


TENDER NO. 150C/2021/22		 CITY OF CAPE TOWN ISIXEKO SASEKAPA STAD KAAPSTAD	
SCM - 515	Approved by Branch Manager: 03/04/2020	Version: 4	Page 1 of 123

CONTRACT DOCUMENT

FOR THE

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN

VOLUME 1: TENDERING PROCEDURES

NOTE:

- The Form of Offer and Acceptance (C1.1) is on **page 34** of this document
- Table 1: Tender Preference Claim (B-BBEE contribution) is on **page 76** of this document.

ISSUED BY:		For official use.
DIRECTOR: TRANSPORT PLANNING AND NETWORK MANAGEMENT TRANSPORT CITY OF CAPE TOWN Tower Block, Civic Centre 12 Hertzog Boulevard CAPE TOWN 8001		TENDER SERIAL No.:
		SIGNATURES OF CITY OFFICIALS AT TENDER OPENING
		1.
		2.
		3.

OCTOBER 2021

NAME OF TENDERING ENTITY	
EMAIL ADDRESS OF TENDERING ENTITY	
FAX NUMBER OF TENDERING ENTITY	
NATURE OF TENDER OFFER (please indicate below)	
Main Offer (see clause C.2.12)	
Alternative Offer (see clause C.2.12)	

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

General Tender Information

TENDER ADVERTISED	:	19 November 2021
CLARIFICATION MEETING	:	10h00 on 2 nd December 2021 (Not compulsory but strongly recommended)
VENUE FOR CLARIFICATION MEETING	:	Virtual Meeting https://meet.capetown.gov.za/riana.albertyn2/45DYSHNN
CLOSING DATE	:	17 January 2022
CLOSING TIME	:	10h00
TENDER BOX & ADDRESS	:	Tender Box 146 at the Tender & Quotation Box Office , 2 nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town
TENDER BOX	:	<p>The Tender Document (which includes the Form of Offer and Acceptance) completed in all respects, plus any additional supporting documents required, must be submitted in a sealed envelope with the name and address of the tenderer, the tender No. and title, the tender box No. and the closing date indicated on the envelope. The sealed envelope must be inserted into the appropriate official tender box before closing time.</p> <p>If the tender offer is too large to fit into the abovementioned box or the box is full, please enquire at the public counter (Tender Distribution Office) for alternative instructions. The onus remains with the tenderer to ensure that the tender is placed in either the original box or as alternatively instructed.</p>

CITY OF CAPE TOWN**TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT****CONTRACT NO. 150C/2021/22****PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.**

Contents			
Number	Heading	Colour	Page No
VOLUME 1			
The Tender			
Part T1: Tendering procedures			
T1.1	Tender Notice and Invitation to Tender	White	2
T1.2	Tender Data	Pink	3 to 30
VOLUME 2			
Part T2: Returnable documents			
T2.1	List of Returnable Documents	Yellow	33
C1.1	Form of Offer and Acceptance	Yellow	34 to 38
C1.2	Contract Data (data provided by the Supplier)	Yellow	39
C2.2	Pricing Schedule (please see clause C.2.13.3)_	Yellow	40 to 43
T2.2	Returnable Schedules (please see clause C.2.13.3)_	Yellow	44 to 79
VOLUME 3			
Draft Contract			
Part C1: Agreements and Contract Data			
C1.2	Contract Data (data provided by the Employer)	Yellow	82 to 91
C1.3	Occupational Health and Safety Agreement	White	92
Part C2: Pricing data			
C2.1	Pricing Assumptions	Yellow	95 to 96
Part C3: Scope of Wor			
C3.1	Scope of Work	Blue	98 to 116
C3.2	Annexes	Blue	117 to 119
Part C4: Site information			
C4.1	Site Information	Green	120

Part T1: Tendering procedures

	Pages
T1.1 Tender Notice and Invitation to Tender.....	2
T1.2 Tender Data	3 – 30

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

T1.1 Tender Notice and Invitation to Tender

The **CITY OF CAPE TOWN**, Director: Transport Planning and Network Management, invites tenders for Tender No. 150C/2021/22: **PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.**

Tenderers must be registered on Supplier Databases as described in the tender conditions.

Tenderers who are not registered on these Supplier Databases are not precluded from submitting tenders, but must however be registered upon being requested to do so in writing and within the period contained in such a request.

Preferences are offered to tenderers who tender in accordance with the Preferential Procurement Regulations, 2017.

The physical address for collection of tender documents is:

Tender Distribution Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town.

Documents may be collected during working hours between 08:30 –15:00 from **19 November 2021**

A non-refundable tender fee of R200.00 payable by EFT or Cash, is required on collection of the tender documents.

Queries relating to any issues in these documents may be addressed to Mr D Japhta, Tel No. 021 400 3886, e-mail Daniel.Japhta@capetown.gov.za

A non-compulsory but strongly recommended clarification meeting with representatives of the Employer will be held on **2 December 2021 at 10h00** in a virtual meeting.

The closing time for receipt of tenders is **10h00 on 17 January 2022.**

Telegraphic, telephonic, telex, facsimile and late tenders will not be accepted.

Tenders may only be submitted on the tender documentation that has been issued. Printed Activity Schedules, in the same format (that is, layout, scheduled items and quantities) as those issued electronically by the Employer upon request, may be submitted as stated in the Tender Data.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

T1.2 Tender Data

The conditions of tender are the 42622 of 8 August 2019, Construction Industry Development Board (CIDB) Standard for Uniformity in Construction Procurement. (see www.cidb.org.za) which are reproduced without amendment or alteration for the convenience of tenderers as an Annex to this Tender Data.

The Standard Conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the standard conditions of tender. Each item of data given below is cross-referenced to the clause in the Standard Conditions of Tender to which it mainly applies.

The following variations, amendments and additions to the Standard Conditions of Tender as set out in the Tender Data below shall apply to this tender:

Clause number	Tender Data
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C.1	General
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C.1.1	Actions
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C.1.1.1	<i>Add the following:</i>
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The parties agree that this tender, its evaluation and acceptance and any resulting contract shall also be subject to the Employer's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, save that if the Employer adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract Please refer to this document contained on the Employer's website.

Abuse of the supply chain management system is not permitted and may result in the tender being rejected, cancellation of the contract, restriction of the supplier, and/or the exercise by the Employer of any other rights and remedies available to it as described in the SCM Policy.

The Employer is the City of Cape Town, represented by the Director: Transport: Transport Planning and Network Management.

In addition to the above, the following further documents are part of the tender:

VOLUME 4 The **Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1015)** as published by the Construction Industry Development Board. Tenderers must obtain copies at their own cost from the Construction Industry Development Board Pretoria, Tel. (012) 343 7136 or (012) 481 9030, Fax: (012) 343 7153, e-mail: cidb@cidb.org.za.

VOLUME 5 The relevant sections as described in the Scope of Services of the **Guideline for Services and Processes for Estimating Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000), Board Notice 138 of 2015** as gazetted in Government Gazette No. 39480, 4 December 2015.

The City of Cape Town's **Example CIDB document for Civil Contracts (SCM 509)**, latest version, obtainable on request from the Employer.

Volumes 4 and 5 may be inspected, by appointment, at the offices of the Employer during normal office hours.

C.1.4 Communication and employer's agent

Delete the first sentence of the clause and replace with the following:

Verbal or any other form of communication, from the Employer, its employees, agents or advisors during site visits/clarification meetings or at any other time prior to the award of the Contract, will not be regarded as binding on the Employer, unless communicated by the Employer in writing to suppliers by its Director: Supply Chain Management or his nominee.

