



# CONTRACT NO:PWRT (PMU) 11/2021 - A

TENDERS ARE HEREBY INVITED FOR THE APPOINTMENT OF REGISTERED PROFESSIONAL ENGINEERING CONSULTING FIRMS (CIVIL ENGINEERING CONSULTANTS) ON A PANEL OF CONSULTING ENGINEERS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS

NAME OF TENDERER: \_\_\_\_\_  
CENTRAL SUPPLIER DATABASE (CSD) MAAA  
TAX COMPLIANCE STATUS (TCS) PIN ON: \_\_\_\_\_  
TELEPHONE No: \_\_\_\_\_  
TELEFAX No: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MAY 2021**

**Issued by:**  
Municipal Manager  
Mogale City Local Municipality  
P O Box 94  
**KRUGERSDORP**  
1740

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**PART A**

**INVITATION TO BID**

**MBD 1**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF MOGALE CITY LOCAL MUNICIPALITY**

BID NUMBER:	PWRT (PMU)11/2021 - A	CLOSING DATE:	30 JUNE 2021	CLOSING TIME:	11:00
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DESCRIPTION	TENDERS ARE HEREBY INVITED FOR THE APPOINTMENT OF REGISTERED PROFESSIONAL ENGINEERING CONSULTING FIRMS (CIVIL ENGINEERING CONSULTANTS) ON A PANEL OF CONSULTING ENGINEERS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS
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**THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).**

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS

CNR. COMMISSIONER & MARKET STREET
CIVIC CENTRE
MOGALE CITY
KRUGERSDORP
1740

**SUPPLIER INFORMATION**

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 ]	
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R	
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>		
DEPARTMENT/ DIVISION	Supply Chain Management Unit		CONTACT PERSON	Sebaka Ramaremela	
CONTACT PERSON	Ofentse Matsose		TELEPHONE NUMBER	Tel: (010) 822 8018/083 788 7034	
TELEPHONE NUMBER	(011)951 2177/2014/2541		FACSIMILE NUMBER		
FACSIMILE NUMBER			E-MAIL ADDRESS	sebaka.ramaremela@mogalecity.gov.za	
E-MAIL ADDRESS	ofentse.matsose@mogalecity.gov.za				

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	<b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b>
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
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.
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.
2.4	FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
2.5	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.6	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.7	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>	
3.1.	IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span>
3.2.	DOES THE ENTITY HAVE A BRANCH IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span>
3.3.	DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span>
3.4.	DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span>
3.5.	IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span>
<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: .....

PWRT (PMU) 11/2021 - A: REGISTERED PROFESSIONAL ENGINEERING CONSULTING FIRMS ON A PANEL OF CONSULTING ENGINEERS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS.

ADVERTISED IN: The Star  
PUBLISHING DATE: Wednesday 26 May 2021  
TENDER NOTICE: PWRT (PMU) 11/2021 - A

### MOGALE CITY LOCAL MUNICIPALITY

Tenders are hereby invited for the following Office: PWRT: PMU

**TENDER NO: PWRT (PMU) 11/2021 - A**

**TENDERS ARE HEREBY INVITED FOR THE APPOINTMENT OF REGISTERED PROFESSIONAL ENGINEERING CONSULTING FIRMS (CIVIL ENGINEERING CONSULTANTS) ON A PANEL OF CONSULTING ENGINEERS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS.**

**Adjudication: 90/10**

Tenders will be evaluated using functionality evaluation criteria of **60 points** of which the service provider is required to score the minimum of **27 points** in order to be considered for further evaluation. Tenders will be evaluated using the 90/10 preference point system which awards 90 points for Price and 10 points for attaining the BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points(90/10 system)</b>
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
<b>Non-compliant contributor</b>	<b>0</b>

**Documents Collection:** Documents can be downloaded from the e-portal or Mogale City Website.

Technical Enquiries: Sebaka Ramaremla Tel: (010) 822 8018/083 788 7034

Tender Documents: Ofentse Matsose Tel: (011) 951 2177/2541/0718846958

**Documents available:** As from **Thursday 27 May 2021** on [www.etenders.gov.za](http://www.etenders.gov.za) or [www.mogalecity.gov.za](http://www.mogalecity.gov.za)

**Closing date: Wednesday 30 June 2021**

**Time: 11:00**

**Tender Box**

Venue: Tender boxes are situated at the reception desk of the Supply Chain Management Unit, situated on the upper level of the West Wing of the Mogale City Civic Centre, Corner Commissioner and Market Streets in Krugersdorp.

## **COMPULSORY TENDER DOCUMENTS:**

1. **Tax Clearance Certificate / Tax Compliance Status documents with Pin.**  
Each company within the Joint Venture / Consortium must submit Tax Clearance Certificate or a copy of Tax Compliance Status document with Pin
2. **Certified copies of directors ID.**
3. **Copy of company registration documents.**
4. **Copy of latest municipal account which is not more than 3 months old at the time of closing.**
5. **The bidding entity as well as all its directors must submit Municipal account which is not more than three (3) months in arrears or valid lease agreement which is in the name of the business and or the directors, which must stipulate the responsibility of payment of municipal services.**
  - 6.1 **If the responsibility of payment of municipal services is that of the tenant/lessee, please provide proof of payment of those services.**
  - 6.2 **If the business operates from the different address as per CIPC document, affidavit must be provided**
- 7 **Central Supplier Database (CSD) registration summary report**
- 8 **Completed and Signed Schedule of Quantities**
- 9 **Authority of Signatory must be completed and signed in case of a business not sole proprietor or one-person business or board of director's resolution authorizing signature to sign off the bid documents.**
- 10 **MBD 1: Invitation to tender**
- 11 **MBD 4. Declaration of Interest.**
- 12 **MDB 5. Declaration of procurement above R10 million (vat included)**
- 13 **MBD 6.1 Preferential Points**
- 14 **MBD 8: Declaration of bidders past supply chain management practices**
- 15 **MBD 9: Certificate of independent bid determination.**

## **BIDDING TENDER CONDITIONS:**

1. All suppliers of good & services are urged to register in the National Treasury web based Central Suppliers Database with Effect from 1 July 2016 @ [www.csd.gov.za](http://www.csd.gov.za)
2. As per National Treasury Instruction No.4 A of 2016/2017 National Treasury Supplier Database, organs of state must ensure that suppliers awarded business with the State, excluding instances mentioned in paragraph 3.3, are registered on the CSD prior to award letter/purchase order/signed contract being issued.
3. According to the amended Codes of Good Practice, an *Exempted Micro Enterprise (EME)* is only required to obtain a sworn affidavit or a certificate issued by Companies Intellectual Property Commission (CIPC) confirming their annual turnover of R10 million or less and level of Black ownership to claim BEE points
4. According to the amended Codes of Good Practice, Qualifying Small Enterprise (QSE) is only required to obtain a sworn affidavit or a certificate issued by Companies Intellectual Property Commission (CIPC) confirming their annual turnover of R50 million or less and level of Black ownership to claim BEE points.
5. A trust, consortium or joint venture will qualify for points for the BBBEE status level as a legal entity, provided that the entity submits their consolidated BBBEE status level certificate. If a bidder does not submit a certificate substantiating the BBBEE status level of contribution/ and Affidavit or is a non-compliant contributor, such bidder will score 0 out of the maximum of 10 points for BBBEE.
6. Certified copies of their BEE certificates from an accredited BEE verification agency with their tender submission or sworn Affidavit.

7. Tenders by joint ventures are to be accompanied by the Document Formation of the joint venture, duly registered and authenticated by a Notary Public or other official deputized to witness sworn statements. This document must define precisely the conditions under which the joint venture will function, the period for which it will function, the persons authorized to represent and obligate it, the address for correspondence, the participation of several firms forming the joint venture and any information necessary to permit a full appraisal of its functioning, including a clause to the effect that the members of the joint venture are jointly and severally bound.
8. No late tender will be accepted.
9. Telefax or e-mail tenders will not be accepted.
10. Tenders may only be submitted on the bid documents as provided by Mogale City. The use of tipp-ex is not allowed on the bid documents. Bids completed in pencil will be regarded as invalid bids. No page(s) may be removed from the original tender document
11. Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the tender document;
12. In the event of a mistake having been made it shall be crossed out in ink and be accompanied by a full signature at each and every alteration.
13. The Municipality reserves the right to reject the Bid if corrections are not made in accordance with the above.
14. The lowest or any tender will not necessarily be accepted, and Mogale City reserves the right to accept a tender in whole or in part.
15. The validity period for this tender is ninety (90) days.
16. A Corporate social responsibility contribution of one (1) percent inclusive of 15%VAT will be levied on all companies/ service providers appointed as successful bidders if such companies are not based in the area of jurisdiction of Mogale City.
17. The Municipality reserves the right to negotiate a fair market related price with recommended bidders after a competitive bidding process or price quotations
18. The Municipality reserves the right to appoint and not to appoint.
19. All tender prices must be inclusive of VAT for all registered VAT vendors.
- 20. The Municipality may appoint more than one (1) service provider.**
21. The bid will be evaluated on an 90/10 principle where 90 points will be price and 10 points is BBEE component.
22. Tender documents may be downloaded from e-tender portal at [www.etenders.gov.za](http://www.etenders.gov.za) as well as [www.mogalecity.gov.za](http://www.mogalecity.gov.za)

**MR PRINGLE RAEDANI  
MUNICIPAL MANAGER**





**MBD 4**

**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
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 service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
- 3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

- 3.1 Full Name of bidder or his or her representative:.....
- 3.2 Identity Number: .....
- 3.3 Position occupied in the Company (director, trustee, hareholder<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 must be indicated in paragraph 4 below.
- 3.8 Are you presently in the service of the state? **YES / NO**
- 3.8.1 If yes, furnish particulars. ....  
 .....  
 .....

<sup>1</sup>MSCM Regulations: “in the service of the state” means to be –

- (a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;

- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

<sup>2</sup> Shareholder” means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

3.9 Have you been in the service of the state for the past twelve months? ..... **YES / NO**

3.9.1 If yes, furnish particulars.....

3.10 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? ..... **YES / NO**

3.10.1 If yes, furnish particulars.

.....  
 .....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars

.....  
 .....

3.12 Are any of the company’s directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

.....  
 .....

3.13 Are any spouse, child or parent of the company’s directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.13.1 If yes, furnish particulars.

.....  
 .....

3.14 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. **YES / NO**

3.14.1 If yes, furnish particulars:

.....  
 .....

