



**Umsobomvu Municipality**  
Continuously Rising

## **UMSOBOMVU LOCAL MUNICIPALITY**

### **TENDER DOCUMENTS FOR**

**APPOINTMENT FOR PANEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS AND STORMWATER MATERIAL, AS AN WHEN REQUIRED FOR A PERIOD OF 36 MONTHS.**

**TENDER NO: UMS/TS/RDSM/02/2024**

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NAME OF BIDDER: .....

PHYSICAL TRADING OFFICE ADDRESS: .....

.....

.....

PREPARED BY:  
UMSOBOMVU LOCAL MUNICIPALITY  
PRIVATE BAG X 6  
9795

**BID CLOSING DATE: FRIDAY, 19 April 2024 AT 12:00 NOON**

# UMSOBOMVU LOCAL MUNICIPALITY

## APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

Hereunder is a checklist to ensure that the bid documentation is complete in terms of administrative compliance. The bidder is to indicate that the documentation is complete and included in the bid document by completing the table below.

**(Tick to indicate whether the information has been included and the originals signed and witnessed as required.)**

ITEM	DESCRIPTION	YES/NO
1	Cover letter front page	
2	Invitation to Bid (MBD1) must be completed & signed	
3	Tax Compliance requirements (MBD2)	
4	Declaration of interest (MBD 4) Original to be completed and signed. <b>No bid will be accepted from persons in the service of the state<sup>1</sup>.</b>	
5	Did you submit a valid certified certificate BBBEE certificate (preference points claim) (MBD 6.1) OR a Joint Venture BBBEE valid certified certificate where applicable	
6	Did you comply to DTI standards (local content) as indicated (MBD 6.2) if required	
7	Declaration of bidder's past supply chain management practices (MBD 8)	
8	Certificate of Independent Bid Determination Annexure E5 – (MBD9)	
9	Did you submit <b>one (1)</b> original bid documents?	
10	Did you take note and understand the Special Conditions, where applicable?	
11	Did you submit your management and contact details?	
12	Did you submit your company profile, brief financial information, concerning turnover and asset value, and details of any BBBEE Shareholding?	
13	Did you <b>initial every page</b> of your original submission?	
14	Did you comply to all pre-conditions as stated in bid document? (MBD 1)	
15	Did you submit a <b>CURRENT TO 90 days Business OR, Business Residential?</b> Municipal Rates & Service Account? And company directors Municipal accounts.	
15	Are you register on Central Supplier Data Base, (CSD) ( www.csd.gov.za ), print and attach proof of CSD Registration to bid document, not older than 30 days, of this bid closing date.	
16	Did you attend the compulsory site/briefing session where applicable?	
17	Did you attach, Annual Financial Statements attached if project > R10 million, where applicable?	

**N.B.:- THIS FORM MUST BE SIGNED BY THE BIDDER**

SIGNATURE OF BIDDER: .....

NAME OF COMPANY: .....

**PART A INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (UMSOBOMVU LOCAL MUNICIPALITY)</b>					
BID NUMBER:	UMS/TSPWWW/02/2024	CLOSING DATE:	19 April 2024	CLOSING TIME:	12H00
DESCRIPTION	APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
21 A Church Street					
COLESBERG					
9795					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]	
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
CONTACT PERSON	N. Mndini		CONTACT PERSON	Mr F. Swarts	
TELEPHONE NUMBER	051 753 0040		TELEPHONE NUMBER	051 753 0040	
FACSIMILE NUMBER	051 753 0074		FACSIMILE NUMBER	051 753 0074	
E-MAIL ADDRESS	nasiphi@umsobomvumun.co.za		E-MAIL ADDRESS	fswarts@umsobomvumun.co.za	

## PART B

### TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>
<p>3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?      <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</b></p>

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.  
NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

SIGNATURE OF BIDDER:.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:.....

DATE:.....

# UMSOBOMVU LOCAL MUNICIPALITY

## T1.1 TENDER NOTICE AND INVITATION TO TENDER

Bidders are hereby invited for the following bids by Umsobomvu Municipality as per the following:

NAME AND DESCRIPTION	TENDER NUMBER	PPPFA	BRIEFING SESSION	CLOSING DATE AND TIME
Appointment for Panel of <b>Six (6)</b> Service providers for Supply and Delivery of Water, Waste water Maintenance Material, as an When required for a period of 36 months.	UMS/TS/WW M/02/2024	Functiona lity Criteria	Not applicable	<b>19 April 2024 @</b> 12H00 in Umsobomvu Municipal Colesberg.
Appointment for Panel of <b>Six (6)</b> Service providers for Supply and Delivery of Electricity Maintenance Material, as an when required for a period of 36 months.	UMS/TS/EM M/02/2024	Functiona lity Criteria	Not applicable	<b>19 April 2024 @</b> 12H00 in Umsobomvu Municipal Colesberg.
Appointment for Panel of <b>Six (6)</b> Service Providers for Supply and Delivery of Roads and Stormwater Material, as an when required for a period of 36 months.	UMS/TS/RDS M/02/2024	Functiona lity Criteria	Not applicable	<b>19 April 2024 @</b> 12H00 in Umsobomvu Municipal Colesberg.
Appointment for panel of <b>Three (3)</b> Professional Engineering Services Providers for Provision of Professional Services <b>on each</b> of the following engineering services for a <b>period of three (3) years</b> : Roads and Storm Water Water and Waste Water Electrical engineering Services	UMS/TS/RDS M/02/2024	Functiona lity Criteria	Not applicable	<b>19 April 2024 @</b> 12H00 in Umsobomvu Municipal Colesberg.

Bid documents will be available on the municipal website ([www.umsobomvumun.co.za](http://www.umsobomvumun.co.za)) as from **18 March 2024**, bidders are advised to download, print, price and complete all forms in the tender document as requested.

**NO HARD COPIES OF THE TENDER DOCUMENT ARE AVAILABLE FOR SALE, ONLY THE ELECTRONIC VERSION WHICH IS TO BE DOWNLOADED AS PER THE ABOVE WEBSITES IS TO BE USED.**

The closing time for receipts of tenders is **12:00, 19 April 2024**. Bids must be completed in black ink, enclosed in sealed tenders, endorsed with the corresponding notice number and description, must be placed in the tender box at the office of Umsobomvu Municipality, **21 A Church Street, COLESBERG, 9795**, not later than **12:00 on 19 April 2024**. after which tenders will be opened in public.

Bids which are deposited late, Telegraphic, telephonic, facsimile, e-mailed electronically will not be considered. The Umsobomvu Procurement and Supply Chain Management Policies, the Preferential Procurement Policy Framework Act, Act No. 5 of 2000 and the regulations promulgated under this Act shall apply in the evaluation and awarding of the tender.

**NB: CERTIFICATION OF DOCUMENTS MUST NOT BE MORE THAN SIX (6) MONTHS FROM DATE**

**CERTIFIED BY COMMISSIONER OF OATHS.**

**Prospective Bidders must take note that the following tender conditions, and including requirements listed on the tender data will apply.**

- Fully completed tender document.
- All bids submitted should remain valid for a period of **120 days** after the bid closing date.
- A Valid original SARS pin number and current tax Clearance Certificate.
- Company profile with list of contactable references.
- Copies of company founding statement (CK)

- Certified copies of directors' ID document
- All municipal rates and taxes of the bidder must be paid where the business has its head or regional office. Latest billing clearance certificate or account statement not older than 3 months must be submitted with the bid, or if the property is being leased then the lease agreement must be attached, or a letter of from tribunal authority if the bidder operates in rural areas, failure to do so will result in the bid being disqualified. **NB the billing clearance certificate is only applicable to bidders who operate their business in an area or property that is not billed by the municipality.**
- Bidders are required to submit original and valid BBBEE, status level verification certificates or certified copies thereof together with their bids, to substantiate their BBBEE rating claims.
- All bidders must be registered on the Central Suppliers Database and proof thereof must be submitted with bids.
- Bids submitted by persons in the service of government (national, provincial, local or SOCs') will not be considered. **Preferential Procurement Policy Framework ACT 2022 (PPPFA) Points will be evaluated based on the following criteria:**  
**Stage 1:** Compliance, **Stage 2:** Functionality (with a minimum threshold of **70** points out of **100** points to be attained by bidder to be evaluated further on the next stage).  
**Stage 3:** Price and Specific goals (80/20),

CATEGORY	VERIFICATION METHOD	WEIGHTING
Youth-Enterprise 18-35	Company Registration Document and Certified ID Copy	4
Women-Equity Ownership	Company Registration Document and Certified ID Copy	4
Disability-Equity Ownership	Medical Report	2
HDI	Approved certified sanas/equivalent BBBEE Certificate or Sworn affidavit certified by the commissioner of oath.	10
<b>TOTAL SPECIFIC Goals</b>		<b>20</b>

- All MBD forms must be completed accurately (MBD1, MBD2, MBD4, MBD6.1, MBD6.2, MBD 7.1, MBD 8, MBD 9).
- This bid is subject to the General Conditions of Contract (GCC) and, if applicable, any other Special Conditions of Contract.
- The Umsobomvu Municipality does not bind itself to accept the lowest or any bid and reserves the right to accept the whole or part of the bid or to withdraw the bid.

Mr. TW Msengana  
Municipal Manager  
Private Bag X6  
**COLESBERG**  
9795

## UMSOBOMVU LOCAL MUNICIPALITY

### APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

#### **T1.2 TENDER DATA**

The Conditions of Tender are the Standard Conditions of Tender as published in Annex F of the CIDB Standard for Uniformity in Construction Procurement in Board Notice 136 Government Gazette No 38960 of 10 July 2015. A copy is attached directly after this section.

The Standard Conditions of Tender make several references to the Tender Data for details that apply specifically to this Tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced to the clause in the Standard Conditions of Tender to which it mainly applies.

F.1.1	The Employer is:	Umsobomvu Local Municipality
	Postal Address	Physical Address
	Private Bag X6	21 A Church Street
	Colesberg	Colesberg
	9795	9795

F.1.2 The Tender Documents issued by the Employer comprise:

#### **THE TENDER**

##### **Part T1 Tendering procedures**

- T1.1 Tender Notice and Invitation to Tender
- T1.2 Tender Data

##### **Part T2 Returnable documents**

- T2.1 List of returnable documents
- T2.2 Returnable schedules

#### **THE CONTRACT**

##### **Part C1 Agreements and Contract Data**

- C1.1 Form of Offer and Acceptance
- C1.2 Contract Data
- C1.3 Performance Guarantee
- C1.4 Agreement in terms of Occupational Health and Safety Act, 1993

##### **Part C2 Pricing Data**

- C2.1 Pricing Instructions
- C2.2 Bill of Quantities

##### **Part C3 Scope of Work**

- C3 Scope of Work

*Add the following:*

"Tenderers shall note that verbal information given by the Employer's agent during clarification meetings, site visits or at any time prior to the award of the Contract will not be regarded as binding on the Employer. Only information issued formally in writing in terms of either an Addendum (F.3.2) or a Clarification of a Tender Offer (F.3.10) will be considered as amending the Tender Documents.

F.2.12 No alternative offer will be accepted.

F.2.13.3 Parts of each tender offer communicated on paper shall be submitted as an original, plus **NIL** copies.

F.2.15.1 The Employer's address for delivery of tender offers and identification details to be shown on each tender offer package are:

Location of Tender box: Umsobomvu Local Municipal Offices

Physical address: 12A Church Street, Colesberg

Identification details: Tender number: UMS/TSWW/02/2024

Title of Tender: **APPOINTMENT FOR A PANNEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MAINTENANCE MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

F.3.5.1 A two-envelope procedure will **not** be followed.

F.2.13.9 Telephonic, facsimile or emailed tender offers will **not** be accepted.

F.2.15 The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.

F.2.16 The tender offer validity period is ninety (120) days.

F.2.20 The Tenderer is required to submit with his Tender a letter of intent from an approved insurer undertaking to provide the Performance Guarantee to the format included in Part T2.2 of this procurement document.

F.2.22 Return all retained Tender Documents within 28 days after the expiry of the validity period.

F.2.23 The Tenderer is required to submit the following with his tender

**Note: All Parties in a Joint Venture are Required to Submit the Required Documents**

**Please Note: Certified copies of previously certified documents will be regarded as invalid.**

- (1) A valid Tax status Pin issued by the South African Revenue Services. All parties in the Joint Ventures (JV's) must also attach a valid Tax Status Pin issued by the South African Revenue Services.
- (2) Certified copy of VAT Registration Certificate (if tenderer is VAT vendor)
- (3) Certified copy of Company Registration Documents (if tenderer is a Company)
- (4) Certified copy of Identity Document of Directors
- (7) Joint venture agreement (if tenderer is a joint venture)
- (8) Proof of registration with the Central Supplier Database drawn from the National Department of National Treasury website not older than one (1) month of the closing date;
- (9) Evidence of registration and proof of good standing in construction work with a compensation insurer who is approved by the Department of Labour in terms of Section 80 of the Compensation for Occupational Injuries and Diseases Act (Act No 130 of 1993) (COID). The Tenderer is required to disclose all inspections, investigations and their outcomes conducted by the Department of Labour into the conduct



of the Tenderer at a time during the 36 months preceding the date of this Tender (Refer Returnable Schedule Form C1);

- (11) Proof of Registration in respect of each partner, where a tenderer satisfied the CIDB contractor grading designation requirements through the formation of a joint venture;
- (12) their Broad-Based Black Economic Empowerment status level certificate or certified copy thereof issued by an authorised body or person, a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice, in accordance with the Preferential Procurement Policy Framework Act, 2000; Preferential Procurement Regulations, 2017. Joint ventures/consortiums will qualify for preference points, provided that the entity submits the relevant certificate/score card in terms of Preferential Procurement Regulations, 2017 (A consolidated B-BBEE Certificate). Note that in the case of unincorporated entities, a verified score card must be submitted with the Tender and if the Broad-Based Black Economic Empowerment Certificate as provided for in Regulation 6 and 7 of The Preferential Procurement Regulations 2017 is not submitted, the bid will not be disqualified but no preference points will be awarded.
- (13) an up-to-date Certificate of Municipal Services of the Tenderer and all its Directors with no monies due to the services authority over 90 days, or a Lease agreement including an up-to-date Certificate of Municipal Services of the leased property.
- (14) Pro-forma Certificate of Insurance cover.
- (15) Certified copies of key personnel qualifications and curriculum vitae.
- (16) Original Bank rating Certificate with bank stamp. Minimum Rating of "C" or Higher required. Not older than 90 days.