(The Employer's agent is:

Name: Mr Daniel Japhta (Head: Integrated Special Projects: Passenger Rail : Transport Planning and Network Management) – Directorate: Transport
Address: City of Cape Town
Civic Centre
12 Hertzog Boulevard
Cape Town 8001
Tel: 021 400 3886
E-mail: Daniel.Japhta@capetown.gov.za]

- C.1.5 **Cancellation and Re-Invitation of Tenders**
Delete the fulstop at the end of C.1.5.1 dd) and replace with ,
Add the following after C.1.5.1 d):
 e) the parties are unable to negotiate market related pricing.
- C.1.6.2 **Competitive negotiation procedure**
Add the following to C.1.6.2.1:
 A competitive negotiation procedure will not be followed.
- C.1.6.3 **Proposal procedure using the two-stage system**
Add the following between C.1.6.3 and C.1.6.3.1:
 A two-stage system will not be followed.
- Add the following after C.1.6.3.2.2*
- C.1.6.4 **Nomination of Alternative Bidder**
- Alternative Bidder means a bidder, identified at the time of awarding a bid, that will be considered for award should the contract be terminated for any reason whatsoever. In the event that a contract is terminated during the execution thereof, the CCT may consider the award of the contract, or non-award, to the alternative bidder in terms of the procedures included its SCM Policy.
- C.1.6.5 **Objections, complaints, queries and disputes/ Appeals in terms of Section 62 of the Systems Act/ Access to court**
- C.1.6.5.1 **Disputes, objections, complaints and queries**
 In terms of Regulations 49 and 50 of the Local Government: Municipal Finance Management Act, 56 of 2003 – Municipal Supply Chain Management Regulations (Board Notice 868 of 2005):
 a) Persons aggrieved by decisions or actions taken by the City of Cape Town in the implementation of its supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint or query or dispute against the decision or action.
- C.1.6.5.2 **Appeals**
 a) In terms of Section 62 of the Local Government: Municipal Systems Act, 32 of 2000 a person whose rights are affected by a decision taken by the City, may appeal against that decision by giving written notice of the appeal and reasons to the City Manager within 21 days of the date of the notification of the decision.
 b) An appeal must contain the following:
 i) Must be in writing
 ii) It must set out the reasons for the appeal
 iii) It must state in which way the Appellant's rights were affected by the decision;
 iv) It must state the remedy sought; and
 v) It must be accompanied with a copy of the notification advising the person of the decision
 c) The relevant City appeal authority must consider the appeal and **may confirm, vary or revoke** the decision that has been appealed, but no such revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- C.1.6.5.3 **Right to approach the courts and rights in terms of Promotion of Administrative Justice Act, 3 of 2000 and Promotion of Access to Information Act, 2 of 2000**
 The sub- clauses above do not influence any affected person's rights to approach the High Court at any time or its rights in terms of the Promotion of Administrative Justice Act and Promotion of Access to Information Act.
- C.1.6.5.4 **All requests referring to sub clauses C.1.6.4.1 and C.1.6.4.2 must be submitted in writing to:**
The City Manager - C/o the Manager: Legal Compliance Unit, Legal Services Department, Corporate Services Directorate
Via hand delivery at: 20th Floor, Tower Block, 12 Hertzog Boulevard, Cape Town 8001
Via post at: Private Bag X918, Cape Town, 8000
Via fax at: 021 400 5963 or 021 400 5830
Via email at: MSA.Appeals@capetown.gov.za

- C.1.6.5.5 All requests referring to clause C.1.6.4.3 must be submitted in writing to:
The City Manager - C/o the Manager: Access to Information Unit, Corporate Services Directorate
Via hand delivery at: 20th Floor, Tower Block, 12 Hertzog Boulevard, Cape Town 8001
Via post at: Private Bag X918, Cape Town, 8000
Via fax at: 086 202 9982
Via email at: Access2info.Act@capetown.gov.za
- C.1.7 **City of Cape Town Supplier Database Registration**
Tenderers are required to be registered on the CCT Supplier Database as a service provider. Tenderers must register as such upon being requested to do so in writing and within the period contained in such a request, failing which no orders can be raised or payments processed from the resulting contract. In the case of Joint Venture partnerships this requirement will apply individually to each party of the Joint Venture.
- Tenderers who wish to register on the City of Cape Town's Supplier Database may collect registration forms from the Supplier Management Unit located within the Supplier Management / Registration Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5). Registration forms and related information are also available on the City of Cape Town's website www.capetown.gov.za (follow the Supply Chain Management link to Supplier registration).
- C.1.8 **National Treasury Web Based Central Supplier Database (CSD) Registration**
Tenderers are required to be registered on the National Treasury Web Based Central Supplier Database (CSD) as a service provider. Tenderers must register as such upon being requested to do so in writing and within the period contained in such a request, failing which no orders can be raised or payments processed from the resulting contract. In the case of Joint Venture partnerships this requirement will apply individually to each party of the Joint Venture.
- Tenderers who wish to register on the National Treasury Web Based Central Supplier Database (CSD) may do so via the web address <https://secure.csd.gov.za>.
- It is each tenderer's responsibility to keep all the information on the National Treasury Web Based Central Supplier Database (CSD) updated.

C.2 Tenderer's obligations

C.2.1 Eligibility

C.2.1.1 *Delete the clause and replace with the following:*

Tenderers must submit a tender offer that complies in all aspects to the conditions as detailed in this document. Only those tenders that comply in all aspects with the tender conditions, specifications, pricing instructions and contract conditions will be declared responsive.

Add the following after C.2.1.2:

C.2.1.3 Only those tender submissions from which it can be established that a clear and unambiguous offer has been made to Employer, by whom the offer has been made and what the offer constitutes, will be declared responsive.

C.2.1.4 Only those tenders that satisfy the following criteria will be declared responsive:

C.2.1.4.1 **Compliance with requirements of CCT SCM Policy and procedures**

Only those tenders that are compliant with the requirements below will be declared responsive:

- a) A completed **Compulsory Enterprise Questionnaire** to be provided (applicable schedule to be completed);
- b) A completed **Certificate of Authority for Partnerships/ Joint Ventures/ Consortiums** to be provided authorising the tender to be made and the signatory to sign the tender on the partnership /joint venture/consortium's behalf (applicable schedule to be completed);
- c) A copy of the partnership / joint venture / consortium agreement to be provided;
- d) A completed **Declaration of Interest – State Employees** to be provided and which does not indicate any non-compliance with the legal requirements relating to state employees (applicable schedule to be completed);
- e) A completed **Declaration – Conflict of Interest** and **Declaration of Bidder's past Supply Chain Management Practices** to be provided and which does not indicate any conflict or past practises that renders the tender non-responsive based on the conditions contained thereon (applicable schedules to be completed);
- f) A completed **Certificate of Independent Bid Determination** to be provided and which does not indicate any non-compliance with the requirements of the schedule (applicable schedule to be completed);
- g) The tenderer (including any of its directors or members), has not been restricted in terms of abuse of the Supply Chain Management Policy;
- h) The tenderer's tax matters with SARS are in order or the tenderer is a foreign supplier that is not required to be registered for tax compliance with SARS;
- i) The tenderer is not an advisor or consultant contracted with the Employer whose prior or current obligations creates any conflict of interest or unfair advantage;
- j) The tenderer is not a person, advisor, corporate entity or a director of such corporate entity, involved with the bid specification committee;
- k) A completed Authorisation for the Deduction of Outstanding Amounts Owed to the City of Cape Town to be provided and which does not indicate any details that renders the tender non-responsive based on the conditions contained thereon (applicable schedules to be completed);
- l) The tenderer (including any of its directors or members), has not been found guilty of contravening the Competition Act 89 of 1998, as amended from time to time;
- m) The tenderer (including any of its directors or members), has not been found guilty on any other basis listed in the SCM Policy.