4. Full details of directors / trustees / members / shareholders.

<b>Full Name</b>	<b>Identity Number</b>	<b>State Employee Number</b>

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

.....  
**Name of Bidder**

## **AMENDED PREFERENTIAL PROCUREMENT REGULATIONS WITH EFFECT FROM 1<sup>ST</sup> APRIL 2017**

### APPLICATION

2. These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.<sup>1</sup>

### IDENTIFICATION OF PREFERENCE POINT SYSTEM, DESIGNATED SECTOR, PRE-QUALIFICATION CRITERIA, OBJECTIVE CRITERIA AND SUBCONTRACTING

1. An organ of state must-

(a) determine and stipulate in the tender documents-

(i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or

1 The definition of "organ of state" in section 1 of the Act in paragraph (a) to (e) includes-

- a national or provincial department as defined in the Public Finance Management Act, 1999;
- a municipality as contemplated in the Constitution;
- a constitutional institution as defined in the Public Finance Management Act;
- Parliament;
- a provincial legislature.

Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of "organ of state" in section 239 of the Constitution and recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.

(ii) if it is unclear which preference point system will be applicable, 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;

(b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;

(c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;

(d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and

(e) determine whether objective criteria are applicable to the tender as envisaged in

#### **PRE-QUALIFICATION CRITERIA FOR PREFERENTIAL PROCUREMENT**

4.(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
  - (i) an EME or QSE which is at least 51% owned by black people;
  - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
  - (iii) an EME or QSE which is at least 51% owned by black people who are women;
  - (iv) (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (v) (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (vi) a cooperative which is at least 51% owned by black people;
  - (vii) (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
  - (viii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

## SUBCONTRACTING AS CONDITION OF TENDER

- 9.(1)** If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.
- (2) If an organ of state applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
- (a) an EME or QSE;
  - (b) an EME or QSE which is at least 51% owned by black people;
  - (c) an EME or QSE which is at least 51% owned by black people who are youth;
  - (d) an EME or QSE which is at least 51% owned by black people who are women;
  - (e) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (g) a cooperative which is at least 51% owned by black people;
  - (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
  - (i) more than one of the categories referred to in paragraphs (a) to (h).
- (3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

## SUBCONTRACTING AFTER AWARD OF TENDER

- 12.(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- (2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- (3) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.



**MBD 5**

**DECLARATION OF PROCUREMENT ABOVE R10 MILLION (VAT INCLUDED)**

**FOR ALL PROCUREMENT EXPECTED TO EXCEED R10 MILLION (VAT INCLUDED),  
BIDDERS MUST COMPLETE THE FOLLOWING QUESTIONNAIRE:**

1 Are you by law required to prepare annual financial statements for auditing?

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.

.....  
.....  
.....

**YES/NO**

2 Do you have any outstanding undisputed commitments for municipal services towards a municipality or any other service provider in respect of which payment is overdue for more than 30 days?

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.

.....  
.....  
.....

**YES/NO**

3 Has any contract been awarded to you by 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

.....  
.....

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

**YES/NO**

4.1 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

.....  
Position

.....  
Name of Bidder



**MOGALE CITY LOCAL MUNICIPALITY**

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to all bids:

- 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS, SERVICES AND WORKS SERVICES FOR RAND VALUE EQUAL TO AND ABOVE R30 000 AND UPTO TO 50 MILLION (all applicable taxes included); and
- 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS, SERVICES AND WORKS WITH RAND VALUE ABOVE R50 MILLION (all applicable taxes included).

1.2 The value of this bid is estimated to **exceed** R50Million (all applicable taxes included) and therefore the **.....90/10...** preference point system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	90
<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	10
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

## 2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) as amended by Act No 46 of 2013;
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (o) **“rand value”** means the total estimated value of a contract in South African currency,

calculated at the time of bid invitations, and includes all applicable taxes and excise duties;

- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

### 4. POINTS AWARDED FOR PRICE

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

80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS, SERVICES AND WORKS  
SERVICES FOR RAND VALUE EQUAL TO AND ABOVE R30 000 AND UPTO TO 50MILLION

- 1) (a)(i) The following formula must be used to calculate the points for price in respect of tenders( including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R50 MILLION (inclusive of all applicable taxes included):

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

**80/20**

**or**

**90/10**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- Ps = Points scored for comparative price of bid under consideration  
Pt = Comparative price of bid under consideration  
Pmin = Comparative price of lowest acceptable bid

## 5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must 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 (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status

level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

**6. BID DECLARATION**

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

7.1 B-BBEE Status Level of Contribution: = (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

**8. SUB-CONTRACTING**

8.1 Will any portion of the contract be sub-contracted?

*(Tick applicable box)*

YES		NO	
-----	--	----	--

8.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME.

*(Tick applicable box)*

YES		NO	
-----	--	----	--

**9. DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

**Municipality where business is situated:** .....

**Registered Account Number:** .....

**Stand Number:**.....

9.8 Total number of years the company/firm has been in business:.....

9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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.

10. **Previous experience**

Provide the following information on relevant previous experience (indicate specifically projects of similar or larger size and/or which is similar with regard to type of work).

Description	Value (R, VAT excluded)	Year(s) executed	Reference		
			Name	Organization	Tel no

10.1 **Staffing Profile**

Provide information on key staff you intend utilizing on this contract, should it be awarded to you.

Name	Position in your organization	Qualifications	Experience

**10.2 Infrastructure and resources available to execute this contract**

**10.2.1 Physical facilities**

<b>Description</b>	<b>Address</b>	<b>Area (m<sup>2</sup>)</b>

**10.3 Plant and equipment**

<b>Description : Plant and equipment owned (or to be rented)</b>	<b>Number of units</b>



**10.4 List of shareholders by Name, Position, Identity number, Citizenship, HDI status and ownership as relevant.**

Name	Date/Position Occupied in Enterprise	ID Number (please attach certified copies of ID's)	Date RSA Citizenship obtained	HDI	Women	Disabled	Youth (person not older than 35 years of age)	% of business/ enterprise owned
							<b>Total</b>	<b>100%</b>

**8.14 List of shareholders by Name, percentage (%) of business/enterprise owned, residential address.**

Full Name	Identity (ID) Number (please attached certified copies of ID's)	% of business/ enterprise owned	Residential address

**9. AUTHORITY FOR SIGNATORY**

Please note that the sole proprietors or “one person business” are not required to submit an official and duly signed authority of signatory.

Signatories for close corporations and companies shall confirm their authority by signing on behalf of the company/firm **by attaching to this page** a duly signed and dated copy of the relevant resolution of their members or their board of directors, as the case may be.

An example for a company is shown below:

Printed on company letterhead:

“ By resolution of the board of directors passed on \_\_\_\_\_ 20 \_\_\_\_\_

Mr \_\_\_\_\_

has been duly authorized to sign all documents in connection with the bid for

Tender \_\_\_\_\_ No \_\_\_\_\_

and any Contract, which may arise there from on behalf of

\_\_\_\_\_

SIGNED ON BEHALF OF THE COMPANY \_\_\_\_\_

IN HIS CAPACITY AS \_\_\_\_\_ CAPACITY AS \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE OF SIGNATORY: \_\_\_\_\_

AS WITNESSES: 1 \_\_\_\_\_

2 \_\_\_\_\_

10. I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
  - (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
    - (a) disqualify the person from the bidding process;
    - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
    - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
    - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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

WITNESSES

1. ....

2. ....

.....

SIGNATURE(S) OF BIDDERS(S)

DATE: .....

**MOGALE CITY LOCAL MUNICIPALITY**

**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 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>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?</p> <p>(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).</p> <p><b>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.</b></p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.1.1	If so, furnish particulars:		

4.2	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)? <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>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	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?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
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.**

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of Bidder**

Js367bW  
**MBD 9**

## CERTIFICATE OF INDEPENDENT BID 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<sup>3</sup> 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:

- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

<sup>3</sup> **Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.**

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....	.....
Signature	Date
.....	.....
Position	Name of Bidder

Js9141w 4



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**GENERAL CONDITIONS OF CONTRACT**

**THE NATIONAL TREASURY**

**Republic of South Africa**



**GOVERNMENT PROCUREMENT  
GENERAL CONDITIONS OF CONTRACT  
JULY 2010**

**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**  
July 2010

**THE NATIONAL TREASURY: Republic of South Africa 2**

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**GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**  
**THE NATIONAL TREASURY: Republic of South Africa 3**  
**General Conditions of Contract**

- 1. Definitions** 1. The following terms shall be interpreted as indicated:
- 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 "Day" means calendar day.
  - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
  - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
  - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

**GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT THE NATIONAL TREASURY: Republic of South Africa 4**

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price have been or are still To be imported (whether by the supplier or his subcontractors) and which costs Are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the Factory in the Republic where the goods covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the

## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT THE NATIONAL TREASURY: Republic of South Africa 5**

Supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

- 1.25 "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 "Tort" means in breach of contract.
- 1.27 "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product service required by the contract.
- 1.28 "Written" or "in writing" means hand-written in ink or any form of electronic or mechanical writing.

**2. Application** 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

### **3. General**

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid.

Where applicable a nonrefundable fee for documents may be charged.

3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

**4. Standards** 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

### **5. Use of contract documents and information inspection**

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall.

**GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**  
**THE NATIONAL TREASURY: Republic of South Africa 6**

extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

**6. Patent Rights** 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

**7. Performance security**

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

(b) a cashier's or certified cheque.

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

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**8. Inspections, tests and analyses**

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

**9. Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size

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weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent Instructions ordered by the purchaser.

**10. Delivery and documents**

10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the Contract.

**11. Insurance**

11.1 The goods supplied under the contract shall be fully insured in a freely Convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.

**12. Transportation**

12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified.

**13. Incidental Services**

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:

- (a) Performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) Furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) Training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

**14. Spare parts**

14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:



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- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and;
- (b) in the event of termination of production of the spare parts:
  - (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

**15. Warranty**

15.1 The supplier warrants 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 (except when the design and/or material is required by the purchaser's specifications) 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.

15.2 This warranty 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, unless specified otherwise.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 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.

15.5 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.

**16. Payment**

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

16.2 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.

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16.3 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.

16.4 Payment will be made in Rand unless otherwise stipulated.

**17. Prices**

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

**18. Variation orders**

18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

**19. Assignment**

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

**20. Subcontracts**

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

**21. Delays in the supplier's performance**

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.

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21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.

21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

**22. Penalties**

22.1 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 actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

**23. Termination for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

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23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.

23.5 . Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 . If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

**24. Antidumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favorable difference shall on demand be paid forthwith by the supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

**25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination for insolvency**

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.

**27. Settlement of Disputes**

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

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27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

**28. Limitation of Liability**

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29. Governing language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

**30. Applicable law**

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

**31. Notices**

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

**32. Taxes and duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

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32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

**33. Transfer of contracts**

33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser

**34. Amendment of contracts**

34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

**35. Prohibition of restrictive practices:**

35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of **restrictive practices** 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.

35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.

35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned

## **TERMS OF REFERENCE CIVIL ENGINEERS**

### **APPOINTMENT OF REGISTERED PROFESSIONAL ENGINEERING CONSULTING FIRMS ON A PANEL OF CONSULTING ENGINEERS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS.**

#### **1. PURPOSE**

The purpose of this tender is to improve the current shortfall on capacity with additional supplementary external engineering capacity to successfully achieve Council's strategic goals and objectives through the infrastructure investment plan by appointing a number of engineering consulting firms for a three year period as is allowed for within the Municipal Financial Management Act.

