



**O.R. TAMBO  
DISTRICT MUNICIPALITY**

<b>TENDER NO.:</b>	<b>ORTDM SCMU 09-20/21</b>
<b>DESCRIPTION:</b>	<b>DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK (LSDF)/CONCEPTUAL DESIGN</b>

**AUGUST 2020**

**Issued by:**

Rural and Development Planning  
O. R. Tambo District Municipality  
Private Bag x 6043  
MTHATHA  
5100  
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**Prepared by:**

REDP  
OR Tambo District Municipality  
Private Bag x 6043  
MTHATHA  
5100  
Tel. No.: (047) 501 6400

NAME OF BIDDER: \_\_\_\_\_

CSD NUMBER: \_\_\_\_\_

SARS TAX COMPLIANCE STATUS PIN: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TENDER AMOUNT: \_\_\_\_\_

O.R. TAMBO DISTRICT MUNICIPALITY

TENDER NO. ORTDM SCMU 09-20/21

DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK (LSDF)/CONCEPTUAL DESIGN 2020/21

PLEASE CHECK

x / ✓

1. That you have read all the pages of the tender document. ....
2. That you have completed ALL the forms required to be completed in **NON-ERASEABLE INK**. ....
3. That your arithmetic calculation in the pricing schedule is correct. ....
4. That you have attached ALL necessary documentation relating to the composition of the tendering entity, i.e. ....
  - (a) Company registration documents naming the shareholders and directors / members of the company, close corporation etc
  - (b) Joint venture agreement, if tendering entity is a joint venture.
5. That the **COMPLETE** tender document is submitted. ....
6. That the **FORM OF OFFER** is completed in full and signed. ....
7. That ALL returnable documents are submitted. ....
8. That ALL returnable schedules are completed and signed. ....
9. Ensure that your tender is submitted by **12H00PM** on the closing date of the tender.

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# **THE TENDER**

**TENDER NO. ORTDM SCMU: 09-20/21 DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

**SECTION 1: TENDER NOTICE AND INVITATION TO TENDER**

O.R. Tambo District Municipality hereby invites bids for the project listed below:

<b>TENDER NO.</b>	<b>DESCRIPTION</b>	<b>BRIEFING SESSION</b>
ORTDM SCMU 09-20/21	Development of Magwa Estate Local Spatial Development Framework (LSDF)/conceptual design	Date: 06 October 2020 Time: 10H00 AM Venue:G10 Boardroom, O.R Tambo District Municipality Offices, Myezo Park, Mthatha

A compulsory briefing/clarification meeting with representatives of the Municipality will take place on the aforementioned date(s), time(s) and venue(s).

**THE MUNICIPALITY WILL NOT REPEAT ANY MATTERS ALREADY COVERED IN THE COMPULSORY BRIEFING MEETING TO BIDDERS WHO ARRIVE MORE THAN 10 MINUTES LATE TO THE MEETING, NOR WILL IT ALLOW SUCH BIDDERS TO COMPLETE THE ATTENDANCE REGISTER.**

**ANY BID RECEIVED FROM A BIDDER WHO DID NOT ATTEND THE BRIEFING MEETING AND SIGN THE ATTENDANCE REGISTER WILL NOT BE CONSIDERED.**

Bid documents should be downloaded on the e-Tender website ([www.etenders.gov.za](http://www.etenders.gov.za)) alternatively on the OR Tambo website ([www.ortambodm.gov.za](http://www.ortambodm.gov.za)).

Bids must be completed in black ink, enclosed in a sealed envelope clearly marked with the “**Tender number, tender name and description**”, and deposited in the Tender Box, Ground Floor, O. R. Tambo District Municipality Building, Nelson Mandela Drive, Myezo Park, Mthatha, Eastern Cape, not later than 12H00pm on **Monday, 19 October 2020**.

It must be expressly understood that the Municipality accepts no responsibility for ensuring that bid submissions sent by courier or post, or delivered in any other way, are deposited in the Tender Box. It is therefore preferable for the bidder to ensure that its bid submission is placed in the Tender Box by its own staff or representative(s).

**Tender submissions will be opened in public at 12h00pm on the tender closing date. Bids will be opened at the Ground Floor, O.R. Tambo House, Myezo, Mthatha.**

The Municipality reserves the right not to accept the only or lowest priced tender or any tender at all, or to accept the whole or part of any tender.

**RETURNABLE DOCUMENTS TO BE SUBMITTED WITH BID:**

- Original or certified copy of BBBEE certificate; or sworn affidavit confirming annual total revenue and level of black ownership, if bidder is an Exempted Micro Enterprise (EME) or Qualified Small Business (QSE);
- Certified copies of business registration documents;
- Certified copy of identity documents of directors/ shareholders/ partners / members, as the case may be.

**INVALID OR NON-SUBMISSION OF THE FOLLOWING RETURNABLE DOCUMENTS WILL DISQUALIFY A BID SUBMISSION:**

- CSD supplier number;
- Proof of latest municipal rates and taxes statement indicating that rates and taxes are not in arrears for more than 3 months;
- Audited annual financial statements of the bidding entity (for projects in excess of R10 million);
- Unaudited annual financial statements for close corporations, as required by the Close Corporations Act (if applicable);
- Joint Venture Agreement or Consortium Agreement signed and initialled on each page (if applicable).

**EVALUATION OF BIDS IN TERMS OF THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK REGULATIONS, 2017:**

Bids will be evaluated in two stages, namely:

- Stage 1- Functionality
- Stage 2- Price and B-BBEE status level

Only bidders who meet the minimum required score of 70 points for functionality as required in stage 1 will move on to be evaluated further in Stage 2.

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Tenders may only be submitted on tender documentation issued. No alterations may be made to the tender documentation. No late, faxed, e-mailed, telephonic or other electronically transmitted submissions will be accepted.

Should a bidder commit any corrupt or fraudulent act during the bidding process, its tender shall be disqualified.

The Municipality reserves the right to extend the tender advert period at its own discretion, by notice published in the Daily Dispatch Newspaper; the e-Tender Publication Portal, and by notice sent to all parties who purchase this bid document.

**TECHNICAL ENQUIRIES: Mr. S. Ndamase; Email: [sihlewelcome@webmail.co.za](mailto:sihlewelcome@webmail.co.za); or Telephone No. 047 501 6460. All Supply Chain Management enquiries may be directed to the SCM Manager, Mr. Sakhwiso Hopa; Email: [sakhwiso@ortambodm.gov.za](mailto:sakhwiso@ortambodm.gov.za) or Telephone No.: 047 501 6449 during office hours: Monday to Friday 08H00-13H00 and 13H30-16H30.**

Tenders will be evaluated in terms of the Supply Chain Management policy of the O. R. Tambo District Municipality. The lowest tender will not necessarily be accepted and the Municipality reserves the right to accept the whole or part of any tender or not to consider any tender not suitably endorsed. An 80/20 point system shall apply where 80 points is allocated for price and 20 points allocated for B-BBEE status level of contributor as follows:

<b>B-BBEE status level of contributor</b>	<b>Number of points</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

Unincorporated Joint Ventures and Consortia will only be allocated B-BBEE points provided they submit their consolidated B-BBEE certificate and that such consolidated B-BBEE certificate is prepared for every separate tender.