C.2.1.4.2 **Key personnel**

Not applicable.

C.2.1.4.3 **Support resources**

In order to be declared responsive, the tenderer must own and be familiar with the following licensed software packages:

- Geographic Information Systems (GIS) software package that is owned and licensed and capable of creating, managing, analysing geographic, socio-economic and environmental data.
- Computer Aided Design (CAD) software package that is owned and licensed and capable of creating, managing, analysing, designing and surveying transport infrastructure (inclusive of rail) for the purposes of this project.

Details of the software package that will be used must be indicated on the schedule titled **Support Resources**, Part T2.2: Returnable Schedules.

C.2.1.4.4 **Professional indemnity insurance**

In order to be declared responsive, the tenderer must have the tenderer must hold valid Professional Indemnity (PI) insurance providing cover in an amount of not less than R80 000 000 in respect of each and every claim during the period of insurance. Proof of insurance or confirmation from a reputable Insurance Broker that the Tenderer is eligible for the prescribed professional indemnity insurance cover should he/she be awarded the contract, must be submitted with the tender, appended to the schedule titled **Professional Indemnity Insurance**.

Where the entity tendering is a joint venture then the value of the PI insurance cover required may be shared between the joint venture partners in proportion to the percentage contribution of each party to the joint venture.

C.2.1.4.5 **Track record of tenderer**

Not applicable

C.2.1.4.6 **Minimum score for quality**

In order to be considered for a contract in terms of this tender, tenderers must achieve the minimum score for quality as stated below.

The description of the quality criteria and the maximum possible score for each is shown in the table below. The score achieved for quality will be the sum of the scores achieved for the individual criteria.

Description of quality criteria	Maximum possible score
Track record of tenderer	20
Specific experience of key personnel	70
ISO 9001 : 2008 Certification	10
Maximum possible score	100

The minimum score for quality is **70**. Tenderers that fail to achieve the minimum score for quality will be declared as non-responsive.

Where the entity tendering is a Joint Venture the tender must be accompanied by a statement describing exactly what aspects of the work will be undertaken by each party to the joint venture (appended to the schedule titled **Certificate of Authority for Joint Ventures**).

Tenderers shall ensure that all relevant information has been submitted with the tender offer in the prescribed format to ensure optimal scoring of functionality points for each Evaluation Criteria. Failure to provide all information **IN THIS TENDER SUBMISSION** could result in the tenderer not being able to achieve the specified minimum scoring.

A more detailed explanation of the quality criteria is given below:

Track record

Tenderers must list, on the schedule titled **Schedule of Experience of Tenderer**, will be evaluated and points will be awarded according, with the applicable values set out in the Table below:

The tenderer must demonstrate successful engagement in an urban rail reform, urban rail business restructuring or reorganizing initiatives and the development of urban rail commuter strategic plans or urban rail corridor plans which will be assessed as part of the quality scoring of this tender

Scoring of Track Record

Description	Points Allocation	Max Points (max = 20)
Successful completion of an urban rail reform, urban rail business restructuring or urban rail reorganizing initiative.	5 points per completed initiative/project	10
Successful development of urban rail commuter strategic plans or urban rail corridor plans	5 points per completed project	10
Maximum possible points		20

Note: Where the entity tendering is a joint venture a score for track record will be awarded to each party to the joint venture, which will then be combined in proportion to the percentage contribution of each party to the joint venture.

Specific experience of key personnel [check weighting against other quality items]

The overall score for this criterion will be sum of the scores for each of the key personnel, with the applicable values as follows:

Item	Key Personnel	Qualification and Professional Registration Requirements	Required Verifiable Experience	Points Allocation	Max. Points (70)
1.	Project Leader	Registered in a professional capacity with the Engineering Council of South Africa (ECSA)	Verifiable post graduate experience acting as the project leader in managing multidisciplinary professional teams	0-2 years = 0 3-5 years=1 6-8 years=2 9-11 years=4 12 years =7	12

				ECSA Registration=5 points	
2	Rail Business Strategist	A Post graduate degree(NQF9) in one of the following disciplines: • Transport • Business • Financial	Verifiable post graduate experience in urban rail reform or urban rail restructuring initiatives	0-2 years = 0 3-5 years=1 6-8 years=2 9-11 years=4 12 years =7 Qualification=5 points	12
3	Rail Strategic Planner	Bachelor's degree (NQF 8) in the Built Environment	Verifiable post graduate experience in the development of strategic urban commuter rail master plans or rail corridor master plans	0-2 years = 0 3-5 years = 1 6-7 years =2 8-9 years = 3 10 years = 4 Qualification = 2 points	6
4	Railway specialist: Facilities and Asset Management	Bachelor's degree (NQF 8) in the Built Environment Registered in a professional capacity with the Engineering Council of South Africa (ECSA),	Verifiable post graduate experience in railway asset management i.e., Track & Structures, Rolling Stock, Signaling, Systems.	0-2 years = 0 3-5 years = 1 6-7 years =2 8-9 years = 3 10 years = 4 Qualification = 2 points ECSA Registration = 2 Points	8
5	Railway specialist: Operations	A Bachelor's degree (NQF 8) in the Built Environment	Verifiable post graduate experience working in an urban rail network operations environment evaluating rail system operations and /or managing concessions and/or service level agreements) with rail operators.	0-2 years = 0 3-5 years = 1 6-7 years =2 8-9 years = 3 10 years = 4 Qualification = 2 Points	6
6	Public Transport Planning Specialist	A Bachelor's degree (NQF 8) in a Transport Discipline	Verifiable post graduate experience in public transport policy and planning encompassing a wide spectrum of road based public transport including Rail	0-2 years = 0 3-5 years = 1 6-7 years =2 8-9 years = 3 10 years = 4 Qualification = 2 points	6
7	Transport Planner	A Bachelor's degree (NQF 8) in a Transport Discipline	Verifiable post graduate experience in road and rail based transport planning and a demonstrated ability to interpret data, modelling results, trends, etc. and to use such interpretation to develop appropriate solutions.	0-2 years = 0 3-5 years = 1 6-7 years =2 8-9 years = 3 10 years = 4 Qualification = 2 points	6
8	Project Manager	Bachelor's degree in the Built Environment (NQF 7). Registration as a Professional Project Manager	Verifiable post graduate experience as a project manager managing multi-disciplinary teams and/or multi-disciplinary projects	0-2 years = 0 3-5 years = 1 6-7 years =2 8- years = 3 Qualification = 2 points	6

				Professional Registration = 1 point	
9	Legal specialist	A Bachelor's degree (NQF 8) in the legal field. An admitted attorney or advocate	Verifiable post graduate experience in the application, interpretation and analysis of legislation pertaining to the public transport sector and experience in developing, interpreting, and drafting contract parameters / contracts between public sector organisations and private entities.	0-2 years = 0 3-5 years = 1 6-7 years = 2 8-9 years = 3 10 years = 4 Qualification = 2 points Registration as an attorney or advocate = 2 points	8

Tenderers are urged to ensure that the Curriculum Vitae provided in respect of the key personnel contain details of all relevant experience, start and end date of projects as well as the role undertaken.

The Service Provider may at time of tender submission identify the same team member for a maximum of two functions as a Specialist provided the Tenderer can demonstrate that the person has the capacity work in an additional category at the same time. The experience and skills of each such position will be assessed separately, per function / position.

ISO 9001: 2008 Certification

Tenderers who are certified as being compliant to the International Organization for Standardization's ISO 9001: 2008 quality management standard, will be awarded 10 score points. Proof of certification must be attached to the schedule titled **Confirmation of Tenderer Registration / Accreditation** in order to qualify for these points.