F.3.4 The time and location for opening of the tender offers are:

Time 12h00 on 19 April 2024

Location: Umsobomvu Local Municipality offices: 12A Church Street, Colesberg, 9795

F.3.11.1 The tender evaluation method for the evaluation of all responsive tender offers will be Method 2: Functionality, Price and preference in accordance with F.3.11.3

F.3.11.3. Method 2: Functionality, Price and preference

*Replace the last sentence of paragraph 4 (a)(i) with the following:*

"to Rand value of R 50 000 000.00 (all applicable taxes included):"

F3.11.7 Scoring financial offers

The financial offer will be scored using Formula 2 (Option 1) where the value of  $W_1$  is 80 points.

F3.11.8 Scoring preference

A maximum of 100 minus  $W_1$  tender evaluation points will be awarded for preference to tenderers who submit responsive tenders and who are found to be eligible for the preference claimed, in accordance with the criteria listed below.

Points are based on a tenderer's scorecard measured in terms of the Broad-Based Black Economic Empowerment Act (Act No 53 of 2003)(B-BBEE) and the Regulations, 2017 to the Preferential Procurement Policy Framework Act (Act No 5 of 2000)(PPPFA).

Points awarded will be according to a tenderer's B-BBEE status level of contribution and summarised in the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points for preference (80/20 system)</b>	<b>Number of points for preference (90/10 system)</b>
1	10	5
2	9	4.5
3	8	4
4	5	2.5
5	4	2
6	3	1.5
7	2	1
8	1	0.5
Non-compliant contributor	0	0

Eligibility for preference points is subject to the following:

- (a) A tenderer's scorecard shall be based on the Construction Sector Codes of Practice promulgated in Government Gazette No 32305 of 5 June 2009; and
- (b) The scorecard shall be submitted as a certificate attached to Returnable Schedule Form C2; and
- (c) The certificate shall have been issued by a registered verification agency accredited by the South African National Accreditation System (SANAS), as contemplated in the B-BBEE Framework for Accreditation and Verification by all Verification Agencies promulgated in Government Notice No 810 of 31 July 2009; and
- (d) The date of issue of the certificate must be less than 12 (twelve) months prior to the advertised Tender closing date (see Tender Data F.2.15); and
- (e) Compliance with any other information requested to be attached to Returnable Schedule Form C2.

## UMSOBOMVU LOCAL MUNICIPALITY

### APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

#### TENDER OFFERS WILL ONLY BE ACCEPTED IF:

- a) Fully completed tender document.
- b) A Valid original SARS tax Clearance Certificate/Pin
- c) Certified copy of company registration/founding state/CIPC
- d) Certified copies of ID document for company directors
- e) Company directors Municipal Accounts (Not older than three Month) must be attached.
- f) All bids submitted should remain valid for a period of 120 days after the bid closing date.
- g) Certified evidence of BBBEE contributor status by SANA, IRBA or SANA accredited agencies/ or affidavit to claim preference points.
- h) Certificate certifying that the bidder has no undisputed commitments for municipal services towards a municipality or service i.r.o payments which are overdue more than 90 days, if the bidder is the lessee, a valid lease agreement must be submitted, or a letter from a tribal authority if the bidder operates in rural areas.
- i) Bidders to hold good for a period of **120 days**
- j) Suppliers must be registered on the Central Supplier Database (CSD)
- k) Bids submitted by persons in the service of government (national, provincial, local or SOCs') will not be considered.
- l) MBD 4, 6.1,8 and 9 form/declaration of interest obtainable at Umsobomvu Municipal Website must be completed and signed.
- m) This bid is subject to the General Conditions of Contract (GCC) and, if applicable, any other Special Conditions of Contract.

# UMSOBOMVU LOCAL MUNICIPALITY

## APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

### STANDARD CONDITIONS OF TENDER

As published in Annexure F of the CIDB Standard for Uniformity for construction Procurement, Board Notice 136 Government Gazette No 38960 of 10 July 2015

#### **F.1 General**

##### **F.1.1 Actions**

**F.1.1.1** The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

**F.1.1.2** The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

*Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.*

*2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.*

**F.1.1.3** The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

##### **F.1.2 Tender Documents**

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

##### **F.1.3 Interpretation**

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:

- a) **conflict of interest** means any situation in which:
  - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;

- ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
  - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;
  - c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;
  - d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;
  - e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body;
  - f) **functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service and technical capacity and ability of a tenderer.

#### **F.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

#### **F.1.5 Cancellation and Re-Invitation of Tenders**

F1.5.1 An organ of state may, prior to the award of the tender, cancel a tender if-

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable tenders are received.

F1.5.2 The decision to cancel a tender must be published in the CIDB website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

#### **F.1.6 Procurement procedures**

##### **F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

##### **F.1.6.2 Competitive negotiation procedure**

- F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3** At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13  
after tenderers have been requested to submit their best and final offer.

### **F.1.6.3 Proposal procedure using the two stage-system**

#### **F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

#### **F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

## **F.2 Tenderer's obligations**

### **F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

### **F.2.2 Cost of tendering**

**F2.2.1** Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F2.2.2** The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

### **F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or

omission.

#### **F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

#### **F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

#### **F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary, apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

#### **F.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

#### **F.2.8 Seek clarification:**

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

#### **F.2.9 Pricing the tender offer**

**F.2.9.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.9.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

#### **F.2.10 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

### **F.2.11 Alternative tender offers**

- F.2.11.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.
- F.2.11.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.
- F.2.11.3** An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

### **F.2.12 Submitting a tender offer**

- F.2.12.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.
- F.2.12.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.
- F.2.12.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.
- F.2.12.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.
- F.2.12.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- F.2.12.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- F.2.12.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.
- F.2.12.8** Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.
- F.2.12.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.



### **F.2.13 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and, in the form, required, may be regarded by the employer as non-responsive.

### **F.2.14 Closing time**

- F.2.14.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.
- F.2.14.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

### **F.2.15 Tender offer validity**

- F.2.15.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.
- F.2.15.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.
- F.2.15.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.
- F.2.15.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

### **F.2.16 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

*Note: Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.*

### **F.2.17 Provide other material**

- F.2.17.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.
- F.2.17.2** Dispose of samples of materials provided for evaluation by the employer, where required.

### **F.2.18 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

### **F.2.19 Submit securities, bonds and policies**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

#### **F.2.20 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

#### **F.2.21 Return of other tender documents**

If so instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

#### **F.2.22 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

### **F.3 The employer's undertakings**

#### **F.3.1 Respond to requests from the tenderer**

**F.3.1.1** Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

#### **F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who drew documents.

#### **Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

### **F.3.3 Opening of tender submissions**

**F.3.3.1** Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

**F.3.3.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, number of points claimed for its BBBEE status level and time for completion for the main tender offer only.

**F.3.3.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

### **F.3.4 Two-envelope system**

**F.3.4.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.4.2** Evaluate functionality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the functionality evaluation more than the minimum number of points for functionality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any points claimed on BBBEE status level. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for functionality.

### **F.3.5 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

### **F.3.6 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

### **F.3.7 Test for responsiveness**

**F.3.7.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

**F.3.7.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

### **F.3.8 Arithmetical errors, omissions and discrepancies**

**F.3.8.1** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - ii) the summation of the prices.

F3.9.2 The employer must correct the arithmetical errors in the following manner:

- a) Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
- b) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- c) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices. Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

### **F.3.9 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

### **F.3.10 Evaluation of tender offers**

#### **F.3.10.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

#### **F.3.10.2 Method 2: Price and Preference**

In the case of a price and preference:

- 1) Score tender evaluation points for price
- 2) Score points for BBBEE contribution
- 3) Add the points scored for price and BBBEE.

#### **F.3.10.3 Method 2: Functionality, Price and Preference**

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

#### **F.3.11 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

#### **F.3.12 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

#### **F.3.13 Prepare contract documents**

**F.3.13.1** If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

**F.3.13.2** Complete the schedule of deviations attached to the form of offer and acceptance, if any.

#### **F.3.14 Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

### **F.3.15 Notice to unsuccessful tenderers**

**F.3.15.1** Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

**F.3.15.2** After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

#### **F.3.15.3 Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

#### **F.3.15.4 Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

#### **F.3.15.5 Transparency in the procurement process**

**F.3.15.6** The CIDB prescripts require that tenders must be advertised and be registered on the CIDB Tender system.

**F.3.15.7** The employer must adopt a transparency model that incorporates the disclosure and accountability as transparency requirements in the procurement process.

**F.3.15.8** The transparency model must identify the criteria for selection of projects, project information template and the threshold value of the projects to be disclosed in the public domain at various intervals of delivery of infrastructure projects.

# UMSOBOMVU LOCAL MUNICIPALITY

## **BID NO: UMS/TS/RDSM/02/2024**

### **TENDER EVALUATION CRITERIA**

The tender will be evaluated on the following criteria:

#### **STAGE 1 – ADMINISTRATIVE COMPLIANCE**

The following submissions are the requirements for evaluating each bid for responsiveness. The Bidder who fails to submit the following results in immediate disqualification:

- 1. Proof of attendance of bid briefing and visit to site (Not Applicable).**
2. Certificate of Authority for Signatory;
3. Joint Venture Agreement and Power of Attorney, in case of Joint Venture;
4. Proof of payment (municipal account/statement) of Municipal Services, which is not more than three (3) months old and not more than ninety (90) days in arrears. If Municipal
5. Services are paid by the Lessee, a copy of municipal account/statement and a valid Lease Agreement (indicating the municipal account payer and the validity period of the contract) must be attached, should the municipal services be paid by the Landlord/owner, a valid Lease Agreement (indicating the municipal account payer and the validity period of the contract) must be attached
6. Proof of CSD Registration Report which is Valid/Compliant from the date of availability of tender document.
7. The bidder must provide a Valid Letter of Good Standing (COIDA).
8. The document must be completely filled in Black Ink & corrections are countersigned.
9. Tenderers are advised to ensure that their documents are completed in full as incomplete tender documents will lead to disqualification.

#### **SECOND STAGE – FUNCTIONALITY EVALUATION**

Responsive bidders will be evaluated further on Quality/Functionality. The minimum threshold of (70) points has been predetermined and all bidders with a score below (70) points will not be considered further and will be disqualified.

The Quality/Functionality criteria and maximum scores in respect of each of the criteria are as tabled below. points scores for functionality will be rounded off to the nearest two decimal places.

The points allocation for the Functionality Evaluation is detailed in table below.

<b>Description Of Quality Criteria</b>	<b>Maximum Possible points</b>
Company Experience (Track Record on Projects of Similar Nature)	40
Delivery Plan/Work plan	30
Plant & Equipment	30
<b>Total Maximum Evaluation Points</b>	<b>100</b>

### **DETAILED BREAKDOWN OF THE EVALUATION CRITERIA: SUPPLY & DELIVERY**

CRITERIA	SUB-CRITERIA	POINT	Verification Method
Track Record Of Similar Work Done	40 Points- (5 or More) Appointment Letters Or Purchase Orders	40	Letters Or Purchase Orders stamped + Contactable reference
	30points-(3) Appointment Letters Or Purchase Orders	30	Letters Or Purchase Orders stamped + Contactable reference
	20 Points-(1-2) Appointment Letters Or Purchase Orders	20	Letters Or Purchase Orders stamped + Contactable reference
CRITERIA	SUB-CRITERIA	POINT	
<b>Lead Time</b> (Attach a delivery plan of how the services are to be provided).	Completion Of Orders within 3 Weeks from date of confirmation	30	Attach a delivery plan
	Completion Of Orders within 3-4 Weeks from date of confirmation	15	Attach a delivery plan
	Completion Of Orders within 4 up 6 Weeks from date of confirmation	5	Attach a delivery plan
CRITERIA	SUB-CRITERIA		
PLANT AND EQUIPMENT	<b>Owned (Enatis Ownership Document).</b> 2 x 10m <sup>3</sup> Trucks 1 x Flatbase Truck 1 x LDV	30	Enatis Vehicle Ownership Documents
	<b>Leased (Letter Of Intent).</b> 2 x 10m <sup>3</sup> Truck 1 Flat-base Truck 1 x LDV	20	Enatis Vehicle Ownership Documents
	No Plant	0	



### STAGE 3: FINANCIAL OFFER AND SPECIFIC GOALS

Each Bid will be evaluated in terms of price and specific goals in accordance with the Preferential Procurement Regulations 2022 (Government Gazette Vol. 689 4 November No. 47452 2022)

80/20 preference point system for acquisition of goods or services with Rand value above R30 000.00 up to Rand value equal R50 million

1. The following formula must be used to calculate the points out of 80 for price in respect of a quotation/tender with a Rand value above R10 000.00 up to R50 million, inclusive of all applicable taxes:

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where-

- $P_s$  = Points scored for price of tender under consideration;  
 $P_t$  = Price of tender under consideration; and  
 $P_{\min}$  = Price of lowest acceptable tender.

- 1.1 A maximum of 20 points may be awarded to a tenderer for the specified goals for the tender.
  - 1.2 The points scored for the specific goal must be added to the points scored for the price and the total must be rounded off to the nearest two decimal places.
  - 1.3 A bidder must submit proof of its compliant B-BBEE status level of contributor in order to claim points for B-BBEE
  - 1.4 Failure to submit proof of B-BBEE or compliant B-BBEE status level of contributor with quotation/tender, will lead to a score of zero (0) and not a disqualification
  - 1.5 Proof of locality must be submitted in order to claim point(s) for locality
  - 1.6 Failure to submit proof of locality with quotation/tender, will lead to a score of zero (0) and not a disqualification  
A bidder that scores 0 points for B-BBEE and/ or 0 points for locality must be score for price in
2. Specific Contract Participation Goals
    - 2.1 the tendering conditions will stipulate the specific goals, as contemplated in section 2(1)d(ii) of the preferential Procurement Act, to be attained
    - 2.2 for any tenders a maximum of 20 points (80/20 preference points system) or 10 (90/10 preference points system), will be allocated for specific goals. These goals are:
    - 2.3 Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability
    - 2.4 Local labour, and/ or promotion of enterprise located in the municipal area
    - 2.5 Regarding paragraph 6.3.1, 50% of the 20/10 points will be allocated to promoting this goal and points will be allocated in terms of the BBEEE scorecard as follows:

## STEP 2: CALCULATION OF POINTS FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

Points shall be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points for specific goals (80/20 system)	Number of points for specific goals (90/10 system)
1	10	5
2	9	4.5
3	8	4
4	5	2.5
5	4	2
6	3	1.5
7	2	1
8	1	0.5
Non-compliant contributor	0	0

- A bid SHALL NOT be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution nor is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 20 points for B-BBEE.
- The points scored for price shall be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.
- In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

Evaluation of bids that scored equal points

- (a) In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for B-BBEE.
- (b) If two or more bids have equal points, including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- (c) In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots.