**O. N. Hlazo**  
**Municipal Manager**

**SECTION 2: STANDARD CONDITIONS OF TENDER**

**BIDDERS ARE REQUIRED TO FAMILIARIZE THEMSELVES WITH THE TENDERING CONDITIONS AND PROCEDURES DETAILED IN THIS SECTION.**

1. No tender will be considered unless it is submitted on this OR Tambo bid document. Under no circumstances whatsoever may this bid document be retyped or redrafted.
2. The whole, original bid document as issued by O.R Tambo District Municipality must be completed. A tender will be considered invalid and will not be accepted, if any part of this bid document is not submitted.
3. The bidder is advised to check the number of pages and to satisfy him/herself that none are missing or duplicated.
4. Bids submitted must be complete in all respects.
5. Telephonic, telegraphic, telex, facsimile or emailed tender offers will not be accepted, unless stated otherwise in these tender conditions.
6. Bid submissions must be properly deposited, on or before the closing date and time of the tender, in the **Tender Box** at the Ground Floor, O.R. Tambo House, Myezo, Mthatha.
7. Each bid shall be lodged in a separate sealed envelope, with the name and address of the bidder, the bid number and closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope. If this provision is not complied with, such bids may be rejected as being invalid.
8. O.R. Tambo Municipality accepts no responsibility for ensuring that tenders are placed in the correct tender box, and should a tender be placed in the incorrect tender box, it will be not be accepted.
9. No bid sent through the post will be considered if it is received after the closing date and time stipulated in the bid documentation, and proof of posting will not be accepted as proof of delivery.
10. Bids received after the closing time and/or date shall not be considered.
11. Bidders will be responsible for all costs associated with the preparation and submissions of their bids.
12. The bid must be signed by a person duly authorised to do so.
13. Any alterations made to the bid document must be initialled by the person or persons authorised to sign the bid document. The use of correcting fluid is prohibited.
14. Bids will be opened in public, as soon as possible after the closing time of the bid. Where practical, bid prices will be read out at the time of opening bids.
15. **National Treasury Central Supplier Database**

15.1 Bidders must be registered on the National Treasury Central Supplier Database ('CSD'), and must

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provide their CSD supplier number in their bid submission.

15.2 The municipality will verify on the CSD, the following information relating to bidders –

15.2.1 business registration, including details of directorship and membership;

15.2.2 bank account information;

15.2.3 tax compliance status;

15.2.4 identity documents of directors, members or trustees, as the case may be;

15.2.5 tender defaulters and restrictions status;

15.2.6 whether the bidder has any directors, managers, principal shareholders or stakeholders in the service of the state.

15.3 Bidders must ensure that their information on the CSD is up to date and correct.

**16. Tax compliance status**

16.1 Bidders must ensure that their tax matters are in order. No award will be made to any bidder whose tax matters have been declared to be in order by the South African Revenue Services (SARS).

16.2 Each party to a joint venture, consortium or partnership must comply with the above requirement.

**17. Bid validity period**

17.1 The validity period for the bid is ninety (90) days from the close of the bid.

17.2 All bids submitted shall remain valid, irrevocable and open for acceptance by the Municipality within the validity period, or such extended period as may be applicable.

17.3 If the bid validity period expires on a Saturday, Sunday or public holiday, the bid offer shall remain valid and open for acceptance until the closure of business on the following working day.

17.4 The bid offer may not be amended during the aforesaid bid validity period.

17.5 Where required, the Municipality may request all bidders to agree to the extension of the validity period on the same terms and conditions as the original bid, or such amended terms and conditions as may be allowed by the Municipality.

17.6 A request for a bid validity extension request will be done in writing, before the expiry of the original validity period.

**18. Prequalification criteria**

18.1 Prequalification criteria may be applied to the tender to advance designated groups.

18.2 Should prequalification criteria be applicable to this tender, the basis of such criteria will be detailed in Section 4 below.



**19. Tender evaluation**

- 19.1 Tenders will be evaluated in accordance with the tender evaluation criteria stipulated in this document.
- 19.2 Tenders will be evaluated for price and preference using the 80/20 or 90/10 preference points system, whichever one is applicable.
- 19.3 Unless otherwise stated in this document, a contract will be concluded with the bidder who complies with the tender evaluation criteria, and scores the highest total price and BBBEE points.

**20. Test for tender responsiveness**

**20.1 Invalid tenders**

Tenders shall be invalid if –

- (a) The tender document is completed in non-erasable ink;
- (b) The offer form is not completed and signed by the bidder;
- (c) In a two-envelope system, a bidder fails to submit both a technical proposal and a separate, sealed financial offer;
- (d) The bidder has been listed on the National Treasury's Register for Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, or has been listed on the National Treasury's List of Restricted Suppliers and who is therefore prohibited from doing business with the public sector;
- (e) The bidder is has been restricted from doing business with the Municipality Clause 38A of the O.R. Tambo Municipality Supply Chain Management Policy.

**20.2 Non-responsive tenders**

Tenders will be held to be non-responsive and eliminated from further consideration in the following circumstances –

- (a) The tender does not comply with the tendering procedures, where such procedures have been indicated as mandatory.
- (b) The tender does not comply with the prequalification criteria for the tender, if any, or the tender evaluation criteria, including any functionality criteria.
- (c) Where there are material deviations from, or qualifications to the tender, which in the Municipality's opinion would –
  - (i) detrimentally affect the scope, quality or performance of the services or supply identified in the scope of services;
  - (ii) significantly change Municipality's or the bidder's risks and responsibilities under the contract, or
  - (iii) affect the competitive position of the bidder, or other bidders presenting responsive tenders, if it were to be rectified.
- (d) The bid will be declared non-responsive in the event that the bidder's tax matters, as verified on the government Central Supplier Database, are shown not be in order, and the bidder fails to ensure that its tax matters are in order within such timeframe as may be required by ORTDM in writing.

**21. Clarification of the tender offer after submission**

The bidder must provide clarification of its tender offer in response to a request to do so from the Municipality during the bid evaluation or adjudication stages. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of bidders or substance of the tender offer may be sought, offered, or permitted.

**22. Inspections, tests and analyses**

The bidder shall, at the request of the Municipality, provide access during working hours to its business premises, or any other specified premises, for any inspections, tests and analyses as required in this document.

**23. Samples**

Where applicable, samples shall be provided strictly in accordance with the instructions stipulated in this bid document.

**24. Pricing the tender offer**

Bidders must –

24.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (including Value Added Tax (VAT), and other levies applicable.

24.2 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as specified in this tender document.

24.3 State the rates and prices in Rand unless instructed otherwise.

**25. Inducements, gifts, rewards and other abuses of the supply chain management system**

25.1 No bidder may directly or indirectly commit any fraudulent act during the tender process or abuse the supply chain management system of the Municipality.