C.2.1.4.7 Pre-qualification criteria for preferential procurement

Not applicable

C.2.1.4.7 Compulsory clarification meeting

Not applicable

C.2.7

Clarification meeting

Add the following after the second sentence:

The arrangements for the site visit/clarification meeting are as stated on the General Tender Information page and in the Responsiveness Criteria (if applicable).

Tenderers should be represented at the site visit/clarification meeting by a person who is suitably qualified and experienced to comprehend the implications of the work involved.

C.2.8

Seek Clarification

Add the following after the first sentence:

The tenderer warrants that it has:

- a) inspected the Specifications and read and fully understood the Conditions of Contract.
- b) read and fully understood the whole text of the Specifications and Price Schedule and thoroughly acquainted itself with the nature of the goods proposed and generally of all matters which may influence the Contract.
- c) visited the site(s) where delivery of the proposed works will take place, carefully examined existing conditions, the means of access to the site(s), the conditions under which the delivery is to be made, and acquainted itself with any limitations or restrictions that may be imposed by the Municipal or other Authorities in regard to access and transport of materials, plant and equipment to and from the site(s) and made the necessary provisions for any additional costs involved thereby.
- d) requested the Employer to clarify the requirements contained in the Specifications and Price Schedule, the exact meaning or interpretation of which is not clearly intelligible to the tenderer.
- e) received any notices to the tender documents which have been issued in accordance with the Employer's SCM Policy.

The Employer will therefore not be liable for the payment of any extra costs resulting from any claim submitted by the tenderer arising from any alleged ambiguity or uncertainty contained in the tender document.

C.2.11

Alterations to documents

Delete the first sentence and replace with the following:

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer in writing, or necessary to correct errors made by the tenderer.

C.2.12

Alternative tender offers

C.2.12.1

Add the following to C.2.12.1 at the end of the first sentence:

If a tenderer wishes to submit an alternative tender offer, he shall do so as a separate offer on a separate set of tender documents. The alternative tender offer shall be submitted in a separate sealed envelope on a separate Form of Offer, both clearly marked "Alternative Tender" in order to distinguish it from the main tender offer.

While it is not necessary to duplicate all parts of the main tender offer, the alternative tender offer shall be supported by the following documents as applicable:

- a) the schedule that compares the alternative(s) offered with the requirements of the issued tender documents
- b) preliminary designs, calculations, drawings and all other pertinent technical information and characteristics must be submitted with the alternative tender offer, in order to enable the Employer to evaluate the efficacy of the alternatives proposed
- c) revised Bills of Quantities, or parts thereof, highlighting the changes made, together with a revised Summary, the total of which has been carried to the Form of Offer
- d) details of any proposed amendments to the Pricing Assumptions

An alternative of the highest ranked acceptable main tender offer that is priced higher than the main tender offer may be recommended for award, provided that the ranking of the alternative tender offer is higher than the ranking of the next ranked acceptable main tender offer.

The Employer's costs in confirming the acceptability of the alternative offer will be, *inter alia*, taken into account in considering the alternative offer.

The Employer will not be bound to consider alternative tenders and shall have sole discretion in this regard.

In the event that the alternative is accepted, the Contractor shall accept full responsibility that the alternative offer complies in all respects with the Employer's standards and requirements.

C.2.13 Submitting a tender offer

Add the following to C.2.13.1 at the end of the first sentence:

C.2.13.1 Where the tendering entity is a joint venture it is recommended that the standard CIDB Joint Venture Agreement be used.

Add the following to C.2.13.3:

F.2.13.3 1 (One) copy(ies) of the following elements of the bid submission (please refer to **Contents (Volume 3)**) must be submitted separately bound in the same envelope where possible (see C.2.13.5):

Number	Heading
T2.2	Returnable Schedules
C2.2	Pricing Schedule
	All other attachments submitted by bidder

C.2.13.5 *Delete the clause and replace with the following*

C.2.13.5 The tender submission details are all described on the General Tender Information page. If it is not possible to submit the original tender and the required copies (see C.2.13.3) in a single envelope, then the tenderer must seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY" in addition to the aforementioned tender submission details.

Add the following to C.2.13.6:

C.2.13.6 A two-envelope procedure will **not** be followed.

Add the following sub-clause after C.2.13.9:

C.2.13.10 By signing the offer part of C1.1 Form of Offer and Acceptance the tenderer declares that all information provided in the tender submission is true and correct.

C.2.13.11 The Employer shall not formally issue tender documents in electronic format and shall only issue tender documents in hardcopy. An electronic version of the issued tender documents, or elements thereof, may be made available to the tenderer at the Employer's discretion, upon written request in terms of this clause, subject to the following:

- a) Electronic copies of the issued tender documents, or parts thereof, will only be provided to tenderers who have been issued with the tender documents as contemplated in C.1.2 in hardcopy.
- b) The electronic version shall not be regarded as a substitute for the issued tender documents.
- c) The Employer shall not accept tenders submitted in electronic format. Only those tenders that have been completed on the issued hard copy tender document shall be considered, provided that printed Bills of Quantities, in the same format (that is, layout, billed items and quantities) as those issued electronically by the Employer, may be submitted with the tender as stated in C.2.13.2.
- d) Where Addenda have been issued which amend the Bills of Quantities, then the printed Bills of Quantities shall take these into account. The pages of the issued Bills of Quantities should not be removed from the tender document.
- e) The Employer accepts no responsibility or liability arising from any reliance on or use of the electronic version provided in terms of this clause. Tenderers are alerted to the fact that electronic versions of the tender documents may not reflect any notices or addenda that amend the tender document.
- f) Any non-compliance with these provisions, including effecting any unauthorised alterations to the tender documents as contemplated in C.2.11, shall render the tender non-responsive. The Employer reserves the right to take any action against such tenderer allowed in law including, in circumstances where the tender had already been awarded, the right to cancel the contract.
- g) In requesting the electronic version of the tender documents or parts thereof, the tenderer is deemed to have read, understood and accepted all of the above conditions.

- C.2.15 **Closing time**
Add the following to C.2.15.1 after the first sentence:
 C.2.15.1 The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.
- C.2.16 **Tender offer validity**
Add the following to C.2.16.1 after the first sentence:
 C.2.16.1 The tender offer validity period is **12 weeks (84 days)**.
Delete the clause and replace with the following:
 C.2.16.2 Notwithstanding the period stated above, bids shall remain valid for acceptance for a period of twelve (12) months after the expiry of the original validity period, unless the City is notified in writing of anything to the contrary by the bidder. The validity of bids may be further extended by a period of not more than six months subject to mutual agreement and administrative processes and upon approval by the City Manager.
- C.2.17 **Clarification of tender offer after submission**
Add the following to C.2.17 at the end of the third sentence:
 A tender will be rejected as non-responsive if the tenderer fails to provide any clarification or supporting documents requested by the Employer within the time for submission stated in the Employer's written request for such clarification or documents.
- C.2.18 **Provide other material**
Delete the following word in C.2.18.1:
 C.2.18.1 notarized
Add the following to C.2.18.1 at the end of the first paragraph:
 C.2.18.1 Provide, on written request by the Employer, where the transaction value (tendered amount) inclusive of VAT **exceeds R 10 million:**
- a) audited annual financial statement for the past 3 years, or for the period since establishment if established during the past 3 years, if required by law to prepare annual financial statements for auditing;
 - b) a certificate signed by the tenderer certifying that the tenderer has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - c) particulars of any contracts awarded to the tenderer 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;
 - d) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic.
- Each party to a Consortium/Joint Venture shall submit separate certificates/statements in the above regard.
- Add the following after C.2.18.2:*
 C.2.18.3 Tenderers shall fully cooperate with the Employer's external service provider appointed to perform a due diligence review and risk assessment upon receipt of such written instruction from the Employer.
- Failure to fully cooperate could result in a tender being declared as non-responsive.
- C.2.18.4 **Compliance with Occupational Health and Safety Act, 85 of 1993**
 Tenderers are to note the requirements of the Occupational Health and Safety Act, 85 of 1993 and the Construction Regulations, 2014 issued in terms of Section 43 of the Act. The Tenderer shall be deemed to have read and fully understood the requirements of the above Act and Regulations and to have allowed for all costs in compliance therewith.
- In this regard the Tenderer shall submit with his tender or upon request, appended to the schedule titled **Health and Safety Plan** in T2.2: Returnable Schedules, a draft Health and Safety Plan in respect of the Works in sufficient detail to demonstrate the necessary competencies and resources to perform the construction work all in accordance with the Act, Regulations and Health and Safety Specification in Part C3.5 Management in the Scope of Work.

