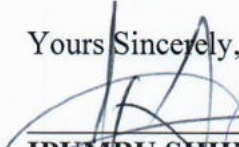
5. The Municipality further stated that Karin Miller Architects was appointed through an open procurement process to serve as the Head Project Principal Agent, overseeing a local multidisciplinary team of professionals. However, the Municipality urgently needs to appoint a quantity surveyor and engineers to support the architect in order to finish the architectural design, prepare the bidding documents and create a bill of quantities for buildings and infrastructure.
6. The Municipality proceeded to state that since the project is subject to the terms and conditions of the EU grant recipients, it is imperative that the project is completed within the prescribed time frame which is December 2024 in order to prevent the forfeiting of the whole grant.
7. The Municipality highlighted that the local quantity surveyor and the engineering firm that will be appointed is the one that already collaborated and completed similar projects with the Principal Agent, Karen Miller Architects. Additionally, the contractors will be paid the minimum tariff of fees as published in the Government Gazette.
8. In view of the above, the Municipality thus seeks for an exemption from the application of Section 35 (3) (b) of the Act in order to be allowed to use the direct method of procurement, in order to procure directly the services of a quantity surveyor and engineers for the design and construction of the Walvis Bay Independence Beach Promenade.
9. In terms of Section 35 of the Act, a public entity may draw up a list of known service providers that have a capacity to perform the required services and solicit proposals from them to ensure effective competition.
10. Furthermore, Section 36 of the Act set out the strict requirements that needs to be met in order for a public entity to use the direct method of procurement for goods and services, however the Municipality does not meet the requirements laid down in Section 36 of the Act, for the procurement concerned.
11. Pursuant to the above, your exemption request from the application of Section 35 (3) (b) of the Act to be allowed to use the direct method of procurement in order to procure the services of a quantity surveyor and engineering firm for the design and construction of the Walvis Bay Independence Promenade is hereby declined.



12. Lastly, since the Municipality is concerned about the time frame for conducting a competitive procurement process, it may consider requesting an exemption from the application of Section 47 (1) read in conjunction with Regulation 35, instead, to allow the Municipality to request the proposals from the short listed consultants within a shorter period as opposed to the 30 days permitted by the Act.

Please accept the assurance of my highest regard.

Yours Sincerely,

  
**IPUMBU SHIIMI, MP**  
**MINISTER**