25.2 Should a bidder be found to have committed fraud or abused the supply chain management system, its bid will be rejected, any existing contract between it and the Municipality will be cancelled, and any other remedies available to the Municipality as provided for in the Supply Chain Management Regulations or other relevant legislation shall be imposed, including blacklisting.

**26. Alternative offers**

Alternative offers may be considered, provided that a bid free of qualifications and strictly in accordance with the tender document is also submitted. The Municipality shall not be bound to consider alternative bid offers.

**27. Objections, complaints, queries and disputes / Appeals in terms of Section 62 of the Municipal Systems Act**

**27.1 Objections, complaints, queries and disputes**

Persons aggrieved by decisions or actions taken by the Municipality in the implementation of the supply chain management system, or any matter arising from a contract awarded in terms of the supply chain management system may, within 14 days of the decision or action, lodge a written objection or complaint or query or dispute against the decision or action.

**27.2 Section 62 appeals**

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- (a) In terms of section 62 of the Systems Act, a person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority, may appeal against that decision by giving written notice of the appeal and reasons to the Accounting Officer within 21 days of the date of notification of the decision.
- (b) An appeal shall contain the following:
  - (i) The reasons and/or grounds for the appeal;
  - (ii) The manner in which the appellant's rights have been affected;
  - (iii) The remedy sought by the appellant.

**27.3 Lodging of appeals, objections, complaints, queries and disputes relating to this tender**

Appeals, objections, complaints, requests for information, queries and disputes must be submitted in writing to the Office of the Municipal Manager, O.R. Tambo House, Myezo, Mthatha.

**SECTION 3: REGISTRATION ON THE NATIONAL TREASURY CENTRAL SUPPLIER DATABASE**

1. In terms of National Treasury MFMA Circular No. 81, Accounting Officers of Municipalities are required to encourage their prospective suppliers to register on the Central Supplier Database ('CSD').
2. Bidders may apply for online registration, using the following website link: [www.csd.gov.za](http://www.csd.gov.za).
3. Bidders must register on CSD. **FAILURE TO REGISTER BEFORE THE CLOSE OF THIS TENDER WILL RESULT IN THE DISQUALIFICATION OF THE BIDDER'S TENDER.**

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**SECTION 4: PREQUALIFICATION CRITERIA**

Only bidders that meet the requirements indicated as applicable below, may respond to this tender -

No.	Criteria	Applicable / Not applicable	Indicate compliance (Yes / No)
		<u>TO BE SPECIFIED BY THE MUNICIPALITY</u>	<u>TO BE COMPLETED BY THE BIDDER</u>
1.	Bidders must have a stipulated minimum BBBEE status level to prequalify for this bid	NOT APPLICABLE	
1.1	The stipulated BBBEE level required to prequalify for this bid is .....	NOT APPLICABLE	NOT APPLICABLE
2.	Bidders must be an Exempted Micro Enterprise (EME) or a Qualified Small Enterprise (QSE)	NOT APPLICABLE	NOT APPLICABLE
3.	Bidders must subcontract a minimum of 30 percent of the value of the contract to:		
3.1	an EME or QSE	NOT APPLICABLE	NOT APPLICABLE
3.2	an EME or QSE which is at least 51% owned by black people	NOT APPLICABLE	NOT APPLICABLE
3.3	an EME or QSE which is at least 51% owned by black people who are youth	NOT APPLICABLE	NOT APPLICABLE
3.4	an EME or QSE which is at least 51% owned by black people who are women	NOT APPLICABLE	NOT APPLICABLE
3.5	an EME or QSE which is at least 51% owned by black people with disabilities	NOT APPLICABLE	NOT APPLICABLE
3.6	an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships	NOT APPLICABLE	NOT APPLICABLE
3.7	A cooperative which is at least 51% owned by black people	NOT APPLICABLE	NOT APPLICABLE
3.8	an EME or QSE which is at least 51% owned by black people who are military veterans	NOT APPLICABLE	NOT APPLICABLE

**A TENDER THAT FAILS TO MEET THE APPLICABLE PREQUALIFICATION CRITERIA INDICATED ABOVE WILL BE HELD TO BE NON-RESPONSIVE.**

**SECTION 5: SUBCONTRACTING AS BIDDING CRITERIA**

This section applies only to tenders which exceed the value of R30 million.

No.	Criteria	Yes / No (Indicate)	Agree / Do Not Agree
		<u>TO BE SPECIFIED BY THE MUNICIPALITY</u>	<u>TO BE COMPLETED BY BIDDER</u>
1.	The estimated value of this contract exceeds R30 million	NO	
2.	If the estimated value of the contract exceeds R30 million, is it feasible for this contract to be sub-contracted?	NOT APPLICABLE	
3.	If sub-contracting is feasible, bidders <u>MUST</u> agree to subcontract the contract to one, or more of the following designated groups -	NOT APPLICABLE	NOT APPLICABLE
3.1	an EME or QSE	NOT APPLICABLE	NOT APPLICABLE
3.2	an EME or QSE which is at least 51 percent owned by black people	NOT APPLICABLE	NOT APPLICABLE
3.3	an EME or QSE which is at least 51 percent owned by black people who are youth	NOT APPLICABLE	NOT APPLICABLE
3.4	an EME or QSE which is at least 51 percent owned by black people who are women	NOT APPLICABLE	NOT APPLICABLE
3.5	an EME or QSE which is at least 51 percent owned by black people with disabilities	NOT APPLICABLE	NOT APPLICABLE
3.6	an EME or QSE which is at least 51 percent owned by black people living in rural or underdeveloped areas or townships	NOT APPLICABLE	NOT APPLICABLE
3.7	a cooperative which is at least 51 percent owned by black people	NOT APPLICABLE	NOT APPLICABLE
3.8	an EME or QSE which is at least 51 percent owned by black people who are military veterans	NOT APPLICABLE	NOT APPLICABLE

**FAILURE OF A BIDDER TO AGREE TO SUBCONTRACT AS SPECIFIED ABOVE WILL RESULT IN ITS BID BEING HELD TO BE NON-RESPONSIVE.**

**SECTION 6: TENDER EVALUATION CRITERIA**

The tender will be evaluated in two stages as follows:

**STAGE 1: FUNCTIONALITY ASSESSMENT**

No.	Criteria	Maximum points																														
1.	<b>Similar Projects</b>	<b>40</b>																														
1.1	Tenderer must be have completed a minimum of 3 projects of similar work (Spatial Development Frameworks, Master plans and Precinct Plans). <b>Proof (letter/certificates of completion) of such MUST be submitted with the bid. No points will be awarded where proof have not been submitted with the Bid.</b>	40																														
1.2	Tenderer must be have completed a minimum of 2 projects of similar work (Spatial Development Frameworks, Master plans, and Precinct Plans). <b>Proof (letter/certificates of completion) of such MUST be submitted with the bid. No points will be awarded where proof have not been submitted with the Bid.</b>	20																														
	Tenderer must be have completed a minimum of 1 projects of similar work (Spatial Development Frameworks, Master plans and Precinct Plans). <b>Proof (letter/certificate of completion) of such MUST be submitted with the bid. No points will be awarded where proof have not been submitted with the Bid.</b>	10																														
1.3	No previous similar projects completed.	0																														
2.	<b>Experience of the bidding entity</b>	<b>30</b>																														
2.1	<table border="1"> <thead> <tr> <th>Professional</th> <th>Highest Qualification</th> <th>Allocated Points</th> <th>Professional Registration</th> <th>Allocated Points</th> </tr> </thead> <tbody> <tr> <td>Town and Regional Planner (Project Leader)</td> <td>Bachelor of Town and Regional Planning</td> <td>3</td> <td></td> <td></td> </tr> <tr> <td>Architect/ Urban Designer</td> <td>Bachelor of Architecture</td> <td>3</td> <td></td> <td></td> </tr> <tr> <td>Economist</td> <td>Bachelor of Economic Studies</td> <td>3</td> <td></td> <td></td> </tr> <tr> <td>Civil Engineer</td> <td>Bachelor of Civil Engineering</td> <td>3</td> <td></td> <td></td> </tr> <tr> <td>Environmentalist</td> <td>Bachelor of Environmental Management</td> <td>3</td> <td></td> <td></td> </tr> </tbody> </table>	Professional	Highest Qualification	Allocated Points	Professional Registration	Allocated Points	Town and Regional Planner (Project Leader)	Bachelor of Town and Regional Planning	3			Architect/ Urban Designer	Bachelor of Architecture	3			Economist	Bachelor of Economic Studies	3			Civil Engineer	Bachelor of Civil Engineering	3			Environmentalist	Bachelor of Environmental Management	3			
Professional	Highest Qualification	Allocated Points	Professional Registration	Allocated Points																												
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		Professional Planner with South African Council for Planners (SACPLAN)	3													
		Professional Architect registered with the South African Council for the Architectural Profession (SACAP).	3													
		Economists registered with Economic Society of South Africa.	3													
		Civil Engineer registered with South African Institute of Civil Engineering (SAICE)	3													
		Environmentalist registered with South African Council for Natural Scientific Professions or a voluntary body	3													
	<p><b>Attach the following:</b></p> <ul style="list-style-type: none"> <li>• B-Tech. or BSC. (NQF Level 7) in Town and Regional Planning / Architect / Economic / Civil Engineering / Environmental Management.</li> <li>• Proof of registration as Professional Planner (registered with South African Council for Planners –SACPLAN); Professional Architect (registered with South African Council for the Architectural Profession -SACAP); and Economists (registered with Economic Society of South Africa); Civil Engineer (registered with South African Institute of Civil Engineering -SAICE); Environmentalist (registered with South African Council for Natural Scientific Professions or a voluntary body).</li> <li>• <b>Note: No points will be awarded where proof have not been submitted with the Bid</b></li> </ul>															
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Professional	Highest Qualification	Allocated Points														
Town and Regional Planner (Project Leader)	Bachelor of Town and Regional Planning	3														
Architect/ Urban Designer	National Diploma in Architecture	2														
Economist	National Diploma in Economic Studies	2														



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Civil Engineer	National Diploma in Civil Engineering	2	<b>Professional Registration</b>	<b>Allocated Points</b>
Environmentalist	National Diploma in Environmental Management	2	Professional Planner with South African Council for Planners (SACPLAN)	3
			Professional Architectural Technologist registered with the South African Council for the Architectural Profession (SACAP).	2
			Economists registered with Economic Society of South Africa.	2
			Civil Engineer registered with South African Institute of Civil Engineering (SAICE)	2
			N/A	N/A
<p><b>Attach the following:</b></p> <ul style="list-style-type: none"> <li>• B-Tech. or BSC. (NQF Level 7) in Town and Regional Planning / Architect / Economic / Civil Engineering / Environmental Management.</li> <li>• Proof of registration as Professional Planner (registered with South African Council for Planners –SACPLAN); Professional Architect (registered with South African Council for the Architectural Profession -SACAP); and Economists (registered with Economic Society of South Africa); Civil Engineer (registered with South African Institute of Civil Engineering -SAICE); Environmentalist (registered with South African Council for Natural Scientific Professions or a voluntary body).</li> <li>• <b>Note: No points will be awarded where proof have not been submitted with the Bid</b></li> </ul>				

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2.3	<b>Professional</b>	<b>Highest Qualification</b>	<b>Allocated Points</b>	<b>Professional Registration</b>	<b>Allocated Points</b>	10
	Town and Regional Planner (Project Leader)	National Diploma in Town and Regional Planning	2	Professional Planner with South African Council for Planners (SACPLAN)	2	
	Architect/ Urban Designer	National Diploma in Architecture	2	Professional Architectural Technologist registered with the South African Council for the Architectural Profession (SACAP).	2	
	Economist	National Diploma in Economic Studies	2	Economists registered with Economic Society of South Africa.	N/A	
<p><b>Attach the following:</b></p> <ul style="list-style-type: none"> <li>• B-Tech. or BSC. (NQF Level 7) in Town and Regional Planning / Architect / Economic / Civil Engineering / Environmental Management.</li> <li>• Proof of registration as Professional Planner (registered with South African Council for Planners –SACPLAN); Professional Architect (registered with South African Council for the Architectural Profession -SACAP); and Economists (registered with Economic Society of South Africa).</li> <li>• <b>Note: No points will be awarded where proof have not been submitted with the Bid</b></li> </ul>						
2.4	No Qualified Project Team.					0
<b>3.</b>	<b>Approach and Methodology</b>					<b>30</b>
3.1	Tenderer must attach the approach and detailed work plan. The Work plan must show that the Tenderer understands the Terms of reference. The approach work plan is of acceptable standards because it is aligned to project cashflows, project timeframes, relevant legislations (SPLUMA, IUDF, NDP, SDF Guidelines, PAJA, NEMA, MSA etc.) and public participation processes (notices, PSCs, Workshops and Technical meetings).					30
3.2	Tenderer must attach the approach and detailed work plan. The Work plan must show that the Tenderer understands the Terms of reference. The approach work plan is NOT of satisfactory standards because it is not aligned to project cashflows, project timeframes, relevant legislations (SPLUMA, IUDF, NDP, SDF Guidelines, PAJA, NEMA, MSA etc.) and public participation processes (notices, PSCs, Workshops and Technical meetings).					20
	No approach and Methodology					0
<b>TOTAL</b>						<b>100</b>

**Bidders who fail to score at least 60 points on functionality will not proceed to be evaluated further in Stage 2.**

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**STAGE 2: PRICE AND BBEE STATUS LEVEL**

The 80/20 price and preference points system will be used, as follows –

<b>Price</b>	80
<b>B-BBEE status level of contributor</b>	20
<b>Total</b>	100

**SECTION 7: RETURNABLE DOCUMENTS AND SCHEDULES**

**RETURNABLE DOCUMENTS**

Bidders must submit the following documentation with their tenders:

<b>No.</b>	<b>Returnable document</b>	<b>Compulsory (Yes / No)</b>	<b>Non-submission will render Tender non-responsive (Yes / No)</b>
1.	Original or certified BBBEE certificate, for bidders other than EMEs and QSEs	Yes. <sup>1</sup>	No. Zero (0) points will be allocated for BBBEE
1.1	Sworn affidavit confirming annual total revenue and level of black ownership; or a BBBEE certificate where applicable in terms of the PPPFA Regulations 2017, if bidder is an Exempted Micro Enterprise (EME) or Qualified Small Business (QSE)		
1.2	An original or certified consolidated BBBEE scorecard, if bidder is a trust, joint venture or consortium (including those that are unincorporated)		
2.	Business registration documents	Yes	Yes, if the registration documents cannot be verified on CSD
3.	Business premises municipal account not older than 90 days OR proof that bidder leases its business premises	Yes	Yes
4.	Certified copy of identity documents of directors / shareholders/ partners / members, as the case may be	Yes	Yes, if the identity documents cannot be verified on CSD
5.	Signed joint venture or consortium agreement	Yes (if applicable)	Yes (if applicable)

<sup>1</sup> However, if a minimum BBBEE status level has been specified as prequalification criteria, submission of a BBBEE certificate or sworn affidavit will be compulsory. Failure to submit such certificate or affidavit with the minimum BBBEE status level required will render the bid non-responsive.

**RETURNABLE SCHEDULES**

All returnable schedules below must be completed by the bidding entity, save for those schedules which are not applicable to it in which case the bidding entity must indicate which schedules are not applicable.

Bidders must complete the following returnable schedules:

<b>No.</b>	<b>Returnable schedule</b>	<b>Compulsory (Yes / No)</b>	<b>Non-submission will render Tender non-responsive (Yes / No)</b>
1.	Confirmation of registration on the National Treasury Central Supplier Database <b>(Schedule A)</b>	Yes	Yes
2.	Authority of bid signatory <b>(Schedule B)</b>	Yes	Yes
3.	Briefing session / site inspection certificate <b>(Schedule C)</b>	Yes (if applicable)	Yes (if applicable)
4.	Municipal Bidding Documents <b>(Schedule D)</b>		
5.	MBD 1 – Invitation to bid	Yes	No
5.1	MBD 4 - Declaration form confirming the bidder is not in the service of the state	Yes	Yes
5.2	MBD 5 - Declaration for procurement above R10 million	Yes (if applicable)	Yes (if applicable)
5.3	MBD 6.1 - Preference points claim form	Yes	Yes
5.4	MBD 8 - Declaration of bidders' past supply chain management practices	Yes	Yes
5.5	MBD 9 - Declaration of independent bid determination	Yes	Yes
6.	Form of offer <b>(The Contract: Section 3)</b>	Yes	Yes

**SCHEDULE A – CONFIRMATION OF REGISTRATION OF BIDDER ON CENTRAL SUPPLIER DATABASE (CSD)**

<b>BIDDER NAME</b>	<b>REGISTERED ON CSD? (YES/NO)</b>	<b>CSD SUPPLIER NUMBER</b>

Bidders are required to register as suppliers on the government National Treasury Central Supplier Database (CSD) prior to submission of this bid, and provide their CSD supplier number in the table above.

It is the responsibility of bidders to ensure that this requirement is complied with. In the case of Joint Ventures and Consortia, this requirement will apply to each party to the Joint Venture or Consortium.

**BIDDER'S SIGNATURE:** .....

**SCHEDULE B: AUTHORITY OF BID SIGNATORY**

Indicate the status of the bidder by ticking the appropriate box hereunder with an x.

<b>COMPANY</b>	<b>CLOSE CORPORATION</b>	<b>PARTNERSHIP</b>	<b>SOLE PROPRIETORSHIP</b>

<b>JOINT VENTURE</b>	<b>CONSORTIUM</b>	<b>CO-OPERATIVE</b>

**NOTE:**

**BIDDERS MUST ATTACH A LETTER OF AUTHORITY TO THIS PAGE, AUTHORIZING THE SIGNATORY TO THIS BID TO SIGN ALL DOCUMENTS IN CONNECTION THEREWITH ON BEHALF OF THE BIDDING ENTITY, AS WELL AS SIGN ANY CONTRACT WHICH ARISING THEREFROM ON BEHALF OF THE BIDDING ENTITY.**

**SCHEDULE C: TENDER BRIEFING / SITE INSPECTION CERTIFICATE**

Note: This certificate is only to be completed if applicable to the tender.

**CERTIFICATE OF ATTENDANCE**

THIS IS TO CERTIFY THAT ..... (NAME) ON BEHALF OF .....  
..... (BIDDING ENTITY), ATTENDED THE OFFICIAL TENDER  
BRIEFING SESSION AND / OR SITE INSPECTION ON ..... (DATE) AT .....  
.....  
..... (VENUE).

I FURTHER CERTIFY THAT I AM SATISFIED WITH THE DESCRIPTION OF THE SERVICES TO BE PERFORMED AND THE EXPLANATIONS (IF ANY) GIVEN TO ME BY THE MUNICIPALITY'S REPRESENTATIVES. I AM ALSO FAMILIAR WITH THE MANNER IN WHICH THE SERVICES ARE TO BE PERFORMED UNDER THE INTENDED CONTRACT.

.....  
**BIDDER / AUTHORISED REPRESENTATIVE**  
**(PRINT NAME)**

.....  
**SIGNATURE**

.....  
**DATE**

.....  
**MUNICIPAL REPRESENTATIVE**  
**(PRINT NAME)**

.....  
**SIGNATURE**

.....  
**DATE**



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SCHEDULE D: MUNICIPAL BIDDING DOCUMENTS (MBDs)

MBD 1

PART A  
INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF O.R. TAMBO DISTRICT MUNICIPALITY</b>					
BID NUMBER:	ORTDM SCMU 09-20/21	CLOSING DATE:	19 OCTOBER 2020	CLOSING TIME:	12.00PM
DESCRIPTION:	DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN 2020/21				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT:					
<i>TENDER BOX, GROUND FLOOR, O.R. TAMBO DISTRICT MUNICIPALITY BUILDING</i>					
<i>NELSON MANDELA DRIVE</i>					
<i>MYEZO PARK</i>					
<i>MTHATHA</i>					
<i>EASTERN CAPE</i>					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		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	SCM DEPARTMENT		CONTACT PERSON	Mr. S. NDAMASE	
CONTACT PERSON	MR. SAKHIWO HOPA		TELEPHONE NUMBER	0475016460	
TELEPHONE NUMBER	047 501 6449		FACSIMILE NUMBER	047 501 6400	

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<b>E-MAIL ADDRESS</b>	<b><u>sakhiwoh@ortambodm.gov.za</u></b>	<b>E-MAIL ADDRESS</b>	<b>sihlewelcome@webmail.co.za</b>
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**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).</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 <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a> .
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>
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.	