The aim of this tender is to ensure and fast track effective municipal service delivery through collective integrated project planning and implementation, to ensure that the regulations applicable to own funding and the conditions of the grant funded component of the capital budget is met, that all grant funded project proposals are registered with the relevant municipal, provincial and national authorities prior to implementation, that the (grant) funding (gazetted) allocated to Mogale City Local Municipality projects on the approved budget is utilized in line with approved project business plan's scope of work and that the financial aspects are coordinated, managed and reported on a monthly basis within the prescribed financial regulations ultimately enhancing the Mogale City Local Municipality's ability, capacity and political mandate to deliver quality municipal infrastructure services to its communities.

#### **2. CATEGORY ON THE INTENDED PANEL OF ENGINEERING CONSULTANTS**

##### **2.1 Category A: Civil Engineering**

#### **3. TERMS OF REFERENCE: CATEGORY A**

##### **3.1 EMPLOYERS OBJECTIVES**

- 3.1.1 Promote and support the National Batho Pele Principles
- 3.1.2 To acquire the services of experienced and qualified professional consulting engineering firms to render engineering services on an "as and when" required basis through appointment on a formal Panel of Consulting Engineers which is intended to serve as a strengthened arm of municipal service delivery.
- 3.1.3 The intention is to successfully appoint Civil Engineering Consulting firms under Category A on the Panel of Engineering Consultants for the assignment of projects to ensure the following:
  - 3.1.3.1 A legitimate, professional but also a fully responsible and accountable legal entity during and post implementation of capital projects on the approved budget through the establishment of a reputable Panel of Engineering Consultants with appropriate controls on performance management to achieve targets with stipulated timelines on deliverables, application of penalties including processes and procedures for termination of assignment and or appointment if considered necessary



- 3.1.3.2 To ensure through the tender unrestricted entry and equal opportunity for all engineering consulting firms to participate in this competitive municipal service delivery environment.
- 3.1.3.3 Corporate transparency is maintained through the fair and equal distribution of project value between the appointed engineering consultants within each Category and to minimize organizational risk by avoiding a practice of “**winner takes it all**”
- 3.1.3.4 fair and equal exposure to various service delivery areas to allow appointed engineering consulting firms to apply their expertise and to gain additional experience and ultimately to optimize the deliverables in the best interest of the Municipality.
- 3.1.3.5 To ensure accelerated service delivery and sustainable asset management through timeous planning, approved detailed designs, thorough tender descriptions, accurate tender document with a detailed Bills of Quantities, timeous procurement and implementation of capital projects through effective and efficient participation by all relevant departments, stakeholders, communities, etc.
- 3.1.3.6 through the broad based approach, minimize risk of unnecessary delays and extension of time required for detailed design and tender documents and by ensuring:
  - 3.1.3.6.1.1 Broad based project implementation
  - 3.1.3.6.1.2 Broad based quality control
  - 3.1.3.6.1.3 Efficient Broad based project management and supervision, progress monitoring and compulsory monthly and quarterly project reporting
  - 3.1.3.6.1.4 Effective financial control related to budget vs. project costs, instructions with cost implications and price adjustments.
- 3.1.3.7 Increasing, improving and developing internal project management capacity through appropriate administrative and technical skills transfer where applicable or required.
- 3.1.3.8 Certification of project progress milestones met vs. planned
- 3.1.3.9 Certification of project expenditure on items in the Bills of Quantities against projected cash flow requirements linked to the construction program
- 3.1.3.10 timeous completion and close-out on projects

### **3.2. MOGALE CITY LOCAL MUNICIPALITY USER DEPARTMENTS TO BE SERVICED**

The current organizational structure of Mogale City Local Municipality has 8 key service delivery departments which are all playing a significant role during the planning and execution of projects listed on the Mogale City Local Municipality capital budget and with whom close relations needs to be established and maintained to ensure successful budget implementation. Those departments are:

Department of Strategic Management Services  
Department of Corporate Support Services  
Department of Financial Services  
Department of Public Works Roads and Transport  
Department of Integrated Environmental Management  
Department of Economic Services  
Department of Community Development Services.  
Department of Utilities Management Services

### **3.3. ENGINEERING SERVICES SCOPE OF WORK**

3.3.1. The scope of work under appointment will include a wide variety of the various municipal infrastructure service delivery areas through individual project assignments to the service providers, successfully appointed on the Panel of Engineering Consultants.

3.3.2. The three-year term contractual appointment will apply on an “as and when required basis” to all existing and new Integrated Urban Development Grant, Water Services Infrastructure Grant, Neighborhood Development Partnership Grant, Urban Settlement Development Grant, Human Settlement Development Grant, Regional Bulk Infrastructure Grant, Own funded and any other externally funded municipal infrastructure projects not yet assigned.

3.3.3. The individual project will have its own specific detailed scope of work and deliverables/outcomes as per departmental briefing and or approved project registration form.

3.3.4. The professional engineering consultant who wants to tender for the successful inclusion on the Panel of Engineering Consultants must demonstrate beyond any doubt to have appropriate and extensive administrative skills, expertise and capacity, engineering experience and capacity with a good understanding of municipal infrastructure service delivery environment in all or most of the following service delivery areas:

**3.3.4.1. Civil Engineering applicable to infrastructure such as but not limited to the below:**

**3.3.4.1.1. Roads and Stormwater including full range of related disciplines.**

**3.3.4.1.2. Water and Sanitation**

3.3.4.1.2.1. Related networks, main supply lines and outfall sewer lines

3.3.4.1.2.2. Sewer and water Pump stations

3.3.4.1.2.3. Water Reservoirs (Elevated, Surface, and Sub-surface)

3.3.4.1.2.4. Wastewater Treatment Works and related research facilities and laboratories

**3.3.4.1.3. Solid Waste Landfill Sites and related:**

- 3.3.4.1.3.1. Access and Weighbridge facilities
- 3.3.4.1.3.2. Bulk earthworks and landfill- and rehabilitation techniques
- 3.3.4.1.3.3. Methane Gas monitoring
- 3.3.4.1.3.4. Effluent and Seepage management
- 3.3.4.1.3.5. Recovery and Recycling Facilities and techniques

**3.3.4.1.4. Geo Technical Engineering Studies**

**3.3.4.1.5. Structural Steel and Reinforced Concrete design**

**3.3.4.1.6. Buildings and Facilities including:**

- 3.3.4.1.6.1. Electricity installations, plumbing, carpentry etc.
- 3.3.4.1.6.2. Mechanical Ventilation
- 3.3.4.1.6.3. Lightning Protection
- 3.3.4.1.6.4. Fire protection management
- 3.3.4.1.6.5. Damp control
- 3.3.4.1.6.6. Building Maintenance
- 3.3.4.1.6.7. Community based facilities (Multi-Purpose Community Centers, Early Childhood Development Centers, Halls, Clinics, etc.)
- 3.3.4.1.6.8. Sport and Recreation Facility Development
- 3.3.4.1.6.9. Parks and Cemeteries Development

**3.3.4.1.7. Development and or Review of Infrastructure Master Plans and Maintenance and Operation Manuals**

**3.3.4.1.8. Registration of Servitudes**

**3.4. ROLES, RESPONSIBILITIES AND DELIVERABLES:**

Roles, responsibilities and deliverables will be in line with ECSA project stages. These will include the following but shall not be limited to the below:

**3.4.1. Stage 1 – Inception**

- 3.4.1.1.** After receipt of the letter of appointment and or any project assignment, obtain written approval for each project from the user department to commence with work and or any engineering related planning and/or design activity. This may include the written instruction for preparation of a project charter (business plan).
- 3.4.1.2.** Establish confirmation of the project reflecting on the approved budget, budget amounts, project votes and Work In Progress numbers and availability of funds prior to engagement in any works, whether time-cost related or other.
- 3.4.1.3.** Confirm landownership under Mogale City Local Municipality in writing and determine servitudes and location of existing services as well as access to the site. In case of not being able to confirm land registered in the name of Mogale City or in the case of being registered privately, the project, if funded via any conditional grant fund, may not continue without written approval by the funder.
- 3.4.1.4.** Establish a formal project steering committee for each individual project which represents the:
  - Client
  - Engineer
  - Contractor (To form part once appointed)
  - Relevant affected community (Ward Councilor)

- 3.4.1.5. Request a detailed briefing session to be conducted and chaired by the Client during a formal meeting with appropriate representation of all stake holders and where minutes of the project briefing is recorded for records and distribution.
- 3.4.1.6. Consultant to prepare a detailed interpretation of the client's requirements and deliverables on the project in writing for final confirmation.
- 3.4.1.7. Prepare a risk register for the project and list any obvious risk(s) that may affect or cause delays on the project prior to and or during implementation.
- 3.4.1.8. Ensure regular collective integrated project planning sessions with all relevant role players to finalize and approve the detailed scope of work for the project with its deliverable items. This may include the tabling of technical options and alternatives on the project for consideration by the client in a report.
- 3.4.1.9. Confirm in writing the necessity of any feasibility studies required such as Environmental\* and or Geo-Technical considerations related to site and services. This may include the preparation of project business plans on instruction for further phases required on the same project.
- 3.4.1.10. Ensure effective communication and consultation with the client and others during this stage with a continued accurate and updated record keeping of all relevant written communication, including monthly-, quarterly- annual- and project close out reporting on time as detailed and stipulated in the CESA agreement for purposes of project portfolio- and change management.
- 3.4.1.11. Regular consultation with various role players within the 8 key service delivery departments in the organization in a formal environment to ensure that the scope of work earmarked for design and tender is fully in line with that reflected in the approved project registration form, the organizational strategic plan and that all other relevant compulsory organizational requirements, policy, regulations, by-laws and National legislation are met during the planning and implementation phase.
- 3.4.1.12. All written deliverables under this stage to be submitted to the Client who must indicate their acceptance or approval of such in writing prior to submission of the professional fees account for the same stage.
- 3.4.1.13. Assist in developing a clear project brief.
- 3.4.1.14. Attend project initiation meetings.
- 3.4.1.15. Advise on procurement policy for the project.
- 3.4.1.16. Advise on the rights, constraints, consents and approvals.
- 3.4.1.17. Define the services and scope of work required.
- 3.4.1.18. Conclude the terms of the agreement with the client.
- 3.4.1.19. Inspect the site and advise on the necessary surveys, analyses, tests and site or other investigations where such information will be required for Stage 2 including the availability and location of infrastructure and services.
- 3.4.1.20. Determine the availability of data, drawings and plans relating to the project.
- 3.4.1.21. Advise on criteria specific to own scope of work that could influence the project life cycle cost significantly.
- 3.4.1.22. Provide necessary information within the agreed scope of the project to other consultants involved.