3.4 A bidder must submit proof of its BBEEE status level contributor [scorecard]

3.5 A bidder failing to submit proof of BBEEE status level contributor

3.5.1 may only score in terms of the 80/90-point formula for price; and

3.5.2 scores 0 points for BBEEE status level contributor, which is in line with section 2 (1) (d) (i) of the Act, where the supplier or service provider did not provide thereof.

3.6 Regarding paragraph 6.3.2, 50% of the 20/10 points will be allocated to promote this goal. Points will be allocated as follows:

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system)	Number of points for locality (90/10)
Youth-Enterprise 18-35	4	2
Women-Equity Ownership	4	2
Disability-Equity Ownership	2	1
HDI	10	5
<b>Total</b>	<b>20</b>	<b>10</b>

3.7 The policy should not include Pre-qualification goals.

3.8 Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender.

3.9 A tenderer failing to submit proof of required evidence to claim preferences for other specified goals, which is in line with section 2 (1) (d) (ii) of the Act.

(i) may only score in terms of the 80/90-point formula for price; and

(ii) scores 0 points for the relevant specific goals where the supplier or service provider did not stipulate locality.

3.10 The preference points scored by a bidder must be added to the points scored for price.

3.11 The points scored must be rounded off to the nearest two decimal places.

3.12 The contract must be awarded to the tenderer scoring the highest procurement points

3.13 (a) If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender.

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(a) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

Tender offers will only be accepted on condition that:

a) the tenderer is registered on the Central Supplier Database (CSD) for the South African government (see <https://secure.csd.gov.za/> ) unless it is a foreign supplier with no local registered entity

b) the tenderer is in good standing with SARS according to the Central Supplier Database;

c) the tenderer is registered with the Construction Industry Development Board in an appropriate contractor grading designation;

d) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector:

e) the tenderer has not:

f) abused the Employer's Supply Chain Management System; or

- g) failed to perform on any previous contract and has been given a written notice to this effect;
- h) the tenderer has completed the Compulsory Declaration and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process;
- i) the tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer.

**STAGE 4: RISK ANALYSIS-SUPPLY CHAIN MANAGEMENT**

In addition to the evaluation of Responsiveness, Functionality and Financial Offer, a risk analysis will be performed on the bidders having the highest ranking/number of points to ascertain if any of the following, as relevant, present an unacceptable commercial risk to the employer in terms of:

1. The bid of any bidder may be disregarded if that bidder, or any of its directors have –
  - (a) Abused the institution's supply chain management system;
  - (b) Committed fraud or any other improper conduct in relation to such system; (c) Failed to perform on any previous contract.
2. The bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?  
 Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the audi alteram partem rule was applied.  
 The Database of Restricted Suppliers is available on the National Treasury's website ([www.treasury.gov.za](http://www.treasury.gov.za)) and can be accessed by clicking on its link at the bottom of the home page.
3. Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  
 The Register for Tender Defaulters can be accessed on the National Treasury's website ([www.treasury.gov.za](http://www.treasury.gov.za)) by clicking on its link at the bottom of the home page.
  - (a) Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?
  - (b) Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?
4. This tender is and shall be implemented in accordance with all relevant and applicable legislation, which includes and is not limited to best practice guidelines of procurement, Engineering Profession Act (Engineering Council of South Africa – ECSA: Guideline for Services and Processes for Estimating Fees for Persons Registered in terms of the Engineering Professions (ECSA) for the typical services stages as listed), tender evaluations and etc.

**UMSOBOMVU LOCAL MUNICIPALITY**

**UMS/TS/RDSM/02/2024**

**PART T2: RETURNABLE DOCUMENTS**

	<b><u>PAGE</u></b>
T2.1 List of Returnable Documents	C33
T2.2 Returnable Schedules	C34 -C68

**TENDER**

**T32**

**Part T1: Tendering Procedures**

**Tender Data**

# UMSOBOMVU LOCAL MUNICIPALITY

## UMS/TS/RDSM/02/2024

### T2.1 LIST OF RETURNABLE DOCUMENTS

Tenderers shall comply with the following requirements; failure to comply may or will lead to disqualification; 1 Returnable Schedules – Evaluation Documents

<b>Returnable Schedule</b>	<b>Description</b>	<b>Compliance Evaluation</b>	<b>Technical Evaluation</b>
RS0001	Authority of Signatory	√	
RS0002	Form of Acceptance and Declaration		
RS0003	Certificate for Attendance of Compulsory Briefing Session	√	
RS0004	Compulsory Enterprise Questionnaire	√	
RS0005	Tax Clearance Certificate Requirements	√	
RS0006	Declaration of Service Provider 's Past supply Chain Management Practices	√	
RS0007	Declaration of interest	√	
RS0008	Declaration for Procurement above R10 million (vat inc.)	√	
RS0009	Preference Points Claim Form in terms of the Preferential Procurement Regulations 2022	√	
RS0010	Preference Points Claimed Schedule	√	
RS0011	Contract Form - Rendering of Services	√	
RS0012	Contract Form - Rendering of Services	√	
RS0013	Declaration of Bidder's Past Supply Chain Management Practices	√	
RS0014	Certificate of Independent Tender Determination	√	
RS0015	Declaration in Terms of the Municipal Finance Management Act	√	
RS0016	Registration on National Treasury Central Supplier Database	√	
RS0017	Consultancy Services Provided to Organs of State	√	
RS0018	Workmen's Compensation Letter of Good Standing: Coid	√	
RS0019	Tenderer's b-bbee Verification Certificate	√	
RS0020	Bidders Track Record (Similar Projects)		√
RS0025	Expertise of Key Personnel		√
RS0031	Record of Addendum	√	
RS0032	Municipal Accounts	√	

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS.**

**RS0001: AUTHORITY OF SIGNATORY**

In the case of a tender being submitted on behalf of a Company, Close Corporation or Partnership, assurance shall be given at the time of submission of the tender that the tender has been signed by someone properly authorized thereto by virtue of the Articles of Association, or resolution of the Directors, Members or Partners, or other authority as applicable. Signatories shall confirm their authority by completing the form below and attaching a copy of the relevant authority duly signed and dated.

I, the undersigned, declare that I am duly authorized to sign the offer on the form of offer and acceptance on behalf of .....by virtue of the Articles of Association/Resolution of the Board of Directors\* or .....

.....

\* Delete whichever is not applicable, or if neither are applicable, indicate alternate authority.

**NAME:** .....

**CAPACITY:** .....

**SIGNATURE:** .....

**DATE:** .....

**WITNESSES:** 1. ....

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**RS0002 : FORM OF ACCEPTANCE AND DECLARATION**

The Municipal Manager  
Umsobomvu Local Municipality  
Private Bag X6  
COLESBERG  
9795

I/We ..... (To be completed)  
***(Representative or Company Name)***

The undersigned, having examined the Specification, hereby offer to supply the municipality with the requirements called for on the municipality’s Form of Tender and Specifications, “Form A” attached, in accordance with the conditions of this tender.

I/We further undertake that this offer shall not be retracted or withdrawn from the closing date of this tender up to the order date.

I/We further undertake, in the event of the acceptance of this tender, either wholly or in part, to enter into a formal contract, if required, and to provide one good and sufficient surety for the due fulfillment of the contract to the satisfaction of the municipality.

I/We also agree:

(a) that if the tender be accepted, the acceptance may be communicated to us by letter through the post and that in such case the Post Office shall be regarded as our agents and delivery of such acceptance to the Post Office shall be treated as delivery to us.

(b) The Municipality chooses as its “domicilium citandi et executandi” for the purpose of the contract, the following address:  
Umsobomvu Local Municipality  
Private Bag X6  
COLESBERG  
9795

the law of South Africa will govern the contract created by acceptance of our tender and we agree to submit to the jurisdiction of the South African Courts;

c) that if our tender be accepted by the Municipality either wholly or in part, and the acceptance be notified to us, we undertake to be bound by the term of the agreement constituted by our said tender and the acceptance thereof by the said Municipality, until a formal contract has been executed between us and the Municipality, and that if we are not required by the Municipality to execute such formal contract, we undertake to be bound by the terms of the agreement constituted by our said tender and the acceptance thereof by the said Municipality.

**TENDER**

**T35**



**I/WE ALSO DECLARE THAT:**

- 1) the information provided is true and correct;
- 2) the signatory to the tender document is duly authorized;
- 3) I/we are registered for Workman's Compensation and the valid original (or valid certified copy) of the workman's compensation commissioner's letter of good standing is attached. When applicable the option to submit an original or certified copy of the letter from the agent authorized by Workmen's Compensation Commissioner will be accepted  
In the case where it is not possible for a Service Provider to obtain the above letter of good standing from the workmen's compensation commissioner, an affidavit is to be submitted advising that the business has registered with the workmen's compensation commissioner.  
  
In the case where a business does not employ any employees an affidavit together with a letter from the workmen's compensation commissioner addressed to the business, confirming that registration is not required, must be submitted.
- 4) Documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the relevant organ of state;
- 5) the original valid tax clearance certificate is attached or the Pin Number has been submitted
- 6) My municipal rates and taxes are paid up to date and the following is attached:

**A. SERVICE PROVIDER IS LANDOWNER FOR PURPOSE OF CONDUCTING BUSINESS FROM ITS PREMISES**

A.1 In the case where the Service Provider owns the property from which the Service Provider's business operates from, an original or certified copy of the Service Provider's business most recent municipal account indicating the status of payment of all municipal rates and taxes i.e.

property rates, electricity, water, refuse & sewer from the municipality in which jurisdiction the said property is situated, must be submitted.

**NB:** Should there be **separate** tax invoices from the municipality for property rates and services (taxes), you are required to submit the most recent of each of these invoices

**OR**

**B. SERVICE PROVIDER IS THE TENANT FOR PURPOSE OF CONDUCTING ITS BUSINESS FROM PREMISES**

B.1 In the case where the Service Provider does not own property and is a tenant for the purpose of its business establishment, the Service Provider to provide an original or certified copy of a certificate from its landlord certifying that all the tenant's payments in respect of all municipal rates and taxes i.e. property rates, electricity, water, refuse & sewer are paid up to date, or

B.2 In the case where the Service Provider as tenant is responsible for its own municipal accounts with the Municipality then Service Provider must attach the letter from the landlord certifying the above together with all most recent relevant municipal invoices i.e. property rates, electricity, water refuse & sewer.

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**RS0003: : MUNICIPALITY CERTIFICATE FOR ATTENDANCE OF COMPULSORY BRIEFING SESSION**

Certificates for attendance of compulsory session will be issued by the Employer and emailed to each prospective bidder.

ATTACH SIGNED COPY OF THE COMPULSORY CLARIFICATION MEETING

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**RS0004: COMPULSORY ENTERPRISE QUESTIONNAIRE**

The following particulars must be furnished. In the case of a joint venture, **separate** enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of enterprise:** .....

**Physical address of enterprise:** .....  
.....  
.....

**Section 2: VAT registration number, if any:** .....

**Section 3: CIDB registration number, if any:** .....

**Section 4: Particulars of sole proprietors and partners in partnerships**

Name*	Identity number*	Personal income tax number*

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

**Section 5: Particulars of companies and close corporations**

Company registration number .....

Close corporation number .....

Tax reference number .....

**Section 6: Record of service of the state**

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- |  |   |
|--|---|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any provincial department, national or provincial department, public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity  |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province | <input type="checkbox"/> an employee of Parliament or a provincial legislature  |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            |   |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |   |

**If any of the above boxes are marked, disclose the following:**

Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		current	Within last 12 months

\*insert separate page if necessary

**Section 7: Record of spouses, children and parents in the service of the state**

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Province
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

If any of the above boxes are marked, disclose the following:

Name of spouse, child or parent	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary

The undersigned, who warrants that he/she is duly authorized to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the Tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

# **UMSOBOMVU LOCAL MUNICIPALITY**

**MBD 2**

## **RS0005: TAX CLEARANCE CERTIFICATE REQUIREMENTS**

**It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.**

1. In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za).
6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).

# UMSOBOMVU LOCAL MUNICIPALITY

**MBD 3.1**

## **RS0006 : DECLARATION OF SERVICE PROVIDER 'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

This Municipal Tendering Document must form part of all Tenders invited.

It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

The Tender of any Service Provider may be rejected if that Service Provider, or any of its directors have:

- Abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
- Been convicted for fraud or corruption during the past five years;
- Will fully neglected, reneged on or failed to comply with any government, municipal or other public sector Tender during the past five years; or
- Been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

In order to give effect to the above, the following questionnaire must be completed and submitted with the Tender.

Item	Question	Yes	N
4.1	Is the Service Provider or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector?  (Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).	Yes	N
4.1.1	If so, furnish particulars:		
4.2	<b>Is the Service Provider or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</b>  (To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a> , click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).	Yes	N
4.2.1	If so, furnish particulars:		
Item	Question	Yes	No

**TENDER**

**T41**

**Part T1: Tendering Procedures**

**Tender Data**

4.3	Was the Service Provider or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<b>Does the Service Provider or any of its directors owe any municipal rates and taxes or municipal charges to the MUNICIPALITY / municipal entity, or to any other MUNICIPALITY / municipal entity, that is in arrears for more than three months?</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any Tender between the Service Provider and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the Tender?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

### CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) .....CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A TENDER, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of Service Provider

# UMSOBOMVU LOCAL MUNICIPALITY

**MBD 4**

## RS0007: DECLARATION OF INTEREST

1.	No bid will be accepted from persons in the service of the state*.	
2.	Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in the service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.	
<b>3.</b>	<b>In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.</b>	
3.1	Full Name of bidder or his / her representative: .....	
3.2	Identity number: .....	
3.3	Position occupied in the Company (director, trustee, shareholder <sup>2</sup> ): .....	
3.4	Company Registration Number: .....	
3.5	Tax Reference Number: .....	
3.6	VAT Registration Number: .....	
3.7	The names of all directors / trustees / shareholders / members, their individual identity numbers and state employee numbers (where applicable) must be indicated in paragraph 4 below.	
3.8	Are you presently in the service of the state?*	<b>YES / NO</b>
3.8.1	If yes, furnish the following particulars:  Name of person / director / trustee / shareholder member: .....  Name of state institution at which you or the person connected to the bidder is employed: .....  Position occupied in the state institution: .....  Any other particulars: ..... .....	