**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:** .....

**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, shareholder<sup>2</sup>):  
.....
  - 3.4 Company Registration Number: .....
  - 3.5 Tax Reference Number: .....
  - 3.6 VAT Registration Number: .....
  - 3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers 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**

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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 .....  
.....

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

Full name	Identity number	State employee number

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

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

**DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)**

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

NO.	QUESTION	ANSWER (TICK WHICH RESPONSE IS APPLICABLE)	
		YES	NO
1.	Are you by law required to prepare annual financial statements?		
1.1	If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the last 3 years.		

NO.	QUESTION	ANSWER (TICK WHICH RESPONSE IS APPLICABLE)	
		YES	NO
2.	Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than 3 months 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 3 months or other service provider in respect of which payment is overdue for more than 30 days.		
2.2	If yes, provide details: ..... ..... .....		

NO.	QUESTION	ANSWER (TICK WHICH RESPONSE IS APPLICABLE)	
		YES	NO
3.	Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?		
3.1	If yes, provide details: ..... ..... .....		

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NO.	QUESTION	ANSWER (TICK WHICH RESPONSE IS APPLICABLE)	
		YES	NO
4.	Will any portion of the goods of services be sourced from outside the Republic, and if so, what portion, and whether any portion of payment from the municipality is expected to be transferred outside of the Republic?		
4.1	If yes, provide details: ..... ..... .....		

**CERTIFICATION**

**I, THE UNDERSIGNED (NAME) .....**

**CERIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.**

**I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS THIS DECLARATION PROVE TO BE FALSE.**

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder



**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:

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

1.2

- (a) The value of this bid is estimated to not exceed R200 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or
- (b) The 80/20 preference point system will be applicable to this tender.

1.3 Points for this bid shall be awarded for:

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

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

	<b>POINTS</b>
<b>PRICE</b>	<b>90</b>
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	<b>10</b>
<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 proof of B-BBEE Status level of contributor 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) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“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 goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;

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3) Any other requirement prescribed in terms of the B-BBEE Act;

- (i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

**3. POINTS AWARDED FOR PRICE**

**3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

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

Where

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

**4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR**

4.1 In terms of Regulation 6 (2) and 7 (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. BID DECLARATION**

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

**6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1**

6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

**7. SUB-CONTRACTING**

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%

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- 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 or QSE

**(Tick applicable box)**

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME	QSE
	√	√
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

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

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]

**8.7 MUNICIPAL INFORMATION**

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

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

**TENDER NO. ORTDM SCMU: 09-20/21 DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

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

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

8.9 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 contributor indicated in paragraphs 1.4 and 6.1 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 paragraphs 1.4 and 6.1, 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 contributor 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) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

<p>WITNESS:</p> <p>1. ....</p> <p>2. ....</p>
---

<p>.....</p> <p>SIGNATURE(S) OF BIDDER(S)</p> <p>DATE: .....</p> <p>ADDRESS: .....</p> <p>.....</p> <p>.....</p>
--

**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? (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 <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
4.1.1	If so, furnish particulars:		
4.2	<p>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></p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
4.2.1	If so, furnish particulars:		

**TENDER NO. ORTDM SCMU: 09-20/21 DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

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 IS 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**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a. take all reasonable steps to prevent such abuse;
  - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

**ORTDM SCMU 09: 20/21: DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

in response to the invitation for the bid made by:

**O.R. Tambo District Municipality**

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 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 quotation 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 this invitation; or
  - (f) submitting a bid 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 bid.

<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

# **THE CONTRACT**

**SECTION 1: THE SCOPE OF WORK**

**1. INTRODUCTION**

This bid is for the Development of the **Magwa Local Spatial Development Framework/ Conceptual Design** as specified in the technical requirements below.

Quantity	Size & Make	Description
1	LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN	DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN

**2. DELIVERY**

- 2.1 **Development of Magwa Estate Local Spatial Development Framework/Conceptual Design** must be submitted to the O.R Tambo District municipality at least 7 months after the appointment of a contractor.
- 2.2 The appointed service must within 30 days of appointment present an inception report and establish a Project Steering Committee/Technical Task Team

**3. PRICE**

- 3.1 The price shall be firm and free from fluctuations, except if otherwise specified and set out in a covering letter submitted with the bid.
- 3.2 One all-inclusive price, complying with all the requirements of this bid, must be submitted inclusive of, the costs of conducting the PSC's
- 3.3 The bid price shall include all applicable levies and VAT.

**4. OUTPUTS**

- (i) This consulting assignment is intended to ensure that the Magwa Estate LSDF / Conceptual Design is a useful tool to ensure development of a culture of effective planning and management within the Development Planning Sector. The scope of work includes the following major activities:
  - ✓ Planning the entire Magwa Estate LSDF/Concept Design process in consultation with the District Municipality and Ingquza Hill Local Municipality, including joint planning sessions in terms of alignment with the IDPs;
  - ✓ To ensure co-ordinated participatory processes involving a range of stakeholders;
  - ✓ To identify 'building blocks' that have already been put in place by all municipalities;
  - ✓ To ensure that all data collected is properly referenced and accessible to the District Municipality and all LMs for future reference and planning purposes;
  - ✓ To provide and/or ensure that capacity building and training support to officials and councillors within the Planning and Development are provided to ensure that they have the necessary skills and understanding to plan, co-ordinate, facilitate, manage and prepare updates to and future Local Municipality and District SDFs;
  - ✓ Consultants are to indicate in their proposals the methodologies that will be used to achieve the objectives and outputs outlined in this Terms of Reference, as well as ensuring that their sub-consultants to comply the same. In particular consultants are to:
    - ✓ Indicate the methodology and approach to be used;
    - ✓ Compile a consultancy team with the appropriate capabilities and knowledge to fulfil the specific objectives as stipulated above;

**TENDER NO. ORTDM SCMU: 09-20/21 DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

- ✓ Interact with the IDP, SDFs and Provincial Growth strategies;
- ✓ Integrated Urban Development Framework; and National Development Plan.

**Format of the Consultant's Proposal**

The format of the proposal should address the consultant's understanding of each of the items covered in this Terms of Reference. In particular, the proposal must:

- outline the proposed methodology and approach to achieve the objectives
- outline the key milestone events, activities and outputs
- include a competency personnel structure
- include a budget detailing professional fees and expenses
- include a hourly charge-out rate per person

Consultants are to submit CVs that illustrate relevant experience and expertise in terms of this consulting assignment. An original and valid Tax Clearance Certificate must accompany the tender. Proposals should also include appropriate references with contact details.