**Deliverables will typically include:**

- Agreed services and scope of work.
- Signed agreement.
- Report on project, site and functional requirements.
- Schedule of required surveys, tests, analyses, site and other investigations.
- Schedule of consents and approvals and related lead times.

### **3.5.2 Stage 2 – Concept and Viability (also termed Preliminary Design)**

- 3.5.2.1** Obtain written approval on all aspects on the envisaged project (Inception stage) prior to commencement with the preliminary design process.
- 3.5.2.2** Advise the client regarding any surveys, analyses, tests, feasibility studies and or investigations required.
- 3.5.2.3** Establish regulatory requirements, incorporate it into the conceptual design, refine and assess to ensure conformance with requirements and consents and submit for written approval to commence with preliminary design.
- 3.5.2.4** Ensure effective communication and consultation with the client and others during this stage with a continued accurate and updated record keeping of all relevant written communication, including monthly-, quarterly- annual- and project close out reporting on time as detailed and stipulated in the CESA agreement for purposes of project portfolio- and change management.
- 3.5.2.5** All written deliverables under this stage to be submitted to the Client who must indicate their acceptance or approval of such in writing prior to submission of the professional fees account for the same stage
- 3.5.2.6** Agree documentation programme with principal consultant and other consultants involved.
- 3.5.2.7** Attend design and consultants' meetings.
- 3.5.2.8** Establish the concept design criteria.
- 3.5.2.9** Prepare initial concept design and related documentation.
- 3.5.2.10** Advise the client regarding further surveys, analyses, tests and investigations which may be required.
- 3.5.2.11** Establish regulatory authorities' requirements and incorporate into the design.
- 3.5.2.12** Refine and assess the concept design to ensure conformance with all regulatory requirements and consents.
- 3.5.2.13** Establish access, utilities, services and connections required for the design.
- 3.5.2.14** Coordinate design interfaces with other consultants involved.
- 3.5.2.15** Prepare preliminary process designs; preliminary designs, and related documentation for approval by authorities and client and suitable for costing.
- 3.5.2.16** Provide cost estimates and comment on life cycle costs as required.
- 3.5.2.17** Liaise, co-operate and provide necessary information to the client, principal consultant and other consultants involved.

### **Typical deliverables will include:**

- Concept design.
- Schedule of required surveys, tests and other investigations and related reports.
- Process design.
- Preliminary design.
- Cost estimates as required.

### **3.5.3 Stage 3 – Design Development ( also termed Detail Design)**

**3.5.3.1** Obtain written approval on all aspects of the envisaged project (Preliminary design stage) prior to commencement with the final design process which will then also include drawings, Bills of Quantities and tender documentation for procurement purposes.

**3.5.3.2** Prepare and submit detailed accurate cost estimates for budgetary consideration

**3.5.3.3** Presentation of the final design, drawings, specifications and tender document for consideration, comments and approval by the Head of the user Department and related authorities prior to submission to the Supply Chain Management Bid Specification Committee.

**3.5.3.4** Ensure effective communication and consultation with the client and others during this stage with a continued accurate and updated record keeping of all relevant written communication, including monthly-, quarterly- annual- and project close out reporting on time as detailed and stipulated in the CESA agreement for purposes of project portfolio- and change management.

**3.5.3.5** All written deliverables under this stage to be submitted to the Client who must indicate their acceptance or approval of such in writing prior to submission of the professional fees account for the same stage

**3.5.3.6** Review documentation programme with principal consultant and other consultants involved.

**3.5.3.7** Attend design and consultants' meetings.

**3.5.3.8** Incorporate client's and authorities' detailed requirements into the design.

**3.5.3.9** Incorporate other consultants' designs and requirements into the design.

**3.5.3.10** Prepare design development drawings including draft technical details and specifications.

**3.5.3.11** Review and evaluate design and outline specification and exercise cost control.

**3.5.3.12** Prepare detailed estimates of construction cost.

**3.5.3.13** Liaise, co-operate and provide necessary information to the principal consultant and other consultants involved.

**3.5.3.14** Submit the necessary design documentation to local and other authorities for approval.

**Typical deliverables will include:**

- Design development drawings.
- Outline specifications.
- Local and other authority submission drawings and reports.
- Detailed estimates of construction costs

**3.5.4 Stage 4 – Documentation and Procurement**

**3.5.4.1** Presentation of final draft project design as per approved brief, including preambles, design drawings, engineering drawings, specifications, OH&S and method specifications related to Expanded Public Works Program, conditions of contract, Bills of Quantities, Contractual agreements, all inclusively representing the “Tender Document” and by accommodating the Supply Chain Management Unit’s procurement documentation in terms of the procurement policy and requirements of the Act to the Bid Specification Committee for consideration.

**3.5.4.2** Participation in the Bid Specification Committee activities

**3.5.4.3** Preparation of content for the tender advertisement to the Supply Chain Management unit

**3.5.4.4** Under separate and confidential submission, prepare and submit to the chairperson of the evaluation committee a full comprehensive and accurate market related project cost estimate for purposes of determination of acceptable upper and lower threshold limits during evaluation of tenders.

**3.5.4.5** Preparation for and chairing of the official compulsory project briefing/site visit during the tender advertisement stage.

**3.5.4.6** Assist by playing a prominent role during the official closing of tenders and opening and disclosing of tender information received.

**3.5.4.7** Conduct, prepare and finalize the technical evaluation report on tenders received after completion the general acceptability exercise conducted by the Supply Chain Management unit.

**3.5.4.8** Participate as per instruction in all other related procurement processes and committees deemed necessary.

**3.5.4.9** Ensure effective communication and consultation with the client and others during this stage with a continued accurate and updated record keeping of all relevant written communication, including monthly-, quarterly- annual- and project close out reporting on time as detailed and stipulated in the CESA agreement for purposes of project portfolio- and change management.

- 3.5.4.10** All written deliverables under this stage to be submitted to the Client who must indicate their acceptance or approval of such in writing prior to submission of the professional fees account for the same stage
- 3.5.4.11** Attend design and consultants' meetings.
- 3.5.4.12** Prepare specifications and preambles for the works.
- 3.5.4.13** Accommodate services design.
- 3.5.4.14** Check cost estimates and adjust designs and documents if necessary to remain within budget.
- 3.5.4.15** Formulate the procurement strategy for contractors or assist the principal consultant where relevant.
- 3.5.4.16** Prepare documentation for contractor procurement.
- 3.5.4.17** Review designs, drawings and schedules for compliance with approved budget.
- 3.5.4.18** Call for tenders and/or negotiation of prices and/or assist the principal consultant where relevant.
- 3.5.4.19** Liaise, co-operate and provide necessary information to the principal consultant and the other consultants as required.
- 3.5.4.20** Prepare contract documentation for signature
- 3.5.4.21** Assist in pricing, documentation and tender evaluation as required when the detailed services for these activities are provided by others.
- 3.5.4.22** Assess samples and products for compliance and design intent.

**Typical deliverables will include:**

- Specifications.
- Services co-ordination.
- Working drawings.
- Budget construction cost.
- Tender documentation.
- Priced contract documentation.

**3.5.5 Stage 5 – Contract Administration and Inspection**

As appointed Engineer, to manage, administer, monitor progress and report on all aspects of the contractual appointment including quality control management and expenditure to ensure the successful practical and final completion of the project. This will include but shall not be limited to the below:

- 3.5.5.1** Give effect to and arrange for site handover, contractual establishment, and hand-over of all relevant documentation, all engineering schedules, engineering- and working drawings  
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(including regular update of drawings register), site instruction book, and ensure project commencement. This shall include obtaining from the appointed contractor the base line construction implementation plan as well as the comprehensive occupational health and safety plan, cash flow projections for the project.

- 3.5.5.2** Arrange, conduct and chair all monthly project and technical meetings and oversee project administration and site and project supervision and inspection for conformity to project scope of work and contract documentation. In addition attend compulsory monthly departmental meeting and the quarterly project progress review workshops
- 3.5.5.3** Facilitate the submission of guarantees and warrantees, construction implementation plans, projected cash flow requirement schedules, data on labour employed, variation instructions, measurement and payments, contractual claims by the contractor, clarification of details and descriptions on engineering drawings and documentation during construction, compulsory testing certificates, related approvals, as built drawings and operating manuals where applicable.
- 3.5.5.4** Assist internal staff with co-project management activities and functions through effective communication, consultation and interaction, project inspections for conformity, quality management and control, construction management, issuing of site instructions, measurement, certification of interim monthly contractual project progress payments including session payments (if, where and when applicable) including calculation of retention and retention schedules and very important the submission of monthly, quarterly, annual, and close out financial- and technical reporting on time as detailed and stipulated in the CESA agreement for purposes of project portfolio- and change management on the prescribed electronic formats to the various stake-holders (i.e. implementing departments, Program Management Unit, etc.)
- 3.5.5.5** All written deliverables (including project cash flows, monthly project progress reports including reports on Expanded Public Works Program and related data, monthly expenditure reports, ad-hoc reports where or if applicable, payment certification, revised design drawings) under this stage to be submitted to the Client who must indicate their acceptance or approval of such in writing prior to submission of the professional fees account for the same stage.
- 3.5.5.6** Attend site handover.
- 3.5.5.7** Issue construction documentation in accordance with the documentation schedule including, in the case of structural engineering, reinforcing bending schedules and detailing and specifications of structural steel sections and connections.
- 3.5.5.8** Carry out contract administration procedures in terms of the contract.
- 3.5.5.9** Prepare schedules of predicted cash flow.
- 3.5.5.10** Prepare pro-active estimates of proposed variations for client decision making.
- 3.5.5.11** Attend regular site, technical and progress meetings.
- 3.5.5.12** Review the Contractor's quality control programme and advice and agree a quality assurance plan.

- 3.5.5.13** Inspect the works for quality and conformity to contract documentation, on average once every 2 weeks during the course of the works as described in more detail in **Construction Monitoring** chapter for Level 1: periodic construction monitoring.
- 3.5.5.14** Review the outputs of quality assurance procedures and advise the contractor and client on the adequacy and need for additional controls, inspections and testing.
- 3.5.5.15** Adjudicate and resolve financial claims by contractor(s).
- 3.5.5.16** Assist in the resolution of contractual claims by the contractor.
- 3.5.5.17** Establish and maintain a financial control system.
- 3.5.5.18** Clarify details and descriptions during construction as required.
- 3.5.5.19** Prepare valuations for payment certificates to be issued by the principal agent.
- 3.5.5.20** Instruct, witness and review all tests and mock ups carried out both on and off site.
- 3.5.5.21** Check and approve contractor drawings for design intent.
- 3.5.5.22** Update and issue drawings register.
- 3.5.5.23** Issue contract instructions as and when required.
- 3.5.5.24** Review and comment on operation and maintenance manuals, guarantee certificates and warranties.
- 3.5.5.25** Inspect the works and issue practical completion and defects lists.
- 3.5.5.26** Arrange for the delivery of all test certificates, statutory (regulatory) and other approvals, as built drawings and operating manuals

**Typical deliverables will include:**

- Schedules of predicted cash flow.
- Construction documentation.
- Drawings register.
- Estimates for proposed variations.
- Contract instructions.
- Financial control reports.
- Valuations for payment certificates.
- Progressive and draft final account(s)
- Practical completion and defects list
- All statutory certification and certificates of compliance as required by the Local and other Statutory Authorities

### **3.5.6 Stage 6 - Close-out**

**3.5.6.1** Ensure pre-final inspection on the works and issuing of official list of defects registered.

**3.5.6.2** Verify rectification of items listed on the defects list

**3.5.6.3** Conclude the final account where relevant to completion

**3.5.6.4** Ensure that the client is issued with all applicable drawings including “as-built” drawings, specifications, bills of quantities and related documentation on each project on completion, statutory regulatory test certificates and operating manuals (All considered to be the intellectual property of the Client and presented in the format as per the request expressed by the Client). The format for submission is defined under item 6 (Special Conditions) and such documentation shall be submitted to the Client as per requirement stipulated for each project stage.