<p>3.9</p> <p>3.9.1</p>	<p>Have you been in the service of the state for the past twelve months?</p> <p>If so, furnish particulars.</p> <p>.....</p> <p>.....</p>	<p><b>YES / NO</b></p>
<p>3.10</p> <p>3.10.1</p>	<p>Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?</p> <p>If yes, furnish the following particulars:</p> <p>Name of person: .....</p> <p>Name of state institution at which you or the person connected to the bidder is employed:</p> <p>.....</p> <p>Position occupied in the state institution:</p> <p>.....</p> <p>Any other particulars: .....</p> <p>.....</p>	<p><b>YES / NO</b></p>
<p>3.11</p> <p>3.11.1</p>	<p>Are you aware of any relationship (family, friend, other) between the bidder and any person in the service of the state who may be involved with the evaluation and or adjudication of this bid?</p> <p>If yes, furnish the following particulars:</p> <p>Name of person: .....</p> <p>Name of state institution at which you or the person connected to the bidder is employed:</p> <p>.....</p> <p>Position occupied in the state institution: .....</p> <p>Any other particulars: .....</p> <p>.....</p>	<p><b>YES / NO</b></p>

<p>3.12</p> <p>3.12.1</p>	<p>Are any of the company's directors, managers, principal shareholders or stakeholders in the service of the state?</p> <p>If yes, furnish the following particulars:</p> <p>Name of person / director / trustee / shareholder / member:</p> <p>.....</p>	<p><b>YES / NO</b></p>
	<p>Name of state institution at which you or the person connected to the bidder is employed:</p> <p>.....</p> <p>Position occupied in the state institution: .....</p> <p>Any other particulars: .....</p> <p>.....</p>	
<p>3.13</p> <p>3.13.1</p>	<p>Is any spouse, child or parent of the company's directors, trustees, managers, principle shareholders or stakeholders in the service of the state?</p> <p>If yes, furnish the following particulars:</p> <p>Name of person / director / trustee / shareholder / member:</p> <p>.....</p> <p>Name of state institution at which you or the person connected to the bidder is employed:</p> <p>.....</p> <p>Position occupied in the state institution: .....</p> <p>Any other particulars: .....</p> <p>.....</p>	<p><b>YES / NO</b></p>
<p>3.14</p> <p>3.14.1</p>	<p>Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?</p> <p>If yes, furnish particulars:</p> <p>.....</p> <p>.....</p>	<p><b>YES / NO</b></p>

4. Full details of directors / trustees / members / shareholders:			
<b>THE FOLLOWING INFORMATION IS <u>COMPULSORY</u> TO COMPLETE:</b>			
Full Name	Identity Number	Individual Tax Number for each Director	State Employee Number (where applicable)
5.	The contract will be automatically cancelled if there is a conflict of interest which is not disclosed by the bidder.		

.....  
Signature

.....  
Date

.....  
Capacity

.....  
Name of Bidder

**RS0008: DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (VAT INC.)**

For all procurement expected to exceed R10 million (all applicable taxes included), bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing? **\*YES/NO**

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

.....  
.....

2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days? **\*YES/NO**

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.

.....  
.....  
\* Delete if not applicable

3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract? **\*YES/NO**

3.1 If yes, furnish particulars

.....  
.....

Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be expected to be transferred out of the Republic?

**\*YES / NO**

If yes, furnish particulars

.....  
.....

**CERTIFICATION**

**I, THE UNDERSIGNED (NAME)**

.....  
**CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT. I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....  
**Signature**

.....  
**Date**

**RS0009: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

**1.2 To be completed by the organ of state**

- a) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and  
(b) Specific Goals.

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	<b>POINTS</b>	<b>POINTS</b>
<b>PRICE</b>	80	90
<b>SPECIFIC GOALS</b>	20	10
<b>TOTAL POINTS</b>	<b>100</b>	<b>100</b>

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim regarding preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

“Historically Disadvantaged Individual” (HDI) is defined as a South African citizen

- 1) who, due to the apartheid policy that was in place, had no voting rights in the national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 100 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (“the interim Constitution”), and/or
- 2) who is a woman, and/or
- 3) who has a disability with the understanding that any person who received South African citizenship on or before the introduction of the interim Constitution, will not be deemed to be HDI.
  - (a) “tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
  - (b) “price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
  - (c) “rand value” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
  - (d) “tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
  - (e) “the Act” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

**80/20**

**or**

**90/10**

$$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right) \quad \text{or} \quad Ps = 90 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

#### 4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Umsobomvu Local Municipality Preferential Procurement Policy, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system, then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below. (Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.**

**Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)**

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be allocated by the municipality)	Number of points claimed (80/20 system) (To be completed by the tender)
Youth-Enterprise 18-35	4	
Women-Equity Ownership	4	
Disability-Equity Ownership	2	
HDI	10	
<b>Total Points : Specific Goals</b>	<b>20</b>	

#### DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number: .....

#### 4.5. TYPE OF COMPANY/ FIRM: [TICK APPLICABLE BOX]

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company



4.6. I, the undersigned, who is duly authorized to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded because of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses, or damages it has incurred or suffered because of that person's conduct.
  - (c) cancel the contract and claim any damages which it has suffered because of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders, and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

..... <b>SIGNATURE(S) OF TENDERER(S)</b>
<b>DATE</b> .....
<b>ADDRESS:</b> .....

WITNESSES
1.....
2. ....

# UMSOBOMVU LOCAL MUNICIPALITY

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

## **RS00010: SPECIFIC GOAL POINTS CLAIMED SCHEDULE**

The tenderer is referred to clause F.2.1.7 of the Tender Data and shall state below details of Broad-Based Black Economic Empowerment Status Level. Broad-Based Black Economic Empowerment Status Level Certificates must be appended to this schedule.

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points for Specific Goals (80/20 system)</b>	<b>SPECIFIC GOALS POINTS CLAIMED</b>
1	10	
2	9	
3	8	
4	5	
5	4	
6	3	
7	2	
8	1	
Non-compliant contributor	0	

Signed.....

Date.....

Name.....Position.....

**TENDER**

**T53**

**Part T1: Tendering Procedures**

**Tender Data**

**UMSOBOMVU LOCAL MUNICIPALITY**

**MBD 7.2**

**RS00011 : CONTRACT FORM - RENDERING OF SERVICES**

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

**PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)**

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
  
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Proof of tax compliance status;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
    - Declaration of interest;
    - Declaration of Bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
  
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
  
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
  
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
  
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

WITNESSES	
1	.....
2	.....
DATE .....	

**TENDER**

**T54**

**UMSOBOMVU LOCAL MUNICIPALITY**

**MBD 7.2**

**RS0012: CONTRACT FORM - RENDERING OF SERVICES**

**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as..... accept your bid under reference number .....dated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOR EACH SPECIFIC GOAL

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ..... ON .....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1 .....

2 .....

DATE: .....

**TENDER**

**T55**

**RS0013: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
  - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2015).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
4.1	<p><b>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</b>  <b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b></p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p><b>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2015)?</b>  <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
4.3	<p><b>Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		

4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

**UMSOBOMVU LOCAL MUNICIPALITY**

**MBD 9**

**BID NO: UMS/TS/RDSM/02/2024**

**RS0014: CERTIFICATE OF INDEPENDENT TENDER DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)  
in response to the invitation for the bid made by:

---

(Name of MUNICIPALITY / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_  
that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**RS0015: DECLARATION IN TERMS OF THE MUNICIPAL FINANCE MANAGEMENT ACT**

Item	Question	Yes	No
1.1	Is the tenderer or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the audi alteram partem rule was applied).</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.1.1	If so, furnish particulars:		
1.2	Is the tenderer or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>(To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (0)12 3265445).</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.2.1	If so, furnish particulars:		
1.3	Was the tenderer or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.3.1	If so, furnish particulars:		
1.4	Does the tenderer or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.4.1	If so, furnish particulars:		
1.5	Was any contract between the tenderer and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.5.1	If so, furnish particulars:		

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME) .....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of Tenderer**

**TENDER**

**T59**

**Part T1: Tendering Procedures**

**Tender Data**



**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**RS0016: REGISTRATION ON NATIONAL TREASURY CENTRAL SUPPLIER DATABASE**

The tenderer shall provide a printed copy of the Active Supplier Listing on the National Treasury Central Supplier Database. ([www.treasury.gov.za](http://www.treasury.gov.za)). Tenderers who are not registered on the Central Supplier Database should attach proof of their application for registration (refer to Tender Data Clause F.2.1.1). In the case of a Joint Venture, a printed copy of the Active Supplier Listing must be provided for each member of the Joint Venture.

Name of Contractor:  
.....

Central Supplier Database Supplier Number:  
.....

# UMSOBOMVU LOCAL MUNICIPALITY

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

## **RS0017: CONSULTANCY SERVICES PROVIDED TO ORGANS OF STATE**

The tenderer shall indicate on the schedule below particulars of all consultancy services provided to organs of state by all offices country wide in the last five years. Tenderers shall also indicate, by means of a cross (x) in the last column, which, if any, of the services listed are of a similar nature, to those being tendered for in terms of this tender.

Where the entity tendering is a joint venture, the particulars of services provided to organs of state by each party to the joint venture, must be submitted as part of this schedule (additional pages may be added if necessary).

<b>CONSULTANCY SERVICES PROVIDED TO ORGANS OF STATE</b>				
<b>TITLE OF PROJECT</b>	<b>VALUE OF CONTRACT</b>	<b>EMPLOYER</b>	<b>DATE COMPLETED</b>	<b>SIMILAR SERVICE</b>

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**RS0018: CERTIFICATE OF AUTHORITY FOR SIGNATORY TO AGREEMENT IN TERMS OF OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO 85 OF 1993)**

The signatory for the company that is the Contractor in terms of the above-mentioned Contract and the Mandatary in terms of the above-mentioned Act shall confirm his or her authority thereto by attaching to this page a duly signed and dated copy of the relevant resolution of the Board of Directors.

An example is given below:

"By resolution of the Board of Directors passed at a meeting held on ..... 20 ..... ,  
Mr/Ms ..... whose signature  
appears below, has been duly authorised to sign the AGREEMENT in terms of THE OCCUPATIONAL  
HEALTH AND SAFETY ACT, 1993 (ACT NO 85 OF 1993) on behalf of .....

SIGNED ON BEHALF OF THE COMPANY : .....

IN HIS/HER CAPACITY AS : .....

DATE : .....

SIGNATURE OF SIGNATORY : .....

WITNESS 1 .....

NAME (IN CAPITALS) 1 ..... 2 .....

# UMSOBOMVU LOCAL MUNICIPALITY

## **BID NO: UMS/TS/RDSM/02/2024**

### **APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

#### **RS0019: 1: TENDERER'S B-BBEE VERIFICATION CERTIFICATE**

Notes to tenderer:

1. The tenderer shall attach to this form a valid original or original certified copy of the BBEE verification certificate issued in accordance with the Construction Sector Codes of Practice promulgated in Gazette 32305 on 5 June 2009 (see F.3.11.8 of the tender data) subject to such certificate having been issued before 17 February 2016, alternatively submit the B-BBEE verification certificate issued in accordance with the revised Notice of Clarification published in Notice 444 of 2015 of Government Gazette No.38799 on 15 May 2015 by the Department of Trade and Industry.
2. In the event of a joint venture (JV), a consolidated B-BBEE verification certificate in the name of the JV shall be attached.
3. The attached verification certificate and the associated assessment report shall identify:
  - (a) The name and domicilium citandi et executandi of the tenderer.
  - (b) The registration and VAT number of the tenderer.
  - (c) The dates of granting of the B-BBEE score and the period of validity.
  - (d) The expiry date of the verification certificate.
  - (e) A unique identification number.
  - (f) The standard and/or normative document, including the issue and/or revision used to evaluate the tenderer.
  - (g) The name and/or mark/logo of the B-BBEE verification agency or registered auditor.
  - (h) The category (Generic, QSE, Exempt) in which the tenderer has been measured.
  - (i) The B-BBEE status level.
  - (j) The South African National Accreditation System (SANAS) or Independent Regulatory Board of Auditors (IRBA) logo on the verification certificate once verification agencies have been accredited.
  - (k) The B-BBEE procurement recognition level.
  - (l) The score achieved per B-BBEE element.
  - (m) The % black shareholding.
  - (n) The % black women shareholding.
  - (o) The % black persons with disabilities
  - (p) The value added status of the tenderer.
4. The Employer will not be responsible to acquire data that it needs for its own reporting systems and which may not form part of a verification agency's standard certificate format

The tenderer, at its own cost, must acquire any missing specified data listed in 3 above from its selected verification agency or registered auditor and have it recorded on the certificate. Alternatively, such missing data must be supplied separately, but certified as correct by the same verification agency or registered auditor and also attached to this form. Failure to abide by this requirement will result in such tenderer scoring zero preference.

# UMSOBOMVU LOCAL MUNICIPALITY

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

## **RS0020 : : BIDDERS TRACK RECORD (SIMILAR PROJECTS)**

The tenderer shall indicate on the schedule below all relevant projects (the analysis and design of new and remedial works) that have been successfully completed in the past five years, or that are underway at present.

Where the entity tendering is a joint venture, the track record of each party to the joint venture must be submitted as part of this schedule (additional pages may be added if necessary). A score for each will be combined in proportion to the percentage contribution of each party to the joint venture.

<b>BIDDERS TRACK RECORD</b>			
<b>TITLE AND BRIEF DESCRIPTION OF PROJECT</b>	<b>VALUE OF CONTRACT</b>	<b>EMPLOYER (Contact Details)</b>	<b>DATE COMPLETED</b>

# UMSOBOMVU LOCAL MUNICIPALITY

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

## **RS0021 : : BIDDERS RESOURCES**

The tenderer shall indicate on the schedule below all relevant projects (the analysis and design of new and remedial works) that have been successfully completed in the past five years, or that are underway at present.

Where the entity tendering is a joint venture, the track record of each party to the joint venture must be submitted as part of this schedule (additional pages may be added if necessary). A score for each will be combined in proportion to the percentage contribution of each party to the joint venture.

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>OWNED</b>	<b>TO BE HIRED</b>

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**RS0023: RECORD OF ADDENDA TO TENDER DOCUMENTS**

We confirm that the following Communications/Addenda/Notice(s) to tenderers received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

ADDENDUM No	DATE	SUBJECT MATTER OF ADDENDUM / NOTICE

SIGNED BY TENDERER: .....