**O. R. TAMBO DISTRICT MUNICIPALITY**

**TERMS OF REFERENCE**

**FOR**

**THE APPOINTMENT OF SERVICE PROVIDER TO DEVELOP A LOCAL SPATIAL DEVELOPMENT FRAMEWORK/ CONCEPTUAL DESIGN FOR MAGWA ESTATE IN LUSIKISIKI 2020/21**

**1. INTRODUCTION**

O.R. Tambo District Municipality (ORTDM) requires the services of one (1) firm or a consortium of suitable qualified firms to develop a Local Spatial Development Framework/Conceptual Design for Magwa Estate for a period of 7 months.

**2. BACKGROUND**

The National Development Plan (NDP), together with the Provincial Growth and Development Strategy (PGDS) provide a clear and compelling case for the revitalisation of small and rural Municipalities through the rehabilitation of small towns and local centres of economic activity and nodes of concentrated and focused delivery of services

Section 26(e) of the Local Government: Municipal Systems Act, No. 32 of 2000 require all municipalities to compile Spatial Development Frameworks as a core component of the Integrated Development Plans taking into account the current pattern of land use and the nature of development in the municipal area. A Spatial Development Framework is required to describe in words and illustrations how the Municipality sees desirable future patterns of land use and development in its area of jurisdiction.

The Magwa Local Spatial Development Framework/Conceptual Design indicates both to the Municipality (councillors and officials) and to the public (developers, land owners etc.) where certain types of land use and associated developments are permissible, and where certain activities are unlikely to be permitted. As such, it forms the basis for land use management and serves as a guideline to inform the specific municipality in its decisions on land development (new development and changes to existing land uses) in its area of jurisdiction.

As part of planning for 2020/21 financial year, programmes and projects the O.R. Tambo District Municipality working closely with its 5 LMs and other stakeholders conducted a Strategic Planning Session. The Ingquza Hill LM requested for an assistance from the DM to develop a Local Spatial Development Framework for the Strategic Node of Magwa Tea Estate at Lusikisiki. Subsequent to that the DM budgeted for the development of the Magwa Estate LSDF/Conceptual Design plan for the 2020/21 Financial Year.

Due to the strategic nature of the Magwa Tea Estate both at an LM, DM and Provincial level, the Ingquza Hill LM budgeted for the development of the LSDF which will mainly focus on the standard 5 Phases of the SDF Development (Initiation, Policy Context & Vision, Spatial Challenges & Opportunities, Spatial Proposals and Implementation Framework).

Spatial Development Frameworks in their nature are not prescriptive, they are meant to provide a broad view/perspective on what should happen in a particular area through providing a vision, guidance on decision making and provision for the spatial restructuring elements (nodes, corridors, etc). However, SDFs therefore provide a framework for the development of more detailed studies (LUMS, Planning & Surveys, Geotechnical Studies, EIA's, Detailed Conceptual Plans/Urban Designs etc) in order to realise the vision the Municipal IDP (projects).

**TENDER NO. ORTDM SCMU: 09-20/21 DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

It is in light of the above that the Magwa Estate LSDF/Conceptual Design project **WILL NOT** focus on rehashing the development of a “Local Spatial Development Framework” for Magwa Tea Estate as the LSDF is already being developed by the Ingquza Hill LM. The Magwa Estate LSDF/Conceptual Design project to be undertaken by the District Municipality will serve as expansion/interpretation of the work done on the Magwa LSDF through focusing on Conceptual Design elements on the identified focus areas (Nodes, Corridors, spatial restructuring zones, integrated human settlements etc). The work will amongst other things address: sustainable development through a planning process that balances imperatives of socio-economic development and environmental protection and response to climate change.

### **3. THE OBJECTIVES OF THE PROJECT**

- The main objective of the project is to develop an LSDF/Conceptual Design plan which will serve as a visual interpretation of the Magwa Tea Estate LSDF developed by the Ingquza Hill LM through promoting spatial transformation which will guide investments that promote integrated social and economic development, resulting in a sustainable quality of life for all citizens.
- Prospective Service Providers are therefore required to compile the plan which complies with the MSA, the Spatial Planning and Land Use Management Act of 2013, Integrated Urban Development Framework, National Development Plan, Local District, National & Provincial SDFs, IDPs of the District Municipality and Local Municipal and Ingquza Hill Land Use Management Scheme.

The following should be achieved through the plan:

- Improve functionality and create a more attractive environment;
- Improve the environment;
- Provide efficient transport;
- Improve socio-economic conditions, safety and security;
- Create investment and economic opportunities and to protect the area from competing developments.
- The objectives of the plan should be:
  - To address the physical structure of the node and promote functionality with the broader Municipal economy;
  - To provide a structure/plan that will respond to unique needs of Magwa tea Estate, opposed to generic proposals;
  - To promote local economic development for Ingquza Local Municipality communities, whilst responding to the ecological and environmental sensitivities, taking into account the coastal nature of the area;
  - To attract and leverage public and private sector investment;
  - To ensure positive coordination of development initiatives and policies through a linkage of central and local government institutions;
  - To provide a mechanism for land supply (where relevant) to meet the full range of needs and aspirations of the community and economic progress;
  - To ensure public involvement in the formulation of the plan;
  - To identify areas for informal trade, local economic development opportunities and opportunities for growing the economy;
  - To identify infrastructure needs and services constraints and bring forward tangible solutions to address these constraints;
  - To provide a management tool/mechanism to address traffic and transportation challenges facing the node within the framework;
  - To ensure that mechanisms are in place for the protection of the natural environment;
  - To accommodate the growing housing needs with Municipality with the framework, taking into account opportunities available for development of “gap market” housing.
  - Develop two (2) business plans for some of the projects identified in the study area
  - Provide a clear implementation framework with associated budget and timeframes

#### **4. GEOGRAPHICAL LOCATION OF THE PROJECT**

Magwa Enterprise Tea SOC (“Magwa”) was established by the Eastern Cape Provincial Government on 3rd June 2004 to operate the tea estate located in the eastern part of the Eastern Cape (Lusikisiki area). The study area is in ward 22 and ward 23. From the North it is delimited by Mzizangwa and Mhlanga, from the west it is delimited by Gwexintaba, From the south it is delimited by Gxeni, From the East it is delimited by Tembeni and From North East it is delimited by KuQumba. Magwa consists of 1703 hectares of commercial tea plantations and 100 hectares of smallholders’ tea plantations, and all the green leaf is fed into a single factory. The tea plantation forms part of a greater Lambasi area totalling over 10 000 hectares on which little agricultural activity is taking place.



## 5. CRITICAL MILESTONES

The following milestones are necessary phases of the project to ensure a credible and comprehensive LSDF/ Conceptual Design as required by the policy and regulation:

ITEM DESCRIPTION	UNIT PRICE	DELIVERY TIME
PROJECT INITIATION AND WORK PLAN (IDENTIFICATION OF FOCUS AREAS)		
DATA COLLECTION/ STRATEGIC REVIEW (DEVELOPMENT GUIDELINES, CHALLENGES&OPPORTUNITIES)		
CONCEPTUAL DESIGN PLANS AND 3D MODELLING		
PACKAGE BANKABLE PUBLIC AND PRIVATE SECTOR PROJECTS FOR AT LEAST TWO(2) IDENTIFIED PROJECTS		
IMPLEMENTATION FRAMEWORK		
FINAL LSDF / CONCEPTUAL DESIGN		
VAT (15%)		
<b>TOTAL TENDER PRICE</b>		

***THE TOTAL TENDER PRICE MUST BE ENTERED INTO THE FORM OF OFFER, AND THE MBD 1 FORM ATTACHED TO THIS DOCUMENT.***

## 6. SUMMARY OF SKILLS

The Summary of required skills and abilities in the team include Town and Regional/Development Planning, land legal issues, cadastral, social, economic and land use, environmental management, urban design/architect, sound Geographic Information System (GIS) proficiency, project management, facilitation and translation skills, research, analytical, writing and communication skills, and ability to think strategically.