**3.5.6.5** Compulsory preparation and submission of project evaluation-, social impact- and close-out reports and asset capitalization certificates on completion of the project.

**3.5.6.6** Issuing project completion and handover certificates

**3.5.6.7** All final engineering deliverables under this stage to be submitted to the Client who must indicate their acceptance or approval of such in writing prior to submission of the final professional fees account on the project

**3.5.6.8** Inspect and verify the rectification of defects

**3.5.6.9** Receive, comment and approve relevant payment valuations and completion certificates

**3.5.6.10** Facilitate and/or procure final operations and maintenance manuals, guarantees and Warranties.

**3.5.6.11** Prepare and/or procure as-built drawings and documentation.

**3.5.6.12** Conclude the final accounts where relevant.

#### **Typical deliverables will include:**

- Valuations for payment certificates
- Works and final completion lists
- Operations and maintenance manuals, guarantees and warranties
- As-built drawings and documentation
- Final accounts
- unbundling and asset capitalization

#### **4. ADDITIONAL SERVICES**

The following services are additional to the normal services provided by the consulting Engineer, unless specifically agreed otherwise between the consulting engineer and the client. The agreement on the services and remuneration shall be in writing and should, if at all possible, be concluded before such services are rendered.

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#### **4.1 Additional Services pertaining to all Stages of the Project**

- 4.1.1** All services related to defining the scope of work that are normally paid for on a time and cost basis
- 4.1.2** Enquiries not directly concerned with the works and its subsequent utilization.
- 4.1.3** Valuation for purchase, sale or leasing of plant, equipment, material, systems, land or buildings or arranging for such valuation.
- 4.1.4** Making arrangements for way leaves, servitudes or expropriations.
- 4.1.5** Negotiating and arranging for the provision or diversion of services not forming part of the works.
- 4.1.6** Additional work in obtaining the formal approval of the appropriate Government Departments or Public Authorities and Utilities, including the making of such revisions as may be required as a result of decisions of such Departments or Authorities arising out of changes in policy, undue delay, or other causes beyond the consulting engineer's control.
- 4.1.7** Additional work related to monitoring as required by any Government Departments or Authorities in order to facilitate regulatory approvals and certification (e.g. Mines Health and Safety Act 29 of 1996).
- 4.1.8** Topographical and environmental surveys, analyses, tests and site or foundation or other investigations, model tests, laboratory tests and analyses carried out on behalf of the client.
- 4.1.9** Setting out or staking out the works and indicating any boundary beacons and other reference marks.
- 4.1.10** Preparation of drawings for manufacture and installation or detailed checking of such for erection or installation fit.
- 4.1.11** Detailed inspection, reviewing and checking of designs and drawings not prepared by the consulting engineer and submitted by any contractor or potential contractor as alternative to those embodied in tender or similar documents prepared by the consulting engineer.
- 4.1.12** Travel/ accommodation and travel time costs related to offsite inspection and testing of materials and plant during manufacture and/or prior to delivery to site.
- 4.1.13** Preparing and setting out particulars and calculations in a form required by any relevant authority.
- 4.1.14** Abnormal additional services by, or costs incurred by the consulting engineer due to the failure of a contractor or others to perform their required duties adequately and on time. For example:
- When the works Contract is extended beyond the awarded contract period due to poor contractor performance or unforeseen circumstances, attendance at meetings and related inspections are considered as additional services. Alternatively, the portion of the fee due for the Contract Administration and Inspection Stage is adjusted pro-rata to the extended duration versus the originally expected duration.
  - Where more frequent inspections are required due to poor contractor performance or other extraneous factors these are normally considered to be additional services.
  - Dealing with excessive, unreasonable and spurious claims by the Contractor.

- 4.1.15** Executing or arranging for the periodic monitoring and adjustment of the works, after final handover and completion of construction and commissioning, in order to optimise or maintain proper functioning of any process or system.
- 4.1.16** Investigating or reporting on tariffs or charges leviable by or to the client.
- 4.1.17** Advance ordering or reservation of materials and obtaining licenses and permits.
- 4.1.18** Preparing detailed operating, operation and maintenance manuals.
- 4.1.19** Additional services, duties and/or work resulting from project scope changes, alterations and/or instructions by the client, or his duly authorized agents, requiring the consulting engineer to advise upon, review, adapt and/or alter his completed designs and/or any other documentation and/or change the services and/or duties. Such additional services are subject to agreement in writing between the consulting engineer and the client prior to the execution thereof.
- 4.1.20** The frequency and extent of site administration and inspections that are required relative to the norm: The frequency and duration of works inspections will depend on many factors, such as the nature, complexity and duration of the project, site location, project programme, contractor competence, important elements of the works being enclosed or covered etc. The norm is that meetings and inspections should occur at an average frequency of once every 2 weeks with more frequent occurrences during critical stages of the works as described for Level 1 Construction Monitoring in chapter. When the frequency of meetings and inspections exceeds this norm then such additional attendance at meetings and related inspections are considered as additional services,
- 4.1.21** Preparing record drawings on designs done by others or related to alterations to existing works.
- 4.1.22** Work and or services related to targeted procurement that could entail, but is not necessarily limited to any or all of the following:
- incorporation of any targeted participation goals and training outcomes,
  - the measuring of key participation indicators,
  - the selection, appointment and administration of participation and;
  - auditing compliance with the above by any contractors and/or professional consultant.
- 4.1.23** Exceptional arrangements, communication, facilitation and agreements with any stakeholders other than the client and contractors appointed for the works on which the consulting engineer provides services.
- 4.1.24** Any other additional services, of whatever nature, specifically agreed to in writing between the consulting engineer and the client.
- 4.1.25** Arranging forward cover for imported goods, materials or services.

## **4.2 Construction Monitoring**

- 4.2.1** Quality assurance (QA) during construction refers to the engineering activities that are implemented to assure the client that works are highly likely to meet the requirements. This is achieved through a combination of the quality control processes that are put in place by PWRT (PMU) 11/2021 - A: REGISTERED PROFESSIONAL ENGINEERING CONSULTING FIRMS ON A PANEL OF CONSULTING ENGINEERS ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS

the contractor to control its outputs and the inspection and acceptance testing that is carried out by the consulting engineer to confirm conformance prior to certification. While the contractor takes the ultimate responsibility for quality and meeting the design requirements, the purpose of quality assurance plan and related construction monitoring is to inspect and satisfy the client and the consulting engineer that the risk of these requirements not being met, is acceptable.

**4.2.2** This means that the client and consulting engineer should agree a satisfactory arrangement in respect of construction monitoring that suits the type of work, the project location and the duration of the critical aspects of the works. Disagreement regarding the required level of construction monitoring should not be taken lightly and the parties should carefully consider the consequences of non-compliances and related responsibilities, bearing in mind that the consulting engineer has a duty of care while the client should strive to ensure quality and minimize life-cycle costs.

**4.2.3** The level of construction monitoring and the frequency and duration of the site visits must be agreed with the client prior to commencement of the works and should be recorded in the agreement with the client. The level of construction monitoring and activities related to the quality assurance plan may change during the course of the works to reduce quality related risks and this will require an amendment of the agreement.

**4.2.4** The stage 5 construction monitoring services described above will normally suffice for simple projects where more regular inspections are not required other than during critical stages of the works with less frequent visits once the portion of the works in which the consulting engineer is involved has largely been completed. However, there are many other situations where more regular construction monitoring is required for quality assurance and certification.

**4.2.5** Aspects that need to be considered when determining the degree to which additional construction monitoring services are required are:

- (a) The type of work.
- (b) The discipline of the work (civil, structural, mechanical, electrical etc.).
- (c) The competency and reputation of the contractor and its related quality control system.
- (d) The speed with which critical elements of the work are covered.
- (e) The consequences of non-compliance.
- (f) Timing and ease of subsequent detection and rectification of non-compliances.

**4.2.6** Arising from the above, three levels of construction monitoring may be defined and described, as follows:

- (a) Level 1: Periodic Construction Monitoring (Normal Services ie no additional services)

The consulting engineer's staff shall:

- (i) Visit the works at a frequency of once every two weeks on average over the duration of the works, with additional visits for works completion inspections and inspections for works defects lists.
  - (ii) Review random samples of material and work procedures that will coincide with the normal frequency visits, for conformity to contract documentation, and review random samples of important completed work prior to covering up, or on completion, as appropriate.
- (b) Level 2: Part-time Construction Monitoring (Normal Services for building structures and additional services involving part-time staff paid for by the client for other disciplines and projects)

The consulting engineer's staff or part time construction monitoring staff shall:

- (i) Regularly visit the site at a frequency which may vary during the course of the project, and such visits may be daily or weekly, according to the demands of the project.
  - (ii) Regularly, review samples of materials and work procedures that may require more frequent visits than required for Level 1, for conformity to contract documentation, and review regular samples of important completed work prior to covering up, or on completion, as appropriate.
  - (iii) Where the consulting engineer is the sole professional service provider or principal agent, carry out such administration of the project as is necessary on behalf of the client.
- (c) Level 3: Full-time Construction Monitoring (Full time staff seconded to the client for the duration of the works and paid for by the client)

The full time construction monitoring staff shall:

- (i) Maintain a full time presence on site to constantly review samples of materials and work procedures, for conformity to contract documentation, and review completed work prior to covering up, or on completion, as appropriate.
- (ii) Assist with the preparation of as-built records and drawings to the extent required in the agreement with the client
- (iii) Where the consulting engineer is the sole professional service provider or principal agent, carry out such administration of the project as is necessary on behalf of the client.

**4.2.6** Most structural engineering work typically requires at least Level 2 monitoring and the costs associated with this level of monitoring are included in the guideline fee for building projects to facilitate agreements. For example, in structural concrete work the correct position of reinforcing steel may need to be witnessed for all elements of the structure prior to pouring concrete. The consulting engineer may also require acceptance testing of the concrete on a regular basis depending on the quality controls instituted by the contractor as part of the quality assurance plan.