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**RS0024: MUNICIPAL ACCOUNTS**

PAGEE CAS	TO WHICH ANY OF THE FOLLOWING MUST BE ATTACHED IN THE E WHERE:	<input type="checkbox"/>
<b>A.</b>	<b>TENDERER AS LANDOWNER FOR PURPOSE OF CONDUCTING BUSINESS FROM PREMISES</b>	
	<u>A.1</u> In the case where the tenderer owns the property from which the tenderer's business operates from, an original or certified copy of the tenderer's business (not older than months) indicating the status of payment of all municipal rates and taxes i.e. property rates, electricity, water, refuse & sewer from the MUNICIPALITY in which jurisdiction the said property is situated, must be submitted.	<input type="checkbox"/>
	OR	
	<u>A.2</u> In the instance where the tender occupies Tribal land an original/certified affidavit from commissioner of oath, confirming that the tenderer is residing in the area where no municipal account is billed. If the property rates, electricity, water, refuse is charged by the MUNICIPALITY, the original or certified copy of the statement not older than three (3) months in the name of the service provider or any of its directors must be attached.	
NB:	Should there be separate tax invoices from the MUNICIPALITY for property rates and services (taxes), you are required to submit the most recent of each of these invoices.	<input type="checkbox"/>
	OR	



**B. TENDERER IS THE TENANT FOR PURPOSE OF CONDUCTING ITS BUSINESS FROM PREMISES**

B.1 In the case where the tenderer does not own property and is a tenant for the purpose of its business establishment, the tenderer to provide an original or certified copy of a certificate from its landlord certifying that all the tenants payments in respect of all municipal rates and taxes i.e. property rates, electricity, water, refuse & sewer are paid up to date, or.

B.2 In the case where the tenderer as tenant is responsible for its own municipal accounts with the municipality then tenderer to provide an original or certified copy letter from the landlord certifying the above together with all most recent relevant municipal invoices i.e. property rates, electricity, water refuse & sewer.

B.3 In the case where the tenderer operates in the property owned by relative and does not pay rent or rate an affidavit from the relative confirming such must be attached

B.4 In case where the potential service provider is under incubation programme an original or certified copy of the letter from the incubator confirming that the service provider is using their facilities (property). The incubator is to provide their original or certified copy of rates account or letter from the landlord.

# UMSOBOMVU LOCAL MUNICIPALITY

## APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

### C2.1 PRICING INSTRUCTIONS

#### 1. GENERAL

The Schedule of Quantities forms part of the Contract Documents and must be read and priced in conjunction with all the other documents comprising the Contract Documents, which include the Conditions of Tender, Conditions of Contract, the Specifications.

2. For the purposes of this Schedule of Quantities, the following words shall have the meanings hereby assigned to them:

Unit: The unit of measurement for each item of work as defined in the specifications.

Quantity: The number of units of work for each item.

Rate: The payment per unit of measurement at which the Tenderer tenders to do the work.

Amount: The product of the quantity and the rate tendered for an item.

Lump Sum: An amount tendered for an item, the extent of which is described in the Schedule of Quantities, the specifications or elsewhere but the quantity of work of which is not measured in any units.

#### 3. QUANTITIES REFLECTED IN THE SCHEDULE

The quantities given in the Schedule of Quantities are estimates only, and are subject to re-measure during the execution of the work. The quantities finally accepted and certified for payment, and not the quantities given in the Schedule of Quantities, shall be used to determine payments to the Contractor. The Contractor shall obtain the Employer's Agent's detailed instructions for all work before ordering any materials or executing work or making arrangements for it. The quantities of material or work stated in the Schedule of Quantities shall not be regarded as authorisation for the Contractor to order material or to execute work.

The validity of the contract will in no way be affected by differences between the quantities in the Schedule of Quantities and the quantities finally certified for payment.

#### **4. PROVISIONAL SUMS**

Where Provisional sums or Prime Cost sums are provided for items in the Schedule of Quantities, payment for the work done under such items will be made in accordance with Clause 6.6 of the General Conditions of Contract 2015. The Employer reserves the right, during the execution of the works, to adjust the stated amounts upwards or downwards according to the work actually done under the item, or the item may be omitted altogether, without affecting the validity of the Contract.

The Tenderer shall not under any circumstances whatsoever delete or amend any of the sums inserted by the Employer in the "Amount" column of the Schedule of Quantities and in the Summary of the Schedule of Quantities unless so ordered or authorised in writing by the Employer before closure of tenders. Any unauthorised changes made by the Tenderer to provisional items in the schedule, or to the provisional percentages and sums in the Summary of the Schedule of Quantities, at the Employer's discretion, may invalidate the Tenderer's offer or may be treated as arithmetical errors and the provisional items and percentages corrected without change to the Contract Sum.

#### **5. PRICING OF THE SCHEDULE OF QUANTITIES**

The prices and rates to be inserted by the Tenderer in the Schedule of Quantities shall be the full inclusive prices to be paid by the Employer for the work described under the several items, and shall include full compensation for all costs and expenses that may be required in and for the completion and maintenance during the defects liability period of all the work described and as shown on the drawings as well as all overheads, profits, incidentals and the cost of all general risks, liabilities and obligations set forth or implied in the documents on which the Tender is based. The rates and lump sums shall be comprehensive in accordance with subclause 1209(b) of the COLTO Standard Specifications for Road and Bridge Works for State Road Authorities (1998 edition).

Each item shall be priced and extended to the "Amount" column by the Tenderer, with the exception of the items for which only rates are required, or items which already have Prime Cost or Provisional Sums affixed thereto. If the Tenderer omits to price any items in the Schedule of Quantities, then these items will be considered to have a nil rate or price.

All items for which terminology such as "inclusive" or "not applicable" have been added by the Tenderer will be regarded as having a nil rate which shall be valid irrespective of any change in quantities during the execution of the Contract.

Should the Tenderer group a number of items together and tender one lump sum for such group of items, this single lump sum shall apply to that group of items and not to each individual item.

The tendered lump sums and rates shall be valid irrespective of any change in the quantities during the execution of the contract.

The Tenderer shall fill in rates for all items where the words "rate only" appear in the "Amount" column. The provisions of subclause 1209(f) of the COLTO Standard Specifications shall apply in rate only items. "Rate Only" items have been included where:

For "Rate Only" items, no quantities are given in the "Quantity" column but the quoted rate shall apply in the event of work under this item being required. The Tenderer shall, however, note that in terms of the Tender Data the Tenderer may be asked to reconsider any such rates which the Employer may regard as unbalanced.

Reasonable compensation will be received where no payment item appears in respect of work required in terms of the Contract which is not covered in any other pay item.

All rates and amounts quoted in the Schedule of Quantities shall be in Rands and cents and shall include all levies and taxes (other than VAT). VAT will be added in the summary of the Schedule of Quantities. Note that fractions of a cent in all rates shall be omitted.

## 6. CORRECTION OF ENTRIES

Incorrect entries shall not be erased or obliterated with correction fluid but must be crossed out neatly. The correct figures must be entered above or adjacent to the deleted entry, and the alteration must be initialled by the Tenderer.

## 9. UNITS OF MEASUREMENT

The units of measurement described in the Schedule of Quantities are metric units. The following abbreviations are used in the Schedule of Quantities:

mm	= millimetre	m <sup>3</sup> -km	= cubic metre-kilometre	Prov sum	= provisional sum
m	= metre	l	= litre	kPa	= kilopascal
km	= kilometre	kl	= kilolitre	MPa	= megapascal
km-pass	= kilometre-pass	kg	= kilogram	MN	= meganewton
m <sup>2</sup>	= square metre	t	= ton (1 000 kg)	t-km	= ton-kilometre
m <sup>2</sup> -pass	= square metre-pass	No	= number	h	= hour
ha	= hectare	%	= percent	dia	= diameter
m <sup>3</sup>	= cubic metre	PC sum	= prime cost sum	Sum	= lump sum
kW	= kilowatt	MN-m	= meganewton-metre		

## **1. TENDERED RATES BASED ON LEGISLATION**

The tendered rates and amounts included in the bills of quantities are to be based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders.

The Pricing Schedules list all items that are required under this contract and suppliers are required to complete the pricing schedule contained in the pricing instruction to evaluate service providers on price.

The suppliers shall provide prices (Vat Inclusive) for items listed in the table. Prices must remain firm for a 12-month period and thereafter, will be subject to PPI escalation, on the anniversary of the contract.

# UMSOBOMVU LOCAL MUNICIPALITY

## APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

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The suppliers shall provide prices (Vat Inclusive) for items listed in the table. Prices must remain firm for a 12-month period and thereafter, will be subject to CPI escalation, on the anniversary of the contract.



**NOTE:**

- **BIDDERS DO NOT HAVE TO PRICE THE BOQ BELOW, THIS IS AN INDICATION FOR TYPE OF MATERIALS THAT THE MUNICIPALITY WILL NEED FOR MAINTENANCE OF ROADS & STORMWATER INFRASTRUCTURE.**
- **SUCCESSFUL BIDDERS WILL BE ISSUED WITH “RFQ” ON SPECIFIC REQUIRED ITEMS THAT ARE LISTED AND ANY ANOTHER ITEMS RELATED TO ROADS AND MATERIAL SERVICES THAT ARE NOT LISTED, THAT MAY BE REQUIRED FROM TIME TO TIME BY THE MUNICIPALITY.**

# UMSOBOMVU LOCAL MUNICIPALITY

**APPOINTMENT FOR A PANEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

## **BILL OF QUANTITIES**

ITEM	DESCRIPTION	UNITS	QUANTITY
	<b>ROAD MAINTENANCE MATERIAL</b>		
1	200 Litre drum road SS60 Anionic Stable Grade mix	200 L drum	1
2	200 Litre drum road SS65 Cationic Stable Grade mix	200 L drum	1
3	Coldmix Asphalt in 25Kg bag (All weather)	Bag	1
4	42,5Mpa Cement (50Kg)	Bag	1
5	19mm Crushed Stones	ton	1
6	6,7mm Crushed Stones	ton	1
7	Crusher dust	ton	1
8	60mm interlocking Paving Blocks	m <sup>2</sup>	1

## UMSOBOMVU LOCAL MUNICIPALITY

### BILL OF QUANTITIES:

ITEM	DESCRIPTION	UNITS	QUANTITY
	<b>VEHICLE TYRES</b>		
9	20.5 R25, TL5385 diamond black.		1
10	16.9 - 28 Sitemaster, Tube Type, 12 PLY Rating		1
11	12.5/80 - 18 R4, Apollo: AIT 426 Tubeless Nylon		1
12	11R22.5, Goodride CR976A		1
13	17.5 - 28, evergold L-4		1
14	245/70 R16 c, Dunlop		1
15	9.00 - 20, Triangle, 14PR, 141/37J 112PSI TR133		1

## UMSOBOMVU LOCAL MUNICIPALITY

### BILL OF QUANTITIES:

ITEM	DESCRIPTION	UNITS	QUANTITY
16	315/80 R22.5, Bridgestone R227		1
17	295/80 R22.5, Bridgestone M840		1
18	188/65 R15 92T		1
19	195R14c		1
20	185/06 R15 84H		1
21	205R16c		1
22	215/70 R16c		1
23	205/70 R15c		1
24	185/65 R15		1
25	155/80 R13		1
26	175/65 R14		1

**UMSOBOMVU LOCAL MUNICIPALITY**

**BILL OF QUANTITIES:**

ITEM	DESCRIPTION	UNITS	QUANTITY
	<b>VEHICLE LUBRICANTS</b>		
27	210L of hydraulic oil	drum	1
28	Hand cleaner	5kg	1
29	Multipurpose grease	5kg	1
30	80W90 Oil, 210L drum	5kg	1
31	15W40 Oil, 210L drum	5kg	1
32	Dot 4 brake fluid, 210L drum	5kg	1

ITEM	DESCRIPTION	UNITS	QUANTITY
	<b>SERVICE AND MAINTENANCE OF HEAVY MACHINERY</b>		
1	Grader	No.	1
2	TLB	No.	1
3	Front End Loader	No.	1
4	Dozer	No.	1
5	Roller	No.	1
	Cherry Picker		
	Tipper Truck	No.	1
	Refuse Trucks		

# UMSOBOMVU LOCAL MUNICIPALITY

## APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS

### SCOPE OF WORK AND SPECIAL CONDITIONS:

#### 1. SCOPE OF WORKS

Employer's objectives to ensure an uninterrupted supply of Roads and stormwater maintenance material, as and when required for a period of 36 Month.

#### 2. DESCRIPTION OF SUPPLIES:

Supply, delivery and offloading of roads maintenance material. The preferred method of product supply for this contract is on a call down approach. Requirements will be "called off" against the **contract on an "as and when required" basis during the contract period**. Actual required quantities will be ordered by means of purchase orders. On receipt of our purchase order, the delivery process is to commence.

Extent of the supplies Strategic Stockholding Requirements The quantities listed on the pricing schedule are estimates but should not be considered as binding. The successful supplier is required to hold stock of raw material, equivalent to a single month supply, based on average usage of product by the municipality, at his premises and costs. The uMsobomvu Local Municipality reserves the right to audit the stock holding of the raw material at the successful supplier's premises, at any time during the contractual period. Should this ever drop to a level below one month of stock, the uMsobomvu Local Municipality is to be immediately notified.

Should the contractor for whatever reason be unable to supply one or more of the products, then the contractor would first be expected to purchase equivalent product from other manufacturers and to supply such to the uMsobomvu Local Municipality, at the contracted prices. Alternatively, it is accepted that the uMsobomvu Local Municipality reserves the right to purchase a similar product from alternative sources and to recover the difference in price paid from the contractor.

### **3. Time of Delivery**

Delivery must include the offloading and storage to Municipal Workshop in Colesberg.

Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in the contract.

Deliveries to reach the municipal during normal working hours between the hours of 07h30 and 16h30, unless otherwise agreed to by the end user Municipal department, and formal delivery notes to be signed by both parties for each delivery.

The delivery lead-time from the date of receipt of the order shall be no more than five working days.

### **4. Payment**

The method and conditions of payment to be made to the supplier under this contract shall be specified.

The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier. Payment will be made in Rand unless otherwise stipulated.

### **5. Penalty on late delivery**

Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until

### **6. Bonds and guarantees**

The supplier warrants or guarantees (which applicable to be indicated) that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship. or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

This warranty or guarantee (which applicable to be indicated) shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier.

The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty / guarantee. Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## 7. Insurance provided by the employer/supplier

Public Liability Cover to the value of R10million per incidence is required for this contract.