C.2.23 **Certificates**

Add the following after the first sentence:

The tenderer is required to submit the following:

C.2.23.1 **Evidence of tax compliance**

Tenderers shall be registered with the South African Revenue Service (SARS) and their tax affairs must be in order and they must be tax compliant subject to the requirements of clause C.2.1.4.2.h. In this regard, it is the responsibility of the Tenderer to submit evidence in the form of a valid Tax Clearance Certificate issued by SARS to the Employer at the Supplier Management Unit located within the Supplier Management / Registration Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5), or included with this tender. The tenderer must also provide its Tax Compliance Status PIN number on the **Compulsory Enterprise Questionnaire**

Each party to a Consortium/Joint Venture shall submit a separate Tax Clearance Certificate.

Before making an award the City must verify the bidder's tax compliance status. Where the recommended bidder is not tax compliant, the bidder should be notified of the non-compliant status and be requested to submit to the City, within 7 working days, written proof from SARS that they have made arrangement to meet their outstanding tax obligations. The proof of tax compliance submitted by the bidder must be verified by the City via CSD or e-Filing. The City should reject a bid submitted by the bidder if such bidder fails to provide proof of tax compliance within the timeframe stated herein.

Only foreign suppliers who have answered "NO" to all the questions contained in the Questionnaire to Bidding Foreign Suppliers section on the **Details of Tenderer** pages of the tender submission, are not required to register for a tax compliance status with SARS.

C.2.23.2 **Broad-Based Black Economic Empowerment Status Level Documentation**

In order to qualify for preference points, it is the responsibility of the tenderer to submit documentary proof, either as certificates, sworn affidavits or any other requirement prescribed in terms of the B-BBEE Act, of its B-BBEE status level of contribution in accordance with the applicable Codes of good practise as issued by the Department of Trade and Industry, to the CCT at the Supplier Management Unit located within the Supplier Management / Registration Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5) or included with the tender submission.

Consortiums/Joint Ventures will qualify for preference points, provided that the **entity** submits the relevant certificate/scorecard in accordance with the applicable codes of good practise. Note that, in the case of unincorporated entities, a verified consolidated B-BBEE scorecard must be submitted in the form of a certificate with the tender.

Tenderers are further referred to the content of the **Preference Schedule** for the full terms and conditions applicable to the awarding of preference points.

The applicable code for this tender is the **Amended Codes for Measuring Broad-Based Black Economic Empowerment**.

The tenderer shall indicate in Section 4 of the **Preference Schedule** the Level of Contribution in respect of the enterprise status or structure of the tendering entity (the supplier).

Add the follow new clause after C.2.23.2

C.2.24 **Proposed Deviations and Qualifications**

Where the tenderer cannot tender in all respects in accordance with the provisions contained in the tender documents, all deviations therefrom shall be clearly and separately listed in the schedule titled **Proposed Deviations and Qualifications by Tenderer** in T2.2 Returnable Schedules, or in a tenderer's covering letter expressly referenced in this schedule.

The tenderer accept that the Employer will examine such deviations in terms of clause C.3.8.2 and shall not be bound to accept any such deviations or qualifications.

It must be clearly stated by the tenderer whether the sum tendered in the Tender Offer includes for all such deviations or qualifications listed or referred to in the schedule titled **Proposed Deviations and Qualifications by Tenderer** or not.

C.3 The Employer's undertakings

C.3.2 Issue Addenda

Delete the first sentence and replace with:

If necessary, issue addenda in writing that may amend or amplify the tender documents to each tenderer during the period from the date the tender documents are available until one week before the tender closing time stated in the Tender Data. The Employer reserves its rights to issue addenda less than one week before the tender closing time in exceptional circumstances

Add the following to C.3.2 at the end of the paragraph:

Notwithstanding any requests for confirmation of receipt of Addenda issued, the tenderer shall be deemed to have received such addenda if the employer can show proof of transmission thereof (or a notice in respect thereof) via electronic mail, facsimile or registered post.

C.3.4 Opening of tender submissions

Add the following to C.3.4.2 at the end of the paragraph:

The location for opening of the tender offers is the Tender Submission Office at the address as stated on the General Tender Information page.

C.3.8 Test for responsiveness

C.3.8.2 *Replace the final sentence of C.3.8.2 with the following:*

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

Add the following after clause C.3.8.2

C.3.8.3 The Employer reserves the right to accept a tender offer which does not, in the Employer's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the tender documents.

C.3.9 Arithmetical errors, omissions and discrepancies

Add the following after clause C.3.9.2

C.3.9.3 In the event of tendered rates or lump sums being declared by the Employer to be unacceptable to it because they are not priced, either excessively low or high, or not in proper balance with other rates or lump sums, the Tenderer may be required to produce evidence and advance arguments in support of the tendered rates or lump sums objected to. If, after submission of such evidence and any further evidence requested, the Employer is still not satisfied with the tendered rates or lump sums objected to, it may request the tenderer to amend these rates and lump sums along the lines indicated by it.

The Tenderer will then have the option to alter and/or amend the rates and lump sums objected to and such other related amounts as are agreed on by the Employer, but this shall be done without altering the tender offer in accordance with this clause.

Should the Tenderer fail to amend his tender in a manner acceptable to and within the time stated by the Employer, the Employer may declare the tender as non-responsive.

C.3.10 Clarification of a tender offer

Delete the clause and replace with the following:

C.3.10 The Employer may, after the closing date, request additional information or clarification from tenderer, in writing on any matter affecting the evaluation of the tender offer or that could give rise to ambiguity in a contract arising from the tender offer, which written request and related response shall not change or affect their competitive position or the substance of their offer. Such request may only be made in writing by the Director: Supply Chain Management using any means as appropriate.

C.3.11 **Evaluation of tender offers**

Add the following after clause C.3.11.1

C.3.11.2 Where the scoring of functionality forms part of a bid process, each member of the Bid Evaluation Committee must individually score functionality. The individual scores must then be interrogated and calibrated if required where there are significant discrepancies. The individual scores must then be added together and averaged to determine the final score.

C.3.11.3 The tender will be evaluated in terms of the requirements of the Preferential Procurement Regulations of 2017 as follows:

C.3.11.3.1 The preference point system applicable to this tender is either the 80/20 or 90/10 preference point system and the lowest acceptable tender will be used to determine the applicable preference point system.

C.3.11.3.2 Price, preference and functionality will be scored, as relevant, to two decimal places.

C.3.11.3.3 Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences.

Points will be awarded to tenderers who are eligible for preferences in terms of the **Preference Schedule** (where preferences are granted in respect of B-BBEE contribution) which is included in T2.2 Returnable Schedules.

The terms and conditions of the **Preference Schedule** shall apply in all respects to the tender evaluation process and any subsequent contract.

In addition, the various deemed B-BBEE Status Level of Contributor in accordance with the relevant Codes can be attained and such tenderers must be awarded the appropriate number of points.