- 4.2.7** In the case of large civil works where all materials and elements are generally regarded as being critical and are covered on a daily basis, work is monitored on a continuous basis for the duration of the works and Level 3 monitoring usually applies. This level is also applied to the structural works that are included in such projects.
- 4.2.8** In the case of some mechanical and electrical works related to simple routine projects, such as general educational buildings, primary healthcare and some institutional building projects, Level 1 monitoring is usually sufficient. On projects where a significant portion of the work is rapidly covered, such as projects involving underground services and building projects like secondary healthcare, tourism and leisure, commercial, retail and office buildings with complex electrical and mechanical works, Level 2 or Level 3 construction monitoring is normally required.
- 4.2.9** Where Level 2 construction monitoring is required as an additional service and the works are located close to the consulting engineer's offices, it may be economical to provide the additional service using the consulting engineer's office staff on a time and cost basis. Where the works are more remote it may be more cost-effective to second full time or part time staff to the project to carry out the necessary inspections. In all instances the consulting engineer will, with prior written approval having been obtained from the client, appoint or make available additional staff for such construction monitoring on site to the extent specifically defined in the agreement.
- 4.2.10** In some instances, staff are made available by the client to assist in construction monitoring in which cases these persons should report to and take instructions from the consulting engineer or an authorized representative of the consulting engineer to avoid mixed messages being passed to the Contractor. The client and the consulting engineer should agree on the relevant and appropriate experience of the staff so appointed by the client.

### **4.3 Occupational Health and Safety Act, 1993 (Act No.85 of 1993).**

Should the client require the consulting engineer to undertake duties falling under the above Occupational Health and Safety Act and the Construction Regulations in terms thereof, on behalf of the client, the additional services may include the following:

- (1) The consulting engineer must arrange, formally and in writing, for the contractor to provide documentary evidence of compliance with all the requirements of the above Occupational Health and Safety Act.
- (2) The consulting engineer must execute the duties of the client, as his appointed agent, as contemplated in the Construction Regulations to the above Occupational Health and Safety Act.

### **4.4 Quality Assurance System**

Where the client requires that a quality management system or quality assurance services, over and above construction monitoring services, be applied to the project, these are in addition to normal services provided by the consulting engineer and to be specifically defined and separately agreed in writing prior to commencement thereof.



#### **4.5 Lead Consulting Engineer**

Should the client require the consulting engineer to assume the leadership of a joint venture, consortium or team of consulting engineers, of the same discipline, prescribed or requested by the client, the additional services may include the following:

- (1) Responsibility for the overall administration of all sections of the services, including those portions of the services, which fall within the ambit of the other consulting engineers.
- (2) Responsibility for the overall co-ordination, programming of design and financial control of all the works included in the services.
- (3) Processing certificates or recommendations for payment of contractors.

#### **4.7 Engineering Management Services (Principal Consultant)**

Should the client require the consulting engineer to undertake duties of an engineering management nature on behalf of the client, where the project involves multi-disciplinary team(s) the additional services will include the following:

##### **Stage 1: Inception Services**

- (1) Facilitate development of a clear project brief.
- (2) Establish the procurement policy for the project.
- (3) Assist the client in the procurement of necessary and appropriate other consultants including the clear definition of their roles and responsibilities.
- (4) Establish, in conjunction with the client, other consultants and all relevant authorities, the site characteristics, rights and constraints for the proper design of the intended project.
- (5) Define the consultant's scope of work and services.
- (6) Conclude the terms of the agreement with the client.
- (7) Facilitate a schedule of the required consents and approvals.
- (8) Prepare, co-ordinate and monitor a project initiation programme.
- (9) Facilitate client approval of all Stage 1 documentation.

##### **Typical deliverables**

- Project brief
- Agreed scope of work
- Agreed services
- Project procurement policy
- Signed agreements

- Integrated schedule of consents and approvals
- Project initiation programme
- Records of all meetings

## **Stage 2: Concept and Viability Services**

- (1) Assist the client in procurement of the other consultants.
- (2) Advise the client on the requirement to appoint a health and safety consultant.
- (3) Communicate the project brief to the other consultants and monitor the development of the concept and viability.
- (4) Agree format and procedures for cost control and reporting by the other consultants.
- (5) Prepare a documentation programme and indicative construction programme.
- (6) Manage and integrate the concept and viability documentation for presentation to the client for approval.
- (7) Facilitate approval of the concept and viability by the client.
- (8) Facilitate approval of the concept and viability by statutory authorities.

### **Typical deliverables**

- Signed consultant/client agreements
- Indicative documentation programme and construction programme
- Approval by the client to proceed to Stage 3

## **Stage 3: Design Development Services**

- (1) Agree and implement communication processes and procedures for the design development of the project.
- (2) Assist the client in the procurement of the necessary other consultants including the clear definition of their roles and responsibilities.
- (3) Prepare, co-ordinate, agree and monitor a detailed design and documentation programme.
- (4) Conduct and record consultants' and management meetings.
- (5) Facilitate input required by health and safety consultant.
- (6) Facilitate design reviews for compliance and cost control.

- (7) Facilitate timeous technical co-ordination.
- (8) Facilitate client approval of all Stage 3 documentation.

#### **Typical deliverables**

- Additional signed client/consultant agreements
- Documentation programme
- Record of all meetings
- Approval by the client to proceed to Stage 4

#### **Stage 4: Documentation and Procurement Services**

- (1) Recommend and agree procurement strategy for contractors, subcontractors and suppliers with the client and the other consultants.
- (2) Prepare and agree the procurement programme.
- (3) Advise the client, in conjunction with the other consultants, on the appropriate insurances.
- (4) Co-ordinate and monitor preparation of procurement documentation by the other consultants in accordance with the project procurement programme.
- (5) Manage procurement process and recommend contractors for approval by the client.
- (6) Agree the format and procedures for monitoring and control by the quantity surveyor of the cost of the works.
- (7) Co-ordinate and assemble the contract documentation for signature.

#### **Typical deliverables**

- Procurement programme
- Tender/contract conditions
- 
- Records of all meetings
- 
- Obtain approval by the client of tender recommendation(s)
- 
- Contract documentation for signature

#### **Stage 5: Contract Administration Services**

- (1) Arrange site handover to the contractor.
- (2) Establish construction documentation issue process.

- (3) Agree and monitor issue and distribution of construction documentation.
- (4) Instruct the contractor on behalf of the client to appoint subcontractors.
- (5) Conduct and record regular site meetings.
- (6) Monitor, review and approve the preparation of the construction programme by the contractor.
- (7) Regularly monitor performance of the contractor against the construction programme.
- (8) Adjudicate entitlements that arise from changes required to the construction programme.
- (9) Receive, co-ordinate and monitor approval of all contract documentation provided by contractor(s).
- (10) Agree quality assurance procedures and monitor implementation thereof by the other consultants and the contractors.
- (11) Monitor preparation and auditing of the contractor's health and safety plan and approval thereof by the health and safety consultant.
- (12) Monitor preparation of the environmental management plan by the environmental consultant.
- (13) Establish procedures for monitoring scope and cost variations.
- (14) Monitor, review, approve and issue certificates.
- (15) Receive, review and adjudicate any contractual claims.
- (16) Monitor preparation of financial control reports by the other consultants.
- (17) Prepare and submit progress reports.
- (18) Coordinate, monitor and issue practical completion and defects lists and the certificate of practical completion.
- (19) Facilitate and expedite receipt of the occupation certificate where relevant.

### **Typical deliverables**

- Signed contracts
- Approved construction programme
- Construction documentation
- Payment certificates
- Progress reports

- Record of meetings
- Certificate(s) of practical completion and defects lists

### **Stage 6: Close Out Services**

- (1) Co-ordinate and monitor rectification of defects.
- (2) Manage procurement of operations and maintenance manuals, guarantees and warranties.
- (3) Manage preparation of as-built drawings and documentation.
- (4) Manage procurement of outstanding statutory certificates.
- (5) Monitor, review and issue payment certificates.
- (6) Issue completion certificates.
- (7) Manage agreement of final account(s).
- (8) Prepare and present the project close-out report.

### **Typical deliverables**

- Completion certificates
- Record of necessary meetings
- Project close-out report

## **4.8 Mediation, Arbitration and Litigation proceedings and similar Services**

Where the client requires the consulting engineer to, on his behalf, perform the services listed hereunder or similar work, the extent thereof and remuneration therefore is subject to agreement between the client and the consulting engineer:

- (1) Dealing with matters of law, obtaining parliamentary or other statutory approval, licenses or permits.
- (2) Assisting with or participating in contemplated or actual mediation, arbitration or litigation proceedings such as Contractor disputes.
- (3) Officiating at or attending courts and commissions of enquiry, select committees and similar bodies convened by statute, regulation or decree.

## **4.9 Principal Agent of the Client**

When a consulting engineer is, in addition to his normal functions as consulting engineer,

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appointed as the principal agent of the client on a building or multi-disciplinary project for the purposes of procurement and construction on a project, the consulting engineer will also be responsible for the following:

### **Stage 3: Design Development Services**

- (1) Prepare, co-ordinate, agree and monitor a detailed design and documentation programme

#### **Typical deliverables**

- Detailed design and documentation programme

### **Stage 4: Documentation and Procurement Services**

- (1) Recommend and agree procurement strategy for contractors, subcontractors and suppliers with the client and the other consultants
- (2) Prepare and agree the procurement programme
- (3) Advise the client, in conjunction with the other consultants on the appropriate insurances
- (4) Manage procurement processes and recommend contractors for approval by the client
- (5) Agree the format and procedures for monitoring and control by the quantity surveyor of the cost of the works
- (6) Co-ordinate and assemble the contract documentation for signature

#### **Typical deliverables**

- Procurement programme
- Tender/contract conditions
- Contract documentation for signature

### **Stage 5: Construction Administration Services**

- (1) Arrange site handover to the contractor
- (2) Establish construction documentation issue process
- (3) Agree and monitor issue and distribution of construction documentation
- (4) Instruct the contractor on behalf of the client to appoint subcontractors
- (5) Conduct and record regular site meetings
- (6) Review, approve and monitor the preparation of the construction programme by the contractor

- (7) Regularly monitor performance of the contractor against the construction programme
- (8) Adjudicate entitlements that arise from changes required to the construction programme
- (9) Receive, co-ordinate and monitor approval of all contract documentation provided by contractor(s)
- (10) Agree quality assurance procedures and monitor implementation thereof by the other consultants and the contractors
- (11) Monitor preparation and auditing of the contractor's health and safety plan and approval thereof by the health and safety consultant
- (12) Monitor preparation of the environmental management plan by the environmental consultant
- (13) Establish procedures for monitoring scope and cost variations
- (14) Monitor, review, approve and issue certificates
- (15) Receive, review and adjudicate any contractual claims
- (16) Monitor preparation of financial control reports by the other consultants
- (17) Prepare and submit progress reports
- (18) Co-ordinate, monitor and issue practical completion lists and the certificate of practical completion