## 7. OUTCOMES AND DELIVERABLES

The final documentation should be in the form of both hard and electronic versions of the LSDF/Conceptual Design Plan and associated documentation. Mapping should be submitted in Arc View GIS capable format (shape-files, mxd files) for use in GIS environment. all mapping notation should be in keeping with standards already established in the O.R. Tambo District municipality and Ingquza hill local municipality and in accordance with the collaborative processes undertaken throughout the project. The service provider should ensure that all GIS data and meta data is fully compatible with that of two Municipality's GIS Units.

The document and communication media should be prepared well in advance of the stakeholder engagement process and should be to the satisfaction of the Steering Committee/ Technical Task Team.

The Service provider will be expected to submit reports and associated development communication Media for each phase of the phase of the project.

The final consolidated report will consist of:

- Five (5) copies of the final LSDF/Conceptual Design Plan documents encompassing the relevant aspects of the previous phased outcomes including all maps, tables and figures in both hardcopy (printed) and softcopy (electronic as MS work document)

.....  
Name of bidder

.....  
Signature

.....  
Bidder's stamp

.....  
Date

**SECTION 3: FORM OF OFFER AND ACCEPTANCE**

**PART 1 (OFFER TO BE COMPLETED BY THE BIDDER)**

1. O.R. Tambo District Municipality has solicited offers to enter into the following contract :

**DEVELOPMENT OF MAGWA ESTATE LOCAL SPATIAL DEVELOPMENT FRAMEWORK/CONCEPTUAL DESIGN**

- 2. I, the Bidder, hereby undertake to supply and deliver all or any of the goods and/or works described in the attached bidding documents to O.R. Tambo District Municipality in accordance with the requirements and specifications stipulated in bid number **ORTDM SCMU 09-20/21**, at the price/s quoted. My offer/s shall remain binding upon me and open for acceptance by the Municipality during the validity period indicated and calculated from the closing time of bid.
- 3. The following documents shall be deemed to form and be read and construed as part of this Agreement:
  - (i) This Bid document, namely -
    - The Scope of Work;
    - The Pricing Schedule;
    - This Form of Offer & Acceptance;
  - (ii) Bidder's Tender Proposal;
  - (iii) The General Conditions of Contract;
  - (iv) The Special Conditions of Contract (if any);
  - (v) Service Level Agreement concluded by the appointed bidder and the Municipality (if any).
- 4. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
- 5. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
- 6. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
- 7. I confirm that I am duly authorized to sign this contract.

The **TOTAL BID PRICE** inclusive of value-added tax (where applicable) is

.....

.....

..... Rand

(in words); R . . . . . (in figures)

This offer may be accepted by the authorised O.R. Tambo District Municipality representative signing the acceptance part of this form of offer and acceptance, and returning one copy of this document to the

tenderer before the end of the period of validity stated in the tender conditions, whereupon the tenderer becomes the party named as the appointed service provider in terms of the conditions of contract.

NAME (PRINT) .....  
CAPACITY .....  
SIGNATURE .....  
NAME OF FIRM .....  
DATE .....

WITNESSES: 1 ..... 2 ..... DATE:.....
--

**FAILURE BY THE BIDDER TO COMPLETE THIS FORM IN ITS ENTIRETY INCLUDING SIGNING THE FORM, SHALL DISQUALIFY ITS BID.**

**PART 2 (ACCEPTANCE TO BE COMPLETED BY O.R. TAMBO DISTRICT MUNICIPALITY)**

By signing this part of the form of offer and acceptance, the Municipality accepts the bidder's offer. In consideration thereof, the Municipality shall pay the appointed supplier the amount due in accordance with PART 1 of this offer and acceptance. Acceptance of the bidder's offer shall form an agreement between ORTDM and the bidder upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP



<b>WITNESSES</b>	
1	.....
2	.....
DATE:.....	

**SECTION 4: SCHEDULE OF VARIATIONS TO THE BID**

Should the Bidder wish to make any departure from or modification to the conditions of contract, specifications, pricing schedule, quantities, drawings or to qualify the bid in any way, he/she shall indicate the proposals clearly hereunder.

<b>SECTION</b>	<b>PAGE</b>	<b>VARIATION: CLAUSE OR ITEM</b>

**SIGNATURE OF BIDDER:** .....

**DATE:** .....

## SECTION 5: GENERAL CONDITIONS OF CONTRACT

The contract between the Municipality and the appointed bidder will be administered in terms of the **General Conditions of Contract 2010 (National Treasury)**.

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

#### NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

#### General Conditions of Contract

##### 1. Definitions

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 supplies 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.

- 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 represented by the cost of components, parts or materials which 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 supplies 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 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 **"Written"** or **"in writing"** means handwritten 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, 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 supplies, 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

- 18.1 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 non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)



## **19 Standards**

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

## **20 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 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.

## **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.
- 20.1 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 in SCC.

## **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 supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 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 supplies 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 supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies 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 supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies 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 supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies 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 23 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 and 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, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

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

## **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 in the SCC.

## **12. Transportation**

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

## **13. Incidental Services**

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

4.1 performance or supervision of on-site assembly and/or commissioning of the supplied goods;

4.2 furnishing of tools required for assembly and/or maintenance of the supplied goods;

4.3 furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

4.4 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

4.5 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 in SCC, 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:

(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 in SCC.

- 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 in SCC 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 in SCC, 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 in SCC.
- 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.
- 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 in SCC.

**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 in SCC or in the purchaser's request for bid validity extension, as the case may be.

**18. Contract Amendments**

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

**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 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 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 supplies are required, or the supplier's services are not readily available.
- 21.5 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 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies 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 judgment 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.

- 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 intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, 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 Accounting Officer / Authority 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. Anti-dumping and countervailing duties and rights**

- 24.1 When, after the date of bid, provisional payments are required, or antidumping 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 favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies 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 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.

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 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 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

**28. Limitation of liability**

28.1 Except in cases of criminal negligence or willful misconduct, and in the case 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 in SCC.

**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.
- 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 the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

### **33. National Industrial Participation (NIP) Programme**

- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

### **34 Prohibition of Restrictive practices**

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 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 (or bid rigging).
- 34.2 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 the Competition Act No. 89 of 1998.
- 34.3 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.

**-End**