It should be noted that such Deemed B-BBEE Status Level of Contribution can be enhanced or discounted in accordance with the relevant clauses in the applicable Codes.

C.3.11.4 **Risk Analysis**

Notwithstanding compliance the requirements of the tender, the employer will perform a risk analysis in respect of the following:

- a) reasonableness of the financial offer
- b) reasonableness of unit rates and prices
- c) the tenderer's ability to fulfil its obligations in terms of the tender document, that is, that the tenderer can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, capacity, experience, reputation, personnel to perform the contract, etc.; the Employer reserves the right to consider a tenderer's existing contracts with the Employer in this regard
- d) any other matter relating to the submitted bid, the tendering entity, matters of compliance, verification of submitted information and documents, etc.

The conclusions drawn from this risk analysis will be used by the Employer in determining the acceptability of the tender offer in terms of C.3.13).

C.3.13 **Acceptance of tender offer**

Delete first sentence of C.3.13 and replace with the following):

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

Delete C.3.13 a) and replace with the following):

- a) is not under restrictions, has any principals who are under restrictions, or is not currently a supplier to whom notice has been served for abuse of the supply chain management system, preventing participation in the employer's procurement,

Add the following below C.3.13 f)

If an award cannot be made in terms of anything contained herein, the Employer reserves the right to consider the next ranked tenderer(s).

C.3.13.1 The Employer reserves the right not to make an award, or revoke an award already made, where the implementation of the contract may result in reputational risk or harm to the City as a result of (inter alia):

- a) reports of poor governance and/or unethical behaviour;
- b) association with known family of notorious individuals;
- c) poor performance issues, known to the City;
- d) negative social media reports; and
- e) adverse assurance (e.g. due diligence) report outcomes.

C.3.13.2 The Employer reserves the right to nominate an alternative bidder at the time when an award is made and in the event that a contract is terminated during the execution thereof, the CCT may consider the award of the contract, or non-award, to the alternative bidder in terms of the procedures included in its SCM Policy.

C.3.13.3 The Employer shall notify the successful tenderer in writing of the decision of the Employer's Bid Adjudication Committee to award the tender to the successful tenderer. No rights shall accrue to the successful tenderer in terms of this notice.

C.3.13.4 The Employer shall, at the same time as notifying the successful tenderer of the Bid Adjudication Committee's decision to award the tender to the successful tenderer, also give written notice to the other tenderers informing them that they have been unsuccessful.

C.3.17 **Provide copies of the contract**

Add the following after the first sentence:

The number of paper copies of the signed contract to be provided by the Employer is one.

C.3.19 *Add the following after C.3.19*

C.3.20 **Negotiations with preferred tenderers**

The Employer may negotiate the final terms of a contract with tenderers identified through a competitive tendering process as preferred tenderers provided that such negotiation:

- a) does not allow any preferred tenderer a second or unfair opportunity;
- b) is not to the detriment of any other tenderer; and
- c) does not lead to a higher price than the tender as submitted.

If negotiations fail to result in acceptable contract terms, the City Manager (or his delegated authority) may terminate the negotiations and cancel the tender, or invite the next ranked tenderer for negotiations. The original preferred tenderer should be informed of the reasons for termination of the negotiations. If the decision is to invite the next highest ranked tenderer for negotiations, the failed earlier negotiations may not be reopened by the CCT.

Minutes of any such negotiations shall be kept for record purposes.

The provisions of this clause will be equally applicable to any invitation to negotiate with any other tenderers.

In terms of the PPPFA Regulations, 2017, tenders must be cancelled in the event that negotiations fail to achieve a market related price with any of the three highest scoring tenderers.

Annex C

(normative)

Standard Conditions of Tender

C.1 General

C.1.1 Actions

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

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

Note:

- 1) *A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.*
- 2) *Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.*

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

C.1.2 Tender Documents

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

C.1.3 Interpretation

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

C.1.3.2 These conditions of tender, the tender data and tender schedules which are required for tender evaluation purposes, shall form part of any contract arising from the invitation to tender.

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

- a) **conflict of interest** means any situation in which:
 - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her [duties impartially](#);
 - ii) an individual or tenderer is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
 - iii) incompatibility or contradictory interests exist between an employee and the tenderer who employs that employee.
- b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;

C.1.4 Communication and employer's agent

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

C.1.5 Cancellation and Re-Invitation of Tenders

C.1.5.1 An employer may, prior to the award of the tender, cancel a tender if-

- a) due to changed circumstances, there is no longer a need for the engineering and construction works specified in the invitation;
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable tenders are received.
- d) there is a material irregularity in the tender process.

C.1.5.2 The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised

C.1.5.3 An employer may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

C.1.6 Procurement procedures

C.1.6.1 General

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

C.1.6.2 Competitive negotiation procedure

C.1.6.2.1 Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of C.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of C.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

C.1.6.2.2 All responsive tenderers or at least a minimum of not less than three responsive tenderers that are highest ranked in terms of the evaluation criteria stated in the tender data shall be invited to enter into competitive negotiations based on the principle of equal treatment, keeping confidential the proposed solutions and associated information.

Notwithstanding the provisions of C.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

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

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

C.1.6.3 Proposal procedure using the two stage-system

C.1.6.3.1 Option 1

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

C.1.6.3.2 Option 2

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

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

C.2 Tenderer's obligations

C.2.1 Eligibility

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

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

C.2.2 Cost of tendering

C.2.2.1 Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

C.2.2.2 The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

C.2.3 Check documents

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

C.2.4 Confidentiality and copyright of documents

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

C.2.5 Reference documents

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

C.2.6 Acknowledge addenda

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

C.2.7 Clarification meeting

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

C.2.8 Seek clarification

Request clarification of the tender documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the tender data.

C.2.9 Insurance

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

C.2.10 Pricing the tender offer

C.2.10.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable fourteen (14) days before the closing time stated in the tender data.

C.2.10.2 Show VAT payable by the employer separately as an addition to the tendered total of the prices.

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

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

C.2.11 Alterations to documents

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

C.2.12 Alternative tender offers

C.2.12.1 Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

C.2.12.2 Accept that an alternative tender offer must be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

C.2.12.3 An alternative tender offer must only be considered if the main tender offer is the winning tender.

C.2.13 Submitting a tender offer

C.2.13.1 Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

C.2.13.2 Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

C.2.13.3 Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

C.2.13.4 Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

C.2.13.5 Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

C.2.13.6 Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked “financial proposal” and place the remaining returnable documents in an envelope marked “technical proposal”. Each envelope shall state on the outside the employer’s address and identification details stated in the tender data, as well as the tenderer’s name and contact address.

C.2.13.7 Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer’s address and identification details as stated in the tender data.

C.2.13.8 Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

C.2.13.9 Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

C.2.14 Information and data to be completed in all respects

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

C.2.15 Closing time

C.2.15.1 Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

C.2.15.2 Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

C.2.16 Tender offer validity

C.2.16.1 Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

C.2.16.2 If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

C.2.16.3 Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer’s agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted. If the validity period stated in C.2.16 lapses before the employer evaluating tender, the contractor reserves the right to review the price based on Consumer Price Index (CPI).

C.2.16.4 Where a tender submission is to be substituted, a tenderer must submit a substitute tender in accordance with the requirements of C.2.13 with the packages clearly marked as “SUBSTITUTE”.

C.2.17 Clarification of tender offer after submission

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

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

C.2.18 Provide other material

C.2.18.1 Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment.

Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

C.2.18.2 Dispose of samples of materials provided for evaluation by the employer, where required.