### **Typical deliverables**

- Signed contracts
- Approved construction programme
- Construction documentation
- Payment certificates
- Progress reports
- Record of meetings
- Certificate(s) of practical completion and coordination of defects list
- Facilitate and expedite receipt of occupation certificates

### **Stage 6: Close Out Services**

- (1) Co-ordinate and monitor rectification of defects
- (2) Manage procurement of operations and maintenance manuals, guarantees and Warranties

- (3) Manage preparation of record drawings and documentation
- (4) Manage procurement of outstanding statutory certificates
- (5) Monitor, review and issue payment certificates
- (6) Issue completion certificates
- (7) Manage agreement of final account(s)
  
- (8) Prepare and present the project close-out report

#### **Typical deliverables**

- Completion certificates
- Record of necessary meetings
- Project close-out report

#### **4.10. Design and Build (Turnkey contract)**

The Municipality may assign projects to successful Consultant on design and build (turnkey contract). The Consulting Engineer will be responsible for:

- Design- build team selection stage
- Pre-construction planning stage
- Design and functionality stage
- Construction stage
- Post-construction stage

### **5. SPECIAL CONDITIONS**

The skills, expertise, related engineering experience, capacity and municipal project implementation understanding under (3.1) above must be clearly demonstrated in the compulsory company profile submissions together with the following submissions marked with clear margin-labels:

**5.1** Individual detailed Curriculum Vitae for each share holder in the company as well as for each professionally registered staff member

**5.2** Certified copy of the original Company registration with Council for Engineers of South Africa (CESA), South African Institution of Civil Engineers (SAICE) or South African Black Technical and Allied Career Organization (SABTACO)

**5.3** Certified copy of each of the original Individual professional registrations with Engineering Council of South Africa (ECSA).

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- 5.4** The appointed engineering services providers must prior to commencement with any works submit proof of sufficient indemnity for the specific project assigned.
- 5.5** Certified Copies of CETA's National Certificate on National Qualification Framework (NQF) Level 7 or letters confirming qualification of such, applicable to at least two (2) engineers/technologists and (NQF) Level 5 accreditation applicable to at least two (2) technologist/technicians. (Study area applicable: Labour Intensive Construction Methods)
- 5.6** The appointment of the successful professional consultants will be effectively for a period of three (3) years as stipulated in the Municipal Finance Management Act within which period with its conditions, projects may be assigned to consultants.
- 5.7** No new project assignments will be considered or allowed during the last six (6) months of the three (3) year period. Only changes to the original scope of work of an assigned project due to clearly motivated unforeseen circumstances allows for additional and or new amended assignments during the last six (6) months of the three (3) year period.
- 5.8** Entire projects will be assigned to consultants with a maximum period of 3 years
- 5.9** Unbundling of a project(s) prior to assignment must be clearly motivated for approval by the Municipal Manager
- 5.10** The design of any assigned project must be finalized, completed and approved by the Executive Manager: PWRT/relevant Executive Manager prior to tender and implementation thereof.
- 5.11** The assignment of projects on an as and when required basis to the appointed panel of consultants will apply to projects related to municipal infrastructure service delivery.
- 5.12** The appointed professional engineering consultants will each be responsible for the full completion of any project assigned to them provided that the implementation of any such project may not stretch beyond the end of the three year period of appointment.
- 5.13** The successful professional engineering consultants will be expected to sign a overarching Service Level Agreement with Mogale City Local Municipality and individual CESA agreements on each project assigned with the user department, which outlines in detail the performance services the service provider will be responsible for in order to achieve the project objectives, timelines and deliverables.
- 5.14** The appointed engineering service providers must ensure under their appointment and individual project assignments that the organization's annual approved service delivery and demand management targets are met timeously.
- 5.15** Where there is any Information and Communication Technology related component involved on any project assigned, such should abide and conform to the hardware, software

and all applicable Information and Communication Technology policies and regulations of the Mogale City Local Municipality.

- 5.16** The potential professional engineering consultants must provide MCLM during the various project stages and finally on completion of the project with one hard copy and one electronic copy of all related documents and drawings deemed to be the property of Mogale City Local Municipality. The electronic copy must be produced in a workable electronic format as expressed and required by the client/relevant department and it should be compatible with that of the Mogale City Local Municipality – IT software. (PDF format or any other format which protects any document or drawing for which Mogale City Local Municipality is billed for or which forms administratively a natural integral part of any project will not be accepted).
- 5.17** All reports must be bound with an approved Mogale City Local Municipality cover page designed for the relevant project.
- 5.18** All Tender documents shall reflect the Mogale City Local Municipality logo and where applicable the EPWP and grant's logo.
- 5.19** All reports developed must be treated as confidential, are the sole property of the Mogale City Local Municipality, and are to be used or distributed only with the written permission of the Mogale City Local Municipality.
- 5.20** No presentations of any reports or findings of any study may be made public without the prior written permission of the Mogale City Local Municipality.
- 5.21** The Copyright in any document produced, and the patent right or ownership in any plant, machinery, thing, system or process designed or devised, by a Consultant in the course of the consultancy services is vested in Mogale City Local Municipality.
- 5.22** Please note there will be two (2) categories, namely Category A: Civil Engineering and Category B: Electrical and Mechanical Engineering panel of Consulting Engineers and consultants will be eligible to be appointed on two (2) categories. Category B: Electrical and Mechanical is a different contract from this 1 and will be tendered separately.
- 5.23** Only Consulting Firms which complies with Category 1 to 3 BBBEE level are eligible to bid.

## **6. REGULATORY FRAMEWORK**

Services to be rendered for the municipality must be provided within the applicable legislation which is not limited to the following:

- 6.1** Water Services Act 108 of 1997
- 6.2** Public Finance Management Act 1 of 1999
- 6.3** Division of Revenue Act 10 of 2018
- 6.4** Municipal Structures Act 117 of 1998
- 6.5** Municipal Systems Act 32 of 2000
- 6.6** Municipal Finance Management Act of 2003
- 6.7** Preferential Procurement Framework Act 22 of 2000
- 6.8** Disaster Management Act 57 of 2002

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- 6.9 Employment Equity Act 55 of 1998
- 6.10 National Environmental Management Act 107 of 1998
- 6.11 All relevant publications related to the National Energy Regulator applicable to Local Authorities
- 6.12 Relevant Municipal By-Laws and Regulations on: Roads, Water, Sanitation, Solid Waste, Electricity, Parks, Cemeteries, Sport, Buildings, and Environment, to mention a few.
- 6.13 Other regulatory documents such as the,
  - 6.13.1 Joint Building Contract Committee,
  - 6.13.2 General Conditions of Contract,
  - 6.13.3 Construction Industry Development Board,
  - 6.13.4 Professional-and Ethical Conduct and Standards and
  - 6.13.5 FIDIC

## 7. FINANCIAL IMPLICATION:

### 7.1.1 Pricing and Claim Schedule

7.1.1.1 The price will be as per ECSA scale of fees applicable and will be agreed upon between the client and the service provider during project assignment

7.1.1.2 Prospective tenderers may claim their fees for stages achieved according to the following table:

NO	END OF STAGES	ACHIEVED MILESTONES/ DELIVERABLES/OUTCOMES	% DUE
A	Inception and Feasibility Stage	Confirm with submission of report with attached proof for adherence to item 4.1 in this document	5%
B	Conceptual Design Stage	Confirm with submission of a report with attached proof for adherence to item 4.2 in this document	5%
C	Preliminary Design Stage	Confirm with submission of a report with attached proof for adherence to item 4.3 in this document	10%
D	Final Design Stage	Confirm with submission of a report with attached proof for adherence to item 4.4 in this document	25%
E	Tender and Procurement Stage	Confirm with submission of a report with attached proof for adherence to item 4.5 in this document	15%
F	Construction Management Stage	Confirm with submission of a report with attached proof for adherence to item 4.6 in this document	30%
G	Final Project Close-out Stage	Confirm with submission of a report with attached proof for adherence to item 4.7 in this document	10%
H	<b>NB: Retention</b>	<b>10% will be deducted from each invoice as retention and will be released upon submission of close out reports, as built drawings and other related reports</b>	
<b>TOTAL</b>			<b>100%</b>

Professional Fees will be covered under the specific approved project budgetary provision on the annual approved capital budget.

The total assigned project budget (approved project value in the case of grant funded projects) makes provision for the following:

1. Professional fees
2. Contractual tendered value
3. Escalation based on the relevant published Consumer Price Indices schedules
4. Contingencies 10%
5. Retention 10%
6. 15% Value Added Tax

## 8. TECHNICAL EVALUATION CRITERIA - CATAGORY A (Civil- and Engineers)

- The below mentioned criteria regarding Functionality is required for responsiveness and therefore eligibility for the next stage of evaluation. This is done to determine the ability of each bidder to successfully execute the contract according to specifications.
- Non-compliant bidders will be rejected after this phase and not continue to price scoring.
- Tenderers will be assessed based on the quality criteria as set out in the table below. Tenderers scoring less than 27 points out of 60 points will be considered non-responsive.
- Tenderers will be assessed based on the prequalification criteria as set out in the table below. Tenderers scoring less than 27 will considered non-responsive.
- These criteria shall only determine whether a tender will further be evaluated and will not influence the points scored on Price
- Tenderers shall fill in the relevant information on the Quality Criteria Schedules and this information shall be used to award points for quality on the following basis per category:

### 8.1 ENGINEERING EXPERTISE

No.	Description		Qualitative Indicator or Prompt for judgment for functionality		
1	Specific Project Expertise within the Employ of the Tenderer (Proof of certified certification and registration including CVs)	Number Required	Allocation of points	Maximum points	Minimum Points
1.1	Registered Professional Engineer/Technologist (Civil) (Minimum 5 years of experience after registration)	2	5 years = 5 points 6 years =6 points 7years = 7 points 8 years = 8 points 9 years = 9 points 10 years = 10 points	20	5
1.2	Engineer's Representative (Civil Engineering Qualification+ Minimum 5 years of experience after qualifying)	1	5 years = 5 points 6 years =6 points	10	5