## 8. Health and Safety Requirements

### General

In addition to Subclause 5.7 of SANS 1200 A (5.4 of SANS 1200 AA; 5.8 of SANS 1200 AD; 5.3 of SANS 1200 AH), the service provider shall comply with the Occupational Health and Safety Act (Act No. 85 of 1993) (OHS Act) and in particular its Construction Regulations, 2014.

## 9. Service Providers must also take note that:

- Container Equipment of any receptacles and/or vessels for material supplied such as tankers, bakkies, trucks or drums.
- Must be delivered in Leak Proof/undamaged condition.
- Any leaking/damaged containers to be immediately removed and replaced after notification to the supplier by the Employer.
- All costs incurred resulting from leaking containers will be for the successful supplier's account.

## 10. Handling of Hazardous Chemical Substances.

Compliance with Legislation:

The Successful Supplier must act strictly in compliance with the Occupational Health and Safety Act 85 of 1993 and specifically with Regulation 7 of the General Administrative Regulations of the Occupational Health and Safety Act 85 of 1993.

Subject to provisions of Section 10 (3) and (4) of the Act, every person/supplier who manufactures, imports, sells or supplies any hazardous chemical substance for use at work shall as far as reasonably practicably provide the party receiving such substance, free of charge with a material safety data sheet containing all the information with regard to:

- a) Product and company identification;
- b) Composition /information or ingredient;
- c) Hazard's identification;
- d) Handling and storage
- e) Exposure control /personal protection
- f) Physical and chemical properties
  - g) Disposal consideration
  - h) Transport information
  - i) Other information.

Subject to the provisions of section 11 (1)(2)(3) of the Hazardous Chemical Substances Regulations of the Occupational Health & Safety Act 85 of 1993, all contractors must ensure that the exposure of an employee is adequately controlled.



**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

**PART C1: AGREEMENT AND CONTRACT DATA**

(i) **PART C1: AGREEMENTS AND CONTRACT DATA**

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**TABLE OF CONTENTS**

	<b>Page</b>
C1.1 Form of Offer and Acceptance	C2
C1.2 Contract Data	C7
C1.3 Conditions of Contract	C12
C1.4 Contractual Documentation	C24

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**C1.1 FORM OF OFFER AND ACCEPTANCE**

**OFFER**

The Employer, identified in the Acceptance signature block, has solicited offers to enter a contract for the procurement of **APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

The Tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this Form of Offer and Acceptance the Tenderer offers to perform all of the obligations and liabilities of the Service Provider under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the Contract Data.

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VAT IS:**

(in words).....

.....Rands;

(in figures) R.....

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document to the Tenderer before the end of the period of validity stated in the Tender Data, whereupon the Tenderer becomes the party named as the Contractor in the Conditions of Contract identified in the Contract Data.

Signature(s) .....

Name(s) .....

Capacity .....

**For the Tenderer:**

*(Insert name and address of organization)*.....

Name & Signature of Witness .....

Date.....

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS FORM B: ACCEPTANCE.**

By signing this part of the Form of Offer and Acceptance, the Employer identified below accepts the Tenderer’s Offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the Conditions of Contract identified in the Contract Data. Acceptance of the Tenderer’s Offer shall form an agreement between the Employer and the Tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

The terms of the contract are contained in:

- C.1 Agreement, and Contract Data, (which include this Agreement)
- C.2 Pricing Data, including the Bill of Quantities
- C.3 Scope of Work.

and the schedules, forms, drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the Tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Agreement. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be duly signed by the authorized representatives of both parties.

The Tenderer shall within two weeks after receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contact the Employer’s agent (whose details are given in the Contract Data) to arrange the delivery of any other bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein and unless agreed mutually elsewhere in writing between the Employer and the Tenderer, this agreement comes into effect on the earliest of: (a) Two weeks following the date on which the Tenderer acknowledges the receipt of a formal letter awarding the contract; (b) the date when the Tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the Tenderer (now contractor) within five working days of the date of receipt of either the letter from the Employer alluded to in (a) or the document alluded to in (b) above notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties, effective from the date of signature below by the Employer.

**Signature:** *(of person authorized to sign the acceptance)*.....

**Name:** *(of signatory in capitals)* .....

**Capacity:** *(of Signatory)* .....

**Name of Employer:** *(organization)* Umsobomvu Local Municipality

**Address:** 21A Church Streett, Colesberg, 9795

**AS WITNESS**

**Signature:** ..... **Name:** *(in capitals)* .....

**Date:**.....

**UMSOBOMVU LOCAL MUNICIPALITY**

**BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX (6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS.**

**FORM B: ACCEPTANCE.**

**(ii) FORM C: SCHEDULE OF DEVIATIONS**

The extent of deviations from the tender documents issued by Umsobomvu Local Municipality prior to the tender closing date is limited to those permitted in terms of the Tender Data and the Conditions of Tender.

A Tenderer’s covering letter will not necessarily be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.

Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.

Any change or addition to the tender documents arising from the above agreements and recorded here shall also be incorporated into the final draft of the Contract.

- 1. **Subject:**.....  
**Details:** .....  
.....
- 2. **Subject:**.....  
**Details:** .....  
.....
- 3. **Subject:**.....  
**Details:** .....  
.....
- 4. **Subject:**.....  
**Details:** .....

By the duly authorized representatives signing this Schedule of Deviations, Umsobomvu Local Municipality and the Tenderer agree to and accept the foregoing Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, as well as any confirmation, clarification or change to the terms of the offer agreed by the Tenderer and Umsobomvu Local Municipality during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the Tenderer of a completed

signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this Agreement.

**FOR THE TENDERER:**

Signature: .....

Name: .....

Capacity: .....

Tenderer: *(Name and address of organization)* .....

Witness:

Signature: .....

Name: .....

Date: .....

**FOR UMSOBOMVU LOCAL MUNICIPALITY**

Signature: .....

Name: .....

Capacity: .....

**Witness:**

Signature: .....

Name: .....

Date: .....

By signing this part of this form of offer and acceptance, the municipality identified below accepts the tenderers offer. In consideration thereof, the municipality shall pay the Tender or the amount due. Acceptance of the tenderers offer shall form an agreement between the municipality and the tenderer upon the terms and conditions contained in this Tender that is the subject of this agreement.

# UMSOBOMVU LOCAL MUNICIPALITY

## **BID NO: UMS/TS/RDSM/02/2024**

**APPOINTMENT FOR A PANEL OF SIX(6) SERVICE PROVIDERS FOR SUPPLY AND DELIVERY OF ROADS & STORMWATER MATERIALS AS AND WHEN REQUIRED FOR A PERIOD OF 36 MONTHS**

### **FORM B: ACCEPTANCE.**

#### **C1.2 Contract Data**

#### **CONDITIONS OF CONTRACT**

**The Conditions of Contract are the Standard Professional Services Contract (July 2009)** published by the Construction Industry Development Board, together with the municipality's Special Conditions of Contract.

#### **1. DEFINITIONS**

In the Contract, the following words and expressions shall have the meanings indicated, except where the context otherwise requires. Defined terms and words are signified in the text of the Contract by the use of capital initial letters.

#### **1.2 Health and Safety Agent**

*The Service Provider appointed in terms of the Occupational Health and Safety Act No. 85 of 1993, including the relevant Regulations.*

#### **1.3 Black People**

Black people has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

#### **1.4 Construction monitoring/supervision**

*The process of managing and coordinating the Works Contract and over-seeing and/or inspecting the Works in accordance with the Employer's requirements.*

#### **1.5 Consulting Engineering Firm**

*It must be managed by a natural person or legal entity which provides primarily independent technology-based intellectual services in the built, human and natural environment to clients for a fee and which may be any of the following:*

- (a) a Sole Practitioner who is a Registered Principal; In the case of a sole practitioner, such recognition will be limited to that of Professional Engineer, Professional Technologist or a Professional Technician registered in South Africa under the Engineering Professions Act of 2000;*
- (b) a Partnership, in which at least 50% of the Partners are also Registered*

**CONTRACT**

**C90**

**C1.1**

**Part C1: Agreement and Contract Data**

**Form of Offer and Acceptance**

*Principals with at least one third of these Registered Principals registered in South Africa under the Engineering Professions Act of 2000;*

- (c) *a company in which at least 50% of the statutory Directors are also Registered Principals with at least one third of these Registered Principals registered in South Africa under the Engineering Professions Act of 2000;*
- (d) *A subsidiary or regional office or associate office in South Africa of a foreign firm that is appropriately registered in South Africa and has at least 50% of its statutory Directors as Registered Principals with at least one third of these Registered Principals registered in South Africa under the Engineering Professions Act of 2000 or such equivalent legislation outside of the Republic of South Africa;*
- Provided always that there shall be excluded from this definition any Firm:*
- (i) *which engages in or is a subsidiary or holding company of a company which engages in manufacturing or construction such as would in the opinion of the Board tend to influence the exercise of independent judgement of a Principal in such firm in relation to the matters in which the firm provides services and where the project liability is split between planning, design and execution phases of the works; or*
- (ii) *whose holding company has any other subsidiary which engages in manufacturing or construction unless the Board is satisfied that the independent judgement of the Principals of the firm is not influenced by the interests of such other subsidiary and where the project liability is split between planning, design and execution phases of the works; or*
- (iii) *which (in the opinion of the Board) is in substance owned by the State or a similar public body or is in substance the design department of a development, manufacturing or construction enterprise; or*
- (iv) *the ownership of which (in the opinion of the Board) is such as would tend to override the decisions of its statutory Directors and influence the reasonable decisions of the Principals in such firm in the exercise of independent judgement in relation to the technology-based intellectual services provided by such firm; or*
- (v) *where any persons directly or indirectly participating in the management of the firm are considered unsuitable by the Board which engages in or is a subsidiary or holding company of a company which engages in manufacturing or construction and whose clients are substantially its owners or any other subsidiary of its holding company.*

**Contract**

The Contract signed by the Parties and of which these General Conditions of Contract form part.

**Contractor**

The contracting party named as contractor in the Letter of Tender of the Works Contract accepted by the Employer.

**Contract Data**

Specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the contract.

**Contract Price**

The price to be paid for the performance of the Services in accordance with the Pricing Data.

**Day** A calendar day.



**Defect**

*A part of the Services, as performed, which does not comply with the requirements of the Contract.*

**Deliverable**

*Any measurable, tangible, verifiable outcome, result or item that must be produced or completed.*

**EME**

*EME is an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).*

**Employer**

The contracting party named in the Contract who employs the Service Provider.

**Engineer**

The natural or juristic person, partnership, Incorporated Company, Propriety Limited Company or Close Corporation appointed in writing by the Employer for the construction monitoring and management of the engineering Works undertaken by the Contractor.

**Force Majeure**

*“For the purpose of this Contract the expression ‘Force Majeure’ shall mean an event or circumstance described in clause 8.3.1.*

**Key Persons**

Persons who are named as such in the Contract Data who will be engaged in the performance of the Services.

**Others**

Persons or organizations who are not the Employer, the Service Provider or any employee, sub-contractor, or supplier of the Service Provider.

**Parties**

The Employer and the Service Provider.

**People with Disabilities**

*People with Disabilities has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998).*

**Period of Performance**

The period within which the Services are to be performed and completed.

**Personnel**

Persons hired by the Service Provider as employees and assigned to the performance of the Services or any part thereof.

**Personnel Schedule**

A schedule naming all personnel and key persons.

**Pricing Data**

Data that establishes the criteria and assumptions that were considered when developing the Contract Price and the record of the components that make up of the Contract Price.

## **Principal**

*A Principal of a Consulting Engineering Firm shall be any of the following who is in active practice in the firm: • A sole practitioner; or*

- *Where the Consulting Engineering Firm is a partnership, all statutory directors; or*
- *Where the Consulting Engineering Firm is a close corporation, all the statutory members; or*
- *Where the Consulting Engineering Firm is a company (including locally registered subsidiary or regional office or associate office of a foreign firm), all the directors appointed in terms of the Companies Act or equivalent in the country of operation.*

## **Project**

The project named in the Contract Data for which the Services are to be provided.

## **QSE**

*QSE is a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).*

## **Registered Principal**

*A Principal who is registered as a professional engineering practitioner with the Engineering Council of South Africa or as a professional registered with any other Professional body recognized by the South African Qualifications Authority (SAQA) or such equivalent recognized body outside of the Republic of South Africa.*

## **Scope of Work**

The document which defines the Employer's objectives and requirements and specifies the Services which must, or may, be provided under the Contract.

The contracting party named in the Contract Data who is employed by the Employer to perform the Services described in the Contract, and legal successors to the Service Provider and legally permitted assignees.

## **Services**

The work to be performed by the Service Provider pursuant to the Contract as described in the Scope of Work.

## **Sub-contractor**

A person or body corporate who enters into a sub-contract with the Service Provider to perform part of the Services.

## **Targeted Enterprise**

A Consulting Engineering Firm who is an EME (BEP)\* or QSE (BEP)\*, contracted by the Service Provider to perform a specified percentage of work stated in the Contract Data under his guidance and which complies with the following:

- a) Is at least 51% owned by black people and
- b) Has a B-BBEE status\* of 'level one or level two contributor'; and
- c) does not share equity holding with the Service Provider; and
- d) is registered in terms of the Company's Act, 2008 (Act No. 71 of 2008) or Close Corporation Act, 1984 (Act No. 69 of 1984); and

e) is registered on the National Treasury's Central Supplier Database (CSD).

NOTE: All references to EME, QSE, B-BBEE status are in terms of the amended Construction Sector Codes published in Notice 931 of 2017 in Government Gazette No 41287 on 1 December 2017.

## 1 Technical Proposal

*The Key Persons proposed by the Service Provider to undertake the respective functions/duties as defined under the Contract.*

## 2 Works or Works Contract

That project or part of a project that the employer wishes to have delivered and for which the Service Provider has been appointed for the performance of the services specified in this contract.

## 3 Youth

*For purposes of this contract, Youth means persons between the ages of 18 (eighteen) and 35 (thirty-five).*

## INTERPRETATION

2.1 Unless inconsistent with the context, an expression which denotes:

- a) any gender includes the other genders;
- b) a natural person includes a juristic person and vice versa;
- c) the singular includes the plural and vice versa.