C.2.19 Inspections, tests and analysis

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

C.2.20 Submit securities, bonds and policies

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

C.2.21 Check final draft

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

C.2.22 Return of other tender documents

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

C.2.23 Certificates

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

C.3 The employer's undertakings

C.3.1 Respond to requests from the tenderer

C.3.1.1 Unless otherwise stated in the tender Data, respond to a request for clarification received up to five (5) working days before the tender closing time stated in the Tender Data and notify all tenderers who collected tender documents.

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

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

C.3.2 Issue Addenda

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three (3) working days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who collected tender documents.

C.3.3 Return late tender offers

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

C.3.4 Opening of tender submissions

C.3.4.1 Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

C.3.4.2 Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, number of points claimed for its BBEE status level and time for completion for the main tender offer only.

C.3.4.3 Make available the record outlined in C.3.4.2 to all interested persons upon request.

C.3.5 Two-envelope system

C.3.5.1 Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

C.3.5.2 Evaluate functionality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the functionality evaluation more than the minimum number of points for functionality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any points claimed on BBEE status level. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for functionality.

C.3.6 Non-disclosure

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

C.3.7 Grounds for rejection and disqualification

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

C.3.8 Test for responsiveness

C.3.8.1 Determine, after opening and before detailed evaluation, whether each tender offer properly received:

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

C.3.8.2 A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

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

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

C.3.9 Arithmetical errors, omissions and discrepancies

C.3.9.1 Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

C.3.9.2 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with C.3.11 for:

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

C.3.9.3 Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.

C.3.9.4 Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.

- b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

C.3.10 Clarification of a tender offer

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

C.3.11 Evaluation of tender offers

The Standard Conditions of Tender standardize the procurement processes, methods and procedures from the time that tenders are invited to the time that a contract is awarded. They are generic in nature and are made project specific through choices that are made in developing the Tender Data associated with a specific project.

Conditions of tender are by definition the document that establishes a tenderer's obligations in submitting a tender and the employer's undertakings in soliciting and evaluating tender offers. Such conditions establish the rules from the time a tender is advertised to the time that a contract is awarded and require employers to conduct the process of offer and acceptance in terms of a set of standard procedures.

The CIDB Standard Conditions of Tender are based on a procurement system that satisfies the following system requirements:	
Requirement	Qualitative interpretation of goal
Fair	The process of offer and acceptance is conducted impartially without bias, providing simultaneous and timely access to participating parties to the same information.
Equitable	Terms and conditions for performing the work do not unfairly prejudice the interests of the parties.
Transparent	The only grounds for not awarding a contract to a tenderer who satisfies all requirements are restrictions from doing business with the employer, lack of capability or capacity, legal impediments and conflicts of interest.
Competitive	The system provides for appropriate levels of competition to ensure cost effective and best value outcomes.
Cost effective	The processes, procedures and methods are standardized with sufficient flexibility to attain best value outcomes in respect of quality, timing and price, and least resources to effectively manage and control procurement processes.

The activities associated with evaluating tender offers are as follows:

- Open and record tender offers received
- Determine whether or not tender offers are complete
- Determine whether or not tender offers are responsive
- Evaluate tender offers
- Determine if there are any grounds for disqualification
- Determine acceptability of preferred tenderer
- Prepare a tender evaluation report
- Confirm the recommendation contained in the tender evaluation report

C.3.11.1 General

The employer must appoint an evaluation panel of not less than three persons conversant with the proposed scope of works to evaluate each responsive tender offer using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

C.3.12 Insurance provided by the employer

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

C.3.13 Acceptance of tender offer

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

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
- c) has the legal capacity to enter into the contract;
- d) is not; insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act No. 2008, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her business activities or is subject to legal proceedings in respect of any of the foregoing;
- e) complies with the legal requirements, if any, stated in the tender data; and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

C.3.14 Prepare contract documents

C.3.14.1 If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

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

C.3.14.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

C.3.15 Complete adjudicator's contract

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

C.3.16 Registration of the award

An employer must, within twenty-one (21) working days from the date on which a contractor's offer to perform a construction works contract is accepted in writing by the employer, register and publish the award on the cidb Register of Projects.

C.3.17 Provide copies of the contracts

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

C.3.18 Provide written reasons for actions taken

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

TENDER NO. 150C/2021/22



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

SCM - 515

Approved by Branch Manager: 03/04/2020

Version: 4

Page 31 of 123

CONTRACT DOCUMENT

FOR THE

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

VOLUME 2: RETURNABLE DOCUMENTS

ISSUED BY:

**DIRECTOR: TRANSPORT
PLANNING AND NETWORK
MANAGEMENT
TRANSPORT CITY OF CAPE
TOWN**
Tower Block, Civic Centre
12 Hertzog Boulevard
CAPE TOWN
8001

For official use.

TENDER SERIAL No.:

**SIGNATURES OF CITY OFFICIALS
AT TENDER OPENING**

1.

2.

3.

OCTOBER 2013

NAME OF TENDERING ENTITY	
EMAIL ADDRESS OF TENDERING ENTITY	
FAX NUMBER OF TENDERING ENTITY	
NATURE OF TENDER OFFER (please indicate below)	
Main Offer (see clause C.2.12)	
Alternative Offer (see clause C.2.12)	

Part T2: Returnable Documents

	Pages
T2.1 List of Returnable Documents	33
C1.1 Form of Offer and Acceptance (Agreement).....	34 – 38
C1.2 Contract Data (data provided by the Supplier).....	39
C2.2 Pricing Schedule	40 – 43
T2.2 Returnable Schedules	44 – 79

PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

T2.1 List of Returnable Documents

The tenderer must complete the following Returnable Documents in non-erasable **black ink**:

1. **C1.1 The offer portion of the C1.1 Form of Offer and Acceptance**
2. **C1.2 Contract Data (Part 2)**
3. **C2.2 Pricing Schedule**
4. **Returnable Schedules that will be incorporated into the Contract**

	Pages
1: COMPULSORY ENTERPRISE QUESTIONNAIRE	45
2: CERTIFICATE OF INDEPENDENT TENDER DETERMINATION	47 – 48
3: CERTIFICATE OF AUTHORITY FOR JOINT VENTURES	49
4: DECLARATION OF TENDERER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (MBD 8)	50
5: DECLARATION OF INTEREST – STATE EMPLOYEES (MBD 4)	52
6: AUTHORISATION FOR THE DEDUCTION OF OUTSTANDING AMOUNTS OWED TO CCT	55
7: DECLARATION IN RESPECT OF COMPLIANCE WITH LABOUR LEGISLATION	56
8: CONFIRMATION OF CCT SUPPLIER DATABASE REGISTRATION	57
9: CONSULTANCY SERVICES PROVIDED TO ORGANS OF STATE	58
10: SCHEDULE OF WORK EXPERIENCE OF TENDERER	59
11: KEY STAFF	60 - 61
12: SCHEDULE OF SUPPORT RESOURCES	62
13: PROFESSIONAL INDEMNITY INSURANCE	63
14: FUNCTIONALITY CRITERIA	64
15: PROPOSED WORK PLAN	65
16: CONFIRMATION OF TENDERER REGISTRATION / ACCREDITATION	66
17: OTHER CRITERIA	67
18: PERSONNEL SCHEDULE (OTHER THAN KEY STAFF)	68
19: SCHEDULE OF SUBCONTRACTORS	69
20: PROPOSED DEVIATIONS AND QUALIFICATIONS BY TENDERER	70
21: RECORD OF ADDENDA TO TENDER DOCUMENTS	71
22: PRICE BASIS FOR IMPORTED RESOURCES	72
23: PREFERENCE SCHEDULE (where preferences are granted in respect of B-BBEE contribution)	73
24: SCHEDULE OF PRE-QUALIFICATION CRITERIA FOR SUB-CONTRACTORS	78
25: INFORMATION TO BE PROVIDED WITH THE TENDER	79

5. Other documents required for tender evaluation purposes

- a) Joint Venture Agreement (if applicable) - append to Schedule 3.
- b) Curriculum Vitae of Staff as applicable - append to Schedule 11 and 18.
- c) Documentary evidence/proof of Professional Indemnity Insurance - append to Schedule 13.
- d) Any other documentary evidence/proof as required - append to Schedule 12.
- e) Functionality Criteria - append to Schedule 14.