			7 years = 7 points 8 years = 8 points 9 years = 9 points 10 years = 10 points		
<b>2.</b>	<b>Support Staff</b>	<b>Number Required</b>	<b>Allocation of points</b>	<b>Maximum points</b>	<b>Minimum Points</b>
2.1	Qualified Draughts Person/CAD Operator (Minimum 1 years' experience after qualification)	1	1 years' experience = 3 points 2 and more years' experience = 5 points	5	3
2.2	Qualified Office Administrative Staff (Secretariat or Admin Staff) (Minimum 1 years' experience after qualification)	1	1 years' experience = 3 points 2 and more years' experience = 5 points	5	3
2.3	Engineering Technician (National Diploma Civil Engineering)+ (Minimum 1 years' experience after qualification)	1	1 years' experience = 3 points 2 and more years' experience = 5 points	5	3
<b>3.</b>	<b>Previous company Experience</b>	<b>Number Required</b>	<b>Allocation of points</b>	<b>Maximum points</b>	<b>Minimum Points</b>
3.1	Submit proof for successful completion of a minimum of six (6) Civil Engineering projects related to infrastructure service delivery over the past five (5) years with individual values of R6m and above over this period.  <b>Submission: Appointment and Reference letters under official letterhead from the relevant client confirming successful completion.</b>  <b>N.B: Consultant reference letters shall be accompanied by consultant appointment letter from any organ of state or client.</b>	6	6 projects = 8 points 7 and more projects = 15 points	15	8
	<b>Total</b>			<b>60</b>	<b>27</b>
	<b>For comparison and in order to ensure a meaningful evaluation, bidders are requested to furnish detailed information on substantiation of compliance to the evaluation criteria. The service provider should at least score a minimum of 27 points out of the 60 points in order to be considered in the next evaluation phase.</b>				
	<b>If any criterion is rated zero points, the tenderer will be rejected, even if the required 27 out of 60 points are achieved. Bidder who fails to score minimum points on any sub criteria will be rejected, even if the required 27 out of 60 points. Consultant reference letters shall be accompanied by consultant appointment letter from any organ of state or client.</b>				

## TENDERS TO BE EVALUATED ON FUNCTIONALITY

- 5.(1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) The tender documents must specify-
  - (a) the evaluation criteria for measuring functionality;
  - (b) the points for each criteria and, if any, each sub-criterion; and
  - (c) the minimum qualifying score for functionality.
- (4) The minimum qualifying score for functionality for a tender to be considered further-
  - (a) must be determined separately for each tender; and
  - (b) may not be so-
    - (i) low that it may jeopardise the quality of the required goods or services; or
    - (ii) high that it is unreasonably restrictive.
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- (7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

**SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE**

I, the undersigned,

Full name and surname	
Identity number	

Hereby declare under oath as follows:

- The contents of this statement are to the best of my knowledge a true reflection of the facts.
- I am a member / director / owner of the following enterprise and I am duly authorised to act on its behalf:

Enterprise Name	
Trading Name	
Registration number	
Enterprise Address	

- I hereby declare under oath that:

- The enterprise is \_\_\_\_\_% black owned;
- The enterprise is \_\_\_\_\_% black women owned;
- Based on the management accounts and other information available for the \_\_\_\_\_ Financial year, the income did not exceed R 10 000 000.00 (ten million rands);
- Please confirm in the table below the B-BBEE level of contributor, **by ticking the applicable box:**

100% Black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	

- The entity is an empowering supplier in terms of the dti Codes of Good Practice.
- I know and understand the contents of the affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
- The sworn affidavit will be valid for a period of 12 months from the date signed by the commissioner.

Deponent Signature \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
 Commissioner of Oaths  
 Signature and Stamp

**SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE**

I, the undersigned,

Full name and surname	
Identity number	

Hereby declare under oath as follows:

- The contents of this statement are to the best of my knowledge a true reflection of the facts.
- I am a member / director / owner of the following enterprise and I am duly authorised to act on its behalf:

Enterprise Name	
Trading Name	
Registration number	
Enterprise Address	

3. I hereby declare under oath that:

- The enterprise is \_\_\_\_\_% black owned;
- The enterprise is \_\_\_\_\_% black woman owned;
- Based on the management accounts and other information available on the \_\_\_\_\_ financial year, the income did not exceed R50,000,000.00 (fifty million rands);
- he entity is an Empowering Supplier in terms of Clause 3.3 (a) or (b) or (c) or (d) or as amended 3.3 (e) (**select one**) \_\_\_\_\_ of the dti Codes of Good Practice.
- Please confirm on the table below the B-BBEE level of contributor, **by ticking the applicable box:**

100% Black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	
(a) At least 25% of cost of sales, (excluding labour costs and depreciation) must be procurement from local producers or suppliers in South Africa; for the services industry include labour costs but capped at 15%,	(b) Job Creation – 50% of jobs created are for black people, provided that the number of black employees in the immediate prior verified B-BBEE measurement is maintained	
(c) At least 25% transformation of raw material / beneficiation which include local manufacturing, production and /or assembly, and/ or packaging	(d) At least 12 days per annum of productivity deployed in assisting QSE and EME beneficiaries to increase their operation or financial capacity	
(e) At least 85% of labour costs should be paid to South African employees by service industry entities.		

- I know and understand the contents of the affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

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2. The sworn affidavit will be valid for a period of 12 months from the date signed by the commissioner.

Deponent Signature \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature and Stamp

**MOGALE CITY LOCAL MUNICIPALITY**  
**SPECIAL CONDITIONS OF CONTRACT**

**BID NO: PWRT (PMU) 11/2021 - A**

1. All bids must be submitted on the official forms and may not be re-typed, copied or scanned.
2. Bid documents must be completed in ink and corrections may not be made by means of a correcting fluid such as Tipp-Ex or a similar product. In the event of a mistake having been made it shall be crossed out in ink and be accompanied by a full signature at each and every alteration. The Municipality reserves the right to reject the Bid if corrections are not made in accordance with the above.
3. If items are not tendered for a line must be drawn through the space on the pricing schedule in pen.
4. **All bid prices must be in RSA currency and inclusive of VAT.** All prices and details must be legible / readable to ensure the bid will be considered for adjudication.
5. In the instance of a term tender (period longer than one year), please indicate the estimated annual price increase and the intervals of such increases.
6. The lowest or any bid will not necessarily be accepted and Mogale City Local Municipality reserves the right to accept the entire or any portion of a bid.
7. Bids are to remain open for acceptance for a period of ninety (90) days from the date they are lodged and may be accepted at any time during the said period of ninety (90) days.
8. Tax clearance certificates issued by SARS will be accepted. Tax clearance certificates must be valid on the official closing date of the bid or Tax Compliance Status document (TCS)
9. In bids where Consortia / Joint Ventures / Sub-contractors are involved, **each party must submit a separate** Tax Clearance Certificate OR Tax Compliance Status (TCS) document.
10. The following information / documentation must be attached to every bid document:
  - comprehensive company profile;
  - detailed exposition of previous experience, specifically with relation to similar work done;
  - Tax clearance certificate or Tax Compliance Status
  - copy of latest Municipal account (irrespective of the municipal area) as well as all its directors or a lease agreement indicating Rates and Taxes not older than three (3) months.
  - copy of entities registration documents
  - if a bid is submitted by a joint venture, a copy of the memorandum of agreement between the parties;
  - Valid original B-BBEE Certificate or Letter from Registered Auditor in case of Emerging Micro-Enterprises (EME) or required to submit a sworn affidavits.
  - copy of certificate of registration with professional bodies or controlling authorities (mention the specific registration required)
11. Bids will be opened immediately after the closing date and time in a venue to be indicated.
12. Any orders placed within the contract period, will be paid according to the price applicable at the date of order.
13. A Corporate social responsibility contribution of one (1%) Vat inclusive will be levied on all companies/ service providers appointed as successful bidders provided that such companies are not based in the area of jurisdiction of Mogale City.

14. The supply chain management policy of Mogale City Local Municipality allow persons aggrieved by decisions or actions taken by the municipality in the implementation of its supply chain management system, to lodge within fourteen (14) days of the decision or action a written objection or complaint to the municipality against the decision or action.
15. Bids will be received until **11H00** on **30 June 2021**, and must be enclosed in sealed envelopes, bearing the closing time and due date

and must be addressed to:

The Municipal Manager  
Mogale City Local Municipality  
PO Box 94  
Krugersdorp  
1740

OR

The Municipal Manager  
Mogale City Local Municipality  
Cnr. Market & Commissioner Streets  
**TENDER BOX**  
Krugersdorp

16. Bidders should ensure that bids are delivered **timeously to the correct address**. If the bid is late, it will be returned unopened to the bidder and will not be accepted for consideration.

## BID CHECKLIST

This list is aimed at assisting all bidders to submit complete bid documents.

Bidders are to check the following points before the submission of their tender document and to complete YES/NO next to each item as an indication that the bidder has complied with the provision of the item concerned. If any of the items are marked as NO – it might lead to the disqualification of your bid.

ITEM	DESCRIPTION	YES	NO
1.	Provide copy of your company registration document.		
2.	Provide certified copy of your company VAT registration Certificate		
3.	Tax clearance certificate/copy of tax compliance status (TCS) document has been submitted – in the name of the bidding entity		
4.	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, which is in arrears for more than three (3) months? No bid will be awarded to a company and its directors that owe more than three (3) months charges to any municipality or metro.		
5.	Lease agreement/municipal account of not older than three months in the name of the bidding entity.  (Copy of the lease agreement will only be accepted if water and lights are part of lease payment).		
6.	<ul style="list-style-type: none"> <li>▪ Valid B-BBEE Rating Certificate or letter from registered auditor or Sworn Affidavit</li> <li>▪ Consolidated B-BBEE certificate / letter in case of a trust, consortium or joint venture.</li> </ul>		
7.	All pages of the bid document have been read by the bidder and the returnable schedules and MBD forms duly completed and signed.  MBD 4, MBD 5 , MBD 6.1, MBD 8 AND MBD 9		
8.	All pages requiring information have been completed in full and in black ink.		
09.	No pages removed from the tender document		
10.	A copy of the resolution of your Board of Directors, similar to the attached specimen, authorizing the signatory to sign the tender and the subsequent contracts, has been attached and signed.		

11.	JV agreement has been attached and signed (if applicable)		
12.	Bidder must attach the Central Supplier Database (CSD) registration summary report.		
13.	Certified Copies of the directors Identity Documents		
14.	In case of any amendments made, was it signed in full by the authorized signatory?  Please note that the use of tipp-ex will lead to immediate disqualification.		
15.	Please declare any interest as required in terms of MBD - 4 truthfully and correctly as incorrect declarations are considered a criminal offence.  <ul style="list-style-type: none"> <li>▪ Personal Tax Numbers included</li> <li>▪ State Employee Number / Persal Number</li> <li>▪ Identity number</li> <li>▪ Name</li> </ul>		
16.	Please take note of the functionality evaluation criteria that will be applied to your submission in order to ensure that your company has the necessary capacity and capability to successfully execute this tender, if appointed.  Ensure that sufficient information is included in your submission to ensure successful evaluation of your bid.		

**PLEASE NOTE:**

- ❖ **No contract will be awarded to a service provider, if the service provider or its directors are in arrears with their municipal accounts for more than three (3) months.**
- ❖ **In case of a Joint Venture, please note that individual documents have to be submitted for all parties in the JV, like tax clearance certificates, municipal accounts, etc.**
- ❖ **No communication with Mogale City Municipal officials are allowed after the closing date of the tender. The only authorised form of communication will be through the Supply Chain Management Office.**
- ❖ **No bids will be accepted if not submitted on the correct closing date and time. No late bids will be considered, even if only late by a minute.**