2.2 *The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of documents shall be in accordance with the following sequence: a) the Form of Acceptance*

- b) the Form of Offer*
- c) the Contract Data*
- d) the General Conditions of Contract*
- e) the Scope of Work*
- f) the Pricing Schedule and any other documents forming part of the Contract.*

2.3 The clause headings shall not limit, alter or affect the meaning of the Contract.

## 3. GENERAL

### 3.1. Governing laws

*"Law" means all national (or other spheres of Government) legislation, statutes, ordinances and other laws including the South African Common Law, and regulations and by-laws of any legally constituted public authority.*

### 3.2. Change in legislation

If after the commencement of the Contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract Price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14

days of first having become aware of the change, the Service Provider furnished the Employer with detailed justification for the adjustment to the Contract Price.

### **3.3. Language**

3.3.1. The language of the Contract and of all communications between the Parties shall be English.

3.3.2. All reports, recommendations and reports prepared by the Service Provider under the Contract shall be in English.

### **3.4. Notices**

3.4.1. Any notice, request, consent, or other communication made between the Parties pursuant to the Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when *delivered* to such Party at the address *stated* in the Contract *Data*, or one week after having been sent by registered post.

3.4.2. If the sender requires evidence of receipt, he shall state such requirement in his communication and, wherever there is deadline for the receipt of the communication, he may demand evidence of receipt of his communication. In any event, the sender shall take all the necessary measures to ensure receipt of communications.

3.4.3. A Party may change its address for receipt of communications by giving the other Party 30 days advance notice of such change.

### **3.5. Location**

The Services shall be performed at such locations as are specified in the Contract Data, and where the location of a particular task is not so specified, at such locations as the Employer may approve.

### **3.6. Publicity and publication**

Unless otherwise agreed, the Service Provider shall not release public or media statements or publish material related to the Services or Project within two (2) years of completion of the Services without the written approval of the Employer, which approval shall not be unreasonably withheld.

### **3.7. Confidentiality**

Both Parties shall keep all commercially sensitive information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other Party except to the *extent strictly necessary to carry out obligations under this Contract or to comply with applicable laws*.

### **3.8. Variations**

3.8.1. The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services or may request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services. *No variation shall have any force or effect unless reduced to writing and signed by both Parties*.

3.8.2. The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by the Employer, including any change in

the Contract Price, shall be agreed in writing between the Service Provider and the Employer, prior to the change being implemented.

3.8.3. Where a variation is necessitated by default or breach of Contract by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

### 3.9. **Sole agreement**

The Contract constitutes the sole agreement between the Parties for the performance of the Services and no representation not contained therein shall be of any force or effect. No amendments will be of any force or effect unless reduced to writing and signed by both Parties.

### 3.10. **Indemnification**

The Service Provider shall, at his own expense, indemnify, protect and defend the Employer, its agents and employees, from and against all actions, claims, losses and damage arising from any wilful or negligent act or omission by the Service Provider or his subcontractors in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

### 3.11. **Penalty**

3.11.1. In the event that due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract, be entitled to levy a penalty for every day or part thereof, which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.

3.11.2. If the Employer has become entitled to the maximum penalty amount referred to in 3.11.1, he may after giving notice to the Service Provider: a) terminate the Contract  
b) complete the Services at the Service Provider's cost.

3.11.3. *In the event that due to his negligence or for reasons within his control, the Service Provider does not meet the specified target of work stated in the Contract Data to the Targeted Enterprise the Employer shall be entitled to levy a penalty as stated in the Contract Data.*

3.11.4. In the event that due to his negligence or for reasons within his control, the Service Provider does not disclose subcontracting arrangements the Employer may be entitled to levy a penalty as stated in the Contract Data.

## 2.4 **Equipment and materials furnished by the Employer**

2.4.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.

2.4.2 *Unless otherwise stated in the Contract Data*, the Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.12.1 for their full replacement value.

## 2.5 Illegal and impossible requirements

The Service Provider shall notify the Employer immediately, should he become aware that the Contract requires him to undertake anything which is illegal or impossible.

## 2.6 Programme

2.6.1 The Service Provider shall, within the time period set out in the Contract Data, submit to the Employer a programme for the performance of the Services which shall, inter alia, include:

- a) the order and timing of operations by the Service Provider and any actions required of the Employer and Others;
- b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them; and
- c) other information as required in terms of the Scope of Work or Contract Data.

2.6.2 The Employer may, during the course of the Contract, request the Service Provider to amend the programme. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.

**2.6.3 The Service Provider shall regularly update the programme to reflect actual progress to date and expected future progress.**

## 2.7 Severability

*If a court of competent jurisdiction holds that any provision of this Contract is severable by reason of it being invalid, illegal, unlawful or unenforceable and as a consequence of which prevents the accomplishment of the purpose of this Contract, the Employer and the Service Provider shall meet and review the matter to adopt means to fulfil the purpose of the Contract.*

## 2.8 Waiver

*No defence of a waiver of any of the provisions of this contract shall be effective unless it is expressly stated in writing, by the Party against whom such defence is raised, to be a waiver of such provisions and is communicated to the other Party in writing in accordance with the provisions of Clause 3.4.*

## 3. EMPLOYER'S OBLIGATIONS

### 3.1 Information

3.1.1 The Employer shall timeously provide to the Service Provider, free of cost, all available information and data in the Employer's possession which may be required for the performance of the Services.

3.1.2 The Employer shall provide the Service Provider with any assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

3.1.3 The Service Provider shall be entitled to rely on the accuracy and completeness of all information furnished by or on behalf of the Employer.

### 3.2 Decisions

The Employer shall, within a reasonable time, give his decision on any matter properly referred to him in writing by the Service Provider so as not to delay the performance of Services.

### **3.3 Assistance**

The Employer shall co-operate with the Service Provider and shall not interfere with or obstruct the proper performance of the Services. The Employer shall as soon as practicable:

3.3.1 authorise the Service Provider to act as his agent insofar as may be necessary for the performance of the Services;

3.3.2 provide all relevant data, information, reports, correspondence and the like, which become available;

3.3.3 procure the Service Provider's ready access to premises, or sites, necessary for the performance of the Services;

3.3.4 assist in the seeking of all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data;

3.3.5 designate in writing a person to act with his complete authority in giving instructions and receiving communications on his behalf and interpreting and defining his policies and requirements regarding the Services.

### **3.4 Services of others**

3.4.1 The Employer shall, at his own cost, engage such others as may be necessary for the execution of work necessary for the completion of the Project, but not included in the Services.

3.4.2 The Employer shall not enter into an agreement or contract with others which describes any of the duties and responsibilities of the Service Provider in terms of the Contract or which imposes obligations on him, without first obtaining the Service Provider's written agreement thereto.

### **3.5 Notice of change by Employer**

On becoming aware of any matter which will materially change, or has changed, the scope, cost or timing of the Services, or on becoming aware of any defect or deficiency in the Services, the Employer shall immediately advise the Service Provider thereof.

### **3.6 Issue of instructions**

Where the Service Provider is required to administer the work or services of Others, or any contract or agreement, on behalf of the Employer, then the Employer shall issue instructions related to such work, services, contract, or agreement only through the Service Provider.

### **3.7 Payment of Service Provider**

The Employer shall pay the Service Provider the Contract Price in accordance with the provisions of the Contract.

## **4. SERVICE PROVIDER'S OBLIGATIONS**

### **4.1 General**

4.1.1 The Service Provider shall perform the Services in accordance with the Scope of Work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards and shall be responsible for breach of professional duty by reason of any error, omission or neglect in connection with delivering the services

4.1.2 Where the Services include the exercise of powers to certify, decide or otherwise exercise discretion in regard to a contract or agreement between the Employer and Others, then the Service Provider shall act in respect of that contract or agreement as an independent professional

4.1.3 If the Service Provider is a joint venture or consortium of two or more persons, the Service Provider shall designate one person to act as leader with authority to bind the joint venture or consortium. Neither the composition nor the constitution of the joint venture or consortium shall be altered without the prior consent in writing of the Employer, which shall not be unreasonably withheld.

4.1.4 Unless specifically instructed differently, the Service Provider is delegated as the Employer's "Mandatory" in terms of the Occupational Health and Safety Act (Act no. 85 of 1993), and as the Employer's Agent as defined in Construction Regulations 5(5), (6) and (7) of the said Act.

4.1.5 The Service Provider, if requested by the Employer, shall provide any plans and calculations for checking by others.

4.1.6 All design calculations shall be kept and safeguarded for the duration of the insurance(s) required in terms of Clause 5.4.1.

4.1.7 The Service Provider shall enter into a contract over the full contract duration (either through partnership, joint venture or sub-contracting) with a Targeted Enterprise(s) to perform a percentage of work as stated in the Contract Data.

4.1.8 The Service Provider undertakes to pay the Targeted Enterprise(s) the full value due in each interim fee claim. The Service Provider further undertakes to make payment within 30 (thirty) days of presentation by the Service Provider of the interim fee claim to the Employer for payment, or by the 30th of the month following that in which the Targeted Enterprise(s) completed the work, whichever date is earlier.

### **4.2 Exercise of authority**

4.2.1 The Service Provider shall have no authority to relieve others appointed by the Employer to undertake work on the Project of any of their duties, obligations, or responsibilities under their respective agreements or contracts, unless expressly authorised by the Employer in response to an application by the Service Provider in writing to do so.

4.2.2 Whenever necessary to enter upon land for the performance of the Contract the Service Provider shall indemnify the Employer from all costs arising from any transgression committed by the Service Provider.

### **4.3 Designated representative**

The Service Provider shall designate in writing a person to act as his representative and such person shall have complete authority to receive instructions from and give information to the Employer on behalf of the Service Provider.



#### **4.4 Insurances to be taken out by the Service Provider**

4.4.1 The Service Provider shall, at his own cost, unless otherwise agreed, take out and maintain in force such insurance policies in respect of their own risks in performing the Services as are stipulated in the Contract Data, subject to the approval of the Employer, which approved shall not be unreasonably withheld.

4.4.2 The Service Provider shall, at the Employer's request, provide evidence to the Employer showing that the insurance required in terms of Clause 5.4.1 has been taken out with an insurance company registered in the Republic of South Africa, or as otherwise approved by the Employer and maintained in force.

#### **4.5 Service Provider's actions requiring Employer's prior approval**

The Service Provider shall obtain the Employer's prior approval in writing before taking, inter alia, any of the following actions:

- a) appointing Subcontractors for the performance of any part of the Services,
- b) appointing Key Persons not listed by name in the Contract Data.
- c) any other action that may be specified in the Contract Data.

#### **4.6 Co-operation with Others**

If the Service Provider is required to perform the Services in co-operation with Others he shall perform the services in conjunction with Others or specialists who are providing services to the project and he may make recommendations to the Client in respect of such appointments for certain parts of the project.

The Service Provider shall, however, only be responsible for his own performance and the performance of his Subcontractors/specialist unless otherwise provided for.

#### **4.7 Notice of change by Service Provider**

On becoming aware of any matter which will materially change or has changed the scope, cost or timing of the Services, the Service Provider shall give notice thereof to the Employer, save that the Service Provider is empowered to make minor changes or variations within the overall programme or budget and within such parameters as are defined by the Employer, provided that such changes are reported timeously to the Employer.

#### **4.8 Safeguarding the Employer's data**

*4.8.1 The Parties shall take reasonable precautions (each having regard to the nature of the other's respective obligations under the Contract) to preserve the integrity of the Employer's data including appropriate back- up procedures.*

*4.8.2 In the event that the Employer's data is corrupted or lost as a result of any default by the Service Provider, the Employer shall at the Service Provider's expense, have the option to: - require the Service Provider to restore or procure the restoration of such data; or; - itself restore or procure restoration of such data.*

#### **4.9 Performance Security**

*Where required, the Service Provider shall obtain (at his cost) a Performance Security for proper performance in the amount and currencies stated in the Contract Data. If an amount is not stated in the Contract Data, this sub-clause shall not apply.*

*The Service Provider shall deliver the Performance Security to the Employer within 14 days of the date of issue of the Letter of Acceptance. The Performance Security shall be issued by an insurance company or bank registered or licensed as an insurance company or bank to do business in the Republic of South Africa and approved by the Employer and having an office or banking facility in the Republic of South Africa. The Performance Security shall be subject to approval by the Employer and shall be in the form prescribed in the tender documents.*

## 5. CONFLICTS OF INTEREST, CORRUPTION AND FRAUD

### 5.1 Service Provider not to benefit from commissions, discounts, etc.

The remuneration of the Service Provider under the Contract shall constitute the Service Provider's sole remuneration in connection with the Contract, or the Services, and the Service Provider shall not accept for his own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the Contract, or in the discharge of his obligations under the Contract, and shall use his best efforts to ensure that the Personnel, any sub-contractors, and agents of either of them shall, similarly, not receive any additional remuneration.

### 5.2 Royalties and the like

The Service Provider shall not have the benefit, whether directly or indirectly, of any royalty or of any gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the Contract, or Project, unless so agreed by the Employer in writing.

### 5.3 Independence

The Service Provider shall refrain from entering into any relationship which could be perceived as compromising his independence of judgment, or that of Subcontractors or Personnel.

### 5.4 Corruption and Fraud

5.4.1 *The Service Provider shall neither:*

- a) *Offer or give or agree to give any person of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forebore to do any act in relation to the obtaining or performance of this contract or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this contract; nor*
- b) *Enter into this contract if in connection with it commission or a reward of any type has been paid, offered or agreed to be paid to any person of the Employer by the Service Provider or on his behalf or knowledge.*

5.4.2 *In the event that the Employer, in good faith and on reasonable grounds, comes to the opinion, that a breach of any of the provisions of Clause 6.4.1 has been perpetrated by the Service Provider or anyone employed by him or acting on his behalf in relation to this contract or any other agreement with the Employer, the Employer may:*

*summarily suspend the operation of this Contract by notice in writing to the Service Provider, informing him of the Employer's opinion and the grounds and reasons upon which it is based, and calling upon the Service Provider to show cause, in writing, within fourteen (14) days of receipt of the written notice why the Employer should not terminate this Contract on the grounds of the alleged breach(es) of Clause 6.4.1 of this Contract;*

*i. withhold all payments due;*

*terminate this Contract by notice in writing to the Service Provider, if the Service Provider fails to respond to the Employer's written response, to satisfy the Employer that his opinion is unfounded. Provided always that such termination shall not prejudice or affect any right of action or remedy, which shall have accrued or shall accrue thereafter to the Employer and provided also that the Employer may recover*

*from the Service Provider such sum as the Employer deems equivalent to the amount or value of any such gift, consideration or commission.*

5.4.3 *In the event that the Employer, in good faith and on reasonable grounds, comes to the opinion that any contract with a Government or public sector body has been or was obtained by the Service Provider through actions that mutatis mutandis are similar in nature to those barred in terms of Clause 6.4.2 by the Service Provider or by anyone employed by the Service Provider or acting on the Service Provider's behalf in relation to such Contract, the Employer may:*

*(b) summarily suspend the operation of this Contract by notice in writing to the Service Provider, informing him of the Employer's opinion and the grounds and reasons upon which it is based, and calling upon the Service Provider to show cause, in writing within fourteen (14) days of receipt of the written notice why the Employer should not terminate this Contract on the grounds of the alleged breach(es) of Clause 6.4.1 of this contract;*

*(c) withholds all payments due, terminate this Contract by notice in writing to the Service Provider, if the Service Provider fails to respond to the Employer's written notice within the prescribed time, or fails, in his written response, to satisfy the Employer that this opinion is unfounded. Provided always that such termination shall not prejudice or affect any right of action or remedy, which shall have accrued or shall accrue thereafter to the Employer.*

## **6. SERVICE PROVIDER'S PERSONNEL**

### **6.1 Provision of Personnel**

6.1.1 The Service Provider shall provide appropriate Personnel for such time periods as required in terms of the Contract and shall enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.

6.1.2 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 6.1.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the replacement resource(s) is of a similar or better caliber than his predecessor and any adjustments will not cause rate/payment to exceed any limit placed on the Contract Price.

6.1.3 The Service Provider shall:

- a) forward to the Employer for approval, within 15 days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
- b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
- c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

### **6.2 Staff and equipment**

6.2.1 The Service Provider shall employ and provide all qualified and experienced personnel required to perform the Services.

- 6.2.2 Where required in terms of the Contract, the Service Provider shall provide Key Persons as listed in the Contract Data to perform specific duties. If at any time, a particular Key Person cannot be made available, the Service Provider may engage a replacement who is equally or better qualified to perform the stated duty, subject to the Employer's approval, which approval shall not be unreasonably withheld.
- 6.2.3 Where the Service Provider proposes to utilise a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval.
- 6.2.4 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement shall not exceed that which would have been payable to the person replaced.
- 6.2.5 Except in the case of replacement resulting from death or where the Employer requests a replacement not provided for by the Contract, the Service Provider shall bear all additional costs arising out of or incidental to such replacement.
- 6.2.6 The Service Provider shall take all measures necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

### 6.3 Working hours, overtime and leave

Where the fee for the Services are time-based, working hours, leave entitlement and holidays for Personnel provided in terms of Clause 7 are to be as stated in the Contract Data, or, if not stated, to be determined by the Service Provider. The Employer will not be responsible for overtime payments to Personnel *unless so specifically provided for in the Pricing Schedule*.

## 7. COMMENCEMENT, COMPLETION, MODIFICATION SUSPENSION AND TERMINATION OF THE CONTRACT

### 7.1 Commencement

The effective date of the contract shall be the date of the Form of Acceptance. Contract shall come into effect on the date that it is signed by both Parties or such later date as may be stated in the Contract Data. The Service Provider shall commence the performance of the Services within thirty (30) days after the date that the Contract becomes effective, or such date as may be specified in the Contract Data.

### 7.2 Completion

- 7.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when the Service Provider has completed all Deliverables in accordance with the Scope of Work.
- 7.2.2 The Service Provider, may request an extension to the Period of Performance if he is or will be delayed in completing the Contract by any of the following causes:
- b) variations to Services ordered by the Employer.
  - c) failure of the Employer to fulfil his obligations under the Contract.
  - d) Any delay in the performance of the Services which is not due to the Service Provider's default.
  - e) Force *Majeure*.
- 7.2.3 The Service Provider shall within 14 days of becoming aware that a delay may occur, notify the Employer of his intention to make a request for the extension of the Period of Performance to which he considers himself entitled and shall within 30 days thereafter deliver to the Employer full and detailed particulars of the request, in order that it may be investigated at the time.
- 7.2.4 The Employer shall, within 30 days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the services and the matter shall be dealt with as a dispute in terms of Clause 12.

### 7.3 Force Majeure

- 7.3.1 *In this clause "Force Majeure" means an exceptional event or circumstance:*
- a) *which is beyond party's control,*
  - b) *which such a party could not reasonably have provided against before entering into the Contract,*
  - c) *which, having arisen, such Party could not reasonably have avoided or overcome, and*  
*(d) which is not substantially attributable to the other Party*

*Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below;*

- (i) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity*
- (ii) war, hostilities (whether war to be declared or not), invasion, act of foreign enemies,*
- (iii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,*
- (iv) riot, commotion, disorder, strike or lockout by persons other than the Service Provider's Personnel or other employees of the Service Provider and Sub-contractors,*

*An event or circumstance which is attributable to a willful act, neglect or failure to take reasonable precautions by the affected party, his employees agents, subcontractors or others shall, under no circumstances, be considered Force Majeure.*

7.3.2 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of *Force Majeure*, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Contract, and has *notified* the other Party within 10 days of its occurrence and within a reasonable time of *its estimated duration and consequences*. *Failure to so notify shall terminate that Party's right to release from his obligations.*

7.3.3 In the event that the performance of the Services has to be suspended on the grounds of *Force Majeure*, the time for completion shall be extended by the extent of the delay plus a reasonable period for the resumption of work or, if the speed of performing certain Services has to be reduced, the time for their completion shall be extended as may be necessary in the circumstances.

7.3.4 During the period of his inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by him in suspending, delaying and re-activating the performance of the Services.

*7.3.5 If the Force Majeure event continues for more than 90 (ninety) days, either Party shall have the right to terminate this Contract with immediate effect.*

#### **7.4 Termination**

7.4.1 The Employer may in addition to his rights under sub-clauses 6.4.2, 6.4.3 and 10.5 terminate the Contract by giving not less than thirty (30) days written notice thereof to the Service Provider after the occurrence of any of the following events:

- a) if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;
- b) if the Service Provider becomes insolvent or bankrupt;

- c) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- d) *Committing an offence in terms of clauses 6.1 and/or 6.4;*
- e) *if the Service Provider acts in such a way, under this contract or any other contract with the Employer, that a statute relating to the combating of fraud, corruption, uncompetitive practice and the like can be invoked; or*
- f) *if the Employer, at any time in its sole discretion determines that it no longer requires the completion of the Service by the Service Provider.”*  
*Upon delivery of such notice by the Service Provider he shall immediately vacate the site and deliver to the Employer all drawings, documents and papers relating to the Services and shall within fourteen (14) days after the date of termination submit an account for the Services satisfactorily performed prior to the date of notice. The Employer shall not be liable to the Service Provider for any loss of profit or damages suffered as a result of cancellation of the contract as contemplated in this clause.*

7.4.2 The Service Provider may terminate the Contract, by giving not less than thirty (30) days written notice to the Employer after the occurrence of any of the following events:

- a) if the Employer fails to pay any monies due to the Service Provider in terms of the Contract and not subject to dispute pursuant to Clause 12 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- b) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds 6 months, or it is clear to the Service Provider that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded 6 months; or
- d) if the Employer is in material breach of a term of the Contract and fails to rectify such breach within 30 days of the receipt of written notice requiring him to do so.

7.4.3 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.2, the Employer shall make the following payments to the Service Provider:

- a) remuneration in terms of the Contract for Services satisfactorily performed prior to the effective date of termination *less any costs arising from termination.*
- b) except in the case of termination pursuant to events (a) and (b) of Clause 8.4.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract.

7.4.4 Should the Service Provider, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond his control from performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights or either Party against the other.

7.4.5 *Where required in terms of the contract data the surety delivered by the Service Provider in terms of this Contract shall remain in force until the completion of the project.*



## 7.5 Suspension

7.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the performance of the Services and minimise further expenditure.

7.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

## 7.6 Rights and liabilities of the Parties

Completion, suspension or termination of the Contract shall not prejudice or affect the accrued rights or liabilities of the Parties.

## 8. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

8.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

8.2 The ownership of data and information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer. This shall include intellectual property gained during the project and any research work, papers and presentations done using the Employer's resources and information.

8.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

## 9. SUCCESSION AND ASSIGNMENT

9.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.

9.2 An assignment including that of a sub-contractor, shall be valid only if it is a written agreement, by which the *Parties* transfer *their rights* and obligations under the Contract, or part thereof, to others.

9.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract or any part thereof, or any benefit or interest there under, except in the following cases:

(a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or

(b) by assignment to the Service Provider's insurers of the Service Provider's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider's loss or liability.

9.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned.

9.5 If the Service Provider has assigned his Contract or part thereof without authorization, the Employer may forthwith terminate the Contract.

## **SUB-CONTRACTING**

9.6 A sub-contract shall be valid only if it is a written agreement by which the Service Provider entrusts performance of a part of the Services to others.

9.7 The Service Provider shall not sub-contract to nor engage a Sub-contractor to perform any part of the Services without the prior written authorization of the Employer. The services to be sub-contracted and the identity of the Sub-contractor shall be notified to the Employer. The Employer shall, within 14 days of receipt of the notification and a full motivation why such services are to be sub-contracted, notify the Service Provider of his decision, stating reasons, should he withhold such authorization, failing which the Sub-contractor shall be deemed to be approved by the Employer. If the Service Provider enters into a sub-contract with a Subcontractor without prior approval, the Employer may forthwith terminate the Contract.

9.8 The Employer shall have no contractual relationships with Sub-contractors. However, if a Subcontractor is found by the Employer to be incompetent, the Employer may request the Service Provider either to provide a Sub-contractor with qualifications and experience acceptable to the Employer as a replacement, or to resume the performance of the relevant part of the Services himself.

9.9 The Service Provider shall advise the Employer without delay of the variation or termination of any sub-contract for performance of all or part of the Services.

9.10 The Service Provider shall be responsible for the acts, defaults and negligence of Subcontractors and their agents or employees in the performance of the Services, as if they were the acts, defaults or negligence of the Service Provider, his agents or employees. Approval by the Employer of the sub-contracting of any part of the Contract or of the engagement by the Service Provider of Sub-contractors to perform any part of the Services shall not relieve the Service Provider of any of his obligations under the Contract.

9.11 *The Service Provider undertakes to pay the sub-contractor the full value as certified as being due in each interim monthly account. The Service Provider further undertakes to make payment within 7 (seven) days after payment by the Employer or by the 25<sup>th</sup> of the month following that in which the sub-contractor invoiced for the work; whichever date is earlier.*

## **10. RESOLUTION OF DISPUTES**

### **10.1 Settlement**

10.1.1 Any dispute between the Parties shall arise by either party presenting to the other in writing the nature of the dispute and the facts to be dealt with. The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed.

10.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be settled between the Parties shall in the first instance be referred by the Parties to either mediation or adjudication as provided for in the Contract Data.

## 10.2 Mediation

10.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than ten working days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.

10.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion, and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.

10.2.3 The mediator is authorized to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Parties and shall do so, if after a period of 90 (ninety) days from entering the mediation process, no resolution has been achieved.

10.2.4 If either Party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such Party may require that the dispute be referred to arbitration or litigation in a competent civil court, as provided for in the Contract Data; *provided that the dissatisfied Party notifies the other in writing* within 28 Days of mediator's decision being issued or the mediator declaring the mediation to have ended, as provided for in the Contract Data. Claims not brought within the time periods set out herein will be deemed to be waived.

## 10.3 Adjudication

10.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.

10.3.2 The adjudicator shall be appointed in terms of the Adjudicator's Agreement bound in the Construction Industry Development Board's Adjudication Procedure.

10.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data. The Adjudicator shall be appointed in accordance with the Adjudicator's Agreement contained in the CIDB Adjudication Procedure.

10.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party *written* notice of dissatisfaction within 28 days of the receipt of that decision and refer the dispute to arbitration or litigation in a competent civil court as provided for in the Contract Data. If notice of dissatisfaction is *not* given within the specified time, the decision shall be final and binding on the Parties.

## 10.4 Arbitration

10.4.1 Arbitration, where provided for in the Contract Data, shall be by a single arbitrator in accordance with the provisions of the Arbitration Act of 1965 as amended and shall be conducted in accordance with such procedure as may be agreed between the Parties or, failing such agreement, in accordance with the Rules for the Conduct of Arbitrations, current at the date of the contract, published by the Association or Arbitrators.

10.4.2 The arbitrator shall be mutually agreed upon or, failing agreement, to be nominated by the person named in the Contract Data.

## 11. LIABILITY

### 11.1 Liability of the Service Provider

11.1.1 The Service Provider shall be liable to the Employer arising out of or in connection with the Contract if a breach of Clause 5.1 is established against him.

11.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time and the Defect arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.

### 11.2 Liability of the Employer

The Employer shall be liable to the Service Provider arising out of or in connection with the Contract if a breach of an obligation of his in terms of the Contract is established. The Service Provider shall have no separate delictual right of action against the Employer.

### 11.3 Compensation

If it is established that either Party is liable to the other, compensation shall be payable only on the following terms:

- (a) Compensation shall be limited to the amount of reasonably foreseeable loss and damage suffered as a result of the breach.
- (b) The compensation payable by either Party shall be reduced by the arbitrator/mediator/adjudicator to such extent as is deemed just and equitable having regard to the degree in which the other Party or any third party was at fault in relation to the loss or damage. The liability of the Parties is not joint and each Party shall only be liable for that proportion of the compensation which is attributable to his fault.
- (c) In any event, the amount of compensation will be limited to the amount specified in Clause 13.5.

#### 11.4 Duration of Liability

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within the period stated in the Contract Data or, where no such period is stated, within a period of three years from the date of termination or completion of the Contract.

#### 11.5 Limit of Compensation

11.5.1 The maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to:

- a) the sum insured in terms of 5.4. in respect of insurable event; or the sum stated in the Contract Data or, where no such amount is stated, to an amount *equal to twice the Contract Price (inclusive of VAT) payable to the Service Provider under the Contract.*

11.5.2 Each Party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

11.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for his reasonable costs incurred as a result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.

#### 11.6 Indemnity by the Employer

The Employer shall indemnify the Service Provider against all claims by third parties which arise out of or in connection with the performance of the Services save to the extent that such claims do not in the aggregate exceed the limit of compensation in Clause 13.5 or are covered by the insurances arranged under the terms of Clause 5.4.

#### 11.7 Exceptions

11.7.1 Clauses 13.5 and 13.6 shall not apply to claims arising from deliberate misconduct.

11.7.2 The Service Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

- a) the Employer omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Service Provider, or requiring the Service Provider to implement a decision or recommendation with which the Service Provider disagrees or on which he expresses a serious reservation; or
- b) the improper execution of the Service Provider's instructions by agents, employees or independent contractors of the Employer.