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN

C1.1 Form of Offer and Acceptance

Offer

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

CONTRACT 150C/2021/22: PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENBALING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN

The tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules, and by submitting this offer has accepted the conditions of tender.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this form of offer and acceptance, the tenderer offers to perform all of the obligations and liabilities of the service provider under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

The completed Schedules of Rates (excluding VAT) for the key personnel tendered for, as contained in Part C2.2 Schedule of Rates, shall form the tender offer. These rates shall be calculated, as applicable, by the deliverables required in respect of relevant items to develop a response to the Section C3.1: Scope of Work and in accordance with the procedures described in Part C1 .2 Contract Data in this document.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS:

Rand

..... (in words);

R(in figures)

This offer may be accepted by the employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the tenderer before the end of the period of validity stated in the tender data, whereupon the tenderer becomes the party named as the service provider in the conditions of contract identified in the contract data.

Signature(s)

Name(s)

Capacity

for the tenderer

(Name of organization/tenderer)

(Address of organization/tenderer)

Name and
signature

of witness

Date

.....

For official use.		
INITIALS OF CITY OFFICIALS AT TENDER OPENING		
1.	2.	3.

ONLY TO BE
COMPLETED AT
ACCEPTANCE STAGE

Acceptance

By signing this part of this form of offer and acceptance, the employer identified below accepts the tenderer's offer. In consideration thereof, the employer shall pay the service provider the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the tenderer's offer shall form an agreement between the employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part C1: Agreements and contract data, (which includes this agreement)
- Part C2: Pricing data
- Part C3: Scope of work
- Part C4: Site information

and drawings and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer's representative (whose details are given in the contract data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date the parties have signed the table below and confirms receipt from the employer of one fully completed original copy of this agreement, including the schedule of deviations (if any). The tenderer (now contractor) shall within five working days of the agreement coming into effect notify the employer in writing of any reason why he cannot accept the contents of this agreement as a complete and accurate memorandum thereof, failing which the agreement presented to the contractor shall constitute the binding contract between the parties.

..

The Parties	Employer	Contractor
Business Name		

Business Registration		
Tax number (VAT)		
Physical Address		
Accepted contract sum including tax		
Accepted contract duration		
Signed – who by signature hereto warrants authority		
Name of signatory		
Signed: Date		
Signed: Location		
Signed: Witness		
Name of Witness		

ONLY TO BE
COMPLETED AT
ACCEPTANCE STAGE

Schedule of Deviations

Notes:

1. The extent of deviations from the tender documents issued by the employer before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1 Subject
Details

2 Subject
Details

3 Subject
Details

4 Subject
Details

5 Subject
Details

By the duly authorised representatives signing this agreement, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

C1.2 Contract Data

Data provided by the Supplier

The name of the Supplier is

The address of the Supplier is

Physical :
Address

Postal :
Address

Telephone :

Fax:

email :

SUPPLIER'S ANNUAL HOLIDAY PERIODS DURING DELIVERY PERIOD

Year 1 holiday period	Start date		End date
Year 2 holiday period	Start date		End date
Year 3 holiday period	Start date		End date

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

C2.2 Pricing Schedule

Provide time-based services for the following Key Personnel and Additional Specialists as described in the contract documentation, in respect of services as described in the Scope of Work:

1. Provision for Time-Based Services for Key Personnel

Item No.	Activity Description	Unit	Rate
1.1	Project Leader	hr	
1.2	Rail Business Strategist	hr	
1.3	Rail Strategic Planner	hr	
1.5	Railway specialist: Facilities and Asset Management	hr	
1.6	Railway specialist: Operations	hr	
1.7	Public Transport Planning Specialist	hr	
1.8	Transport Planner	hr	
1.8	Project Manager	hr	
1.9	Legal specialist	hr	

2. Provision for Time-Based Services for Additional Specialists

Item No.	Activity Description	Unit	Rate
2.1	Transport Economist	hr	
2.2	Railway specialist: Safety & Security	hr	
2.3	Property development / management specialist	hr	
2.4	CAD Operator	hr	
2.5	GIS Technician	hr	

3. Provision for Time-Based Multi-Disciplinary Services pertaining to all stages of the works.

Item No.	Activity Description	Unit	Rate
3.1	Category A Staff	hr	
3.2	Category B Staff	hr	
3.3	Category C Staff	hr	
3.4	Category D Staff	hr	

4. Additional Services: (Fees for Provisional Sum Items)

Item No.	Activity Description	Unit	Rate	Amount	
				R	c
4.1	Provisional Sum for Additional Services (including items 4.2.)	Sum	-	2 000 000	00
4.2	Extra-over item 4.1 above in respect of all costs, overhead charges and profit. (fee as a percentage of the estimated value of work to be done by Others)	%			

5. Recoverable Expenses (Disbursements) – all disciplines

Item No.	Description	Unit	Rate
5.1	Recoverable expenses in respect of printing/copying black and white documents as specified below: Printing: size A0, Printing: size A1, Printing: size A2, Printing/copying: size A4 Recoverable expenses in respect of printing/copying colour documents as specified below: Printing: size A0, Printing: size A1, Printing: size A2, Printing/copying: size A4 Compilation and binding of reports/tender documents, books of drawings.	No No No No No No No No No	

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SUMMARY OF ACTIVITY SCHEDULE

Not applicable

DECLARATION (In respect of completeness of Tender)

City of Cape Town
Tower Block, Civic Centre
12 Hertzog Boulevard
CAPE TOWN

I, the undersigned, do hereby declare that the above is a properly priced Activity Schedule forming part of this Contract Document upon which my/our tender for Tender No. **150C/2021/22: PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.** has been based. If I/we have submitted a printed version of the Activity Schedule, I/we warrant that no amendments have been made to it from the original, other than amendments issued in any Addenda in terms of Clause C.3.2 in Part T1.2 Tender Data.

SIGNATURE OF TENDERER/S

DATE

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPETOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

T2.2 Returnable Schedules

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 1: COMPULSORY ENTERPRISE QUESTIONNAIRE

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

Section 1: Name of enterprise:

Section 2: VAT registration number, if any:

Section 2a: National Treasury Central Supplier Database registration number :

Section 2b: SARS Tax Compliance Status PIN :

Section 3: cidb registration number, if any:

Section 4: Particulars of sole proprietors and partners in partnerships

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

Section 5: Particulars of companies and close corporations

Company registration number

Close corporation number

Tax reference number

Section 6: Foreign Bidding Suppliers

Is tenderer the accredited representative in South Africa for the Goods / Services / Works offered? ☐ Yes ☐ No
If yes, enclose proof

Is tenderer a foreign based supplier for the Goods / Services / Works offered? ☐ Yes ☐ No
If yes, answer the Questionnaire to Bidding Foreign Suppliers (below)

Questionnaire to Bidding Foreign Suppliers

a) Is the tenderer a resident of the Republic of South Africa or an entity registered in South Africa? ☐ Yes ☐ No

b) Is the tenderer a resident of the Republic of South Africa or an entity registered in South Africa? ☐ Yes ☐ No

c) Does the tenderer have a permanent establishment in the Republic of South Africa? ☐ Yes ☐ No

d) Does the tenderer have any source of income in the Republic of South Africa? ☐ Yes ☐ No

e) Is the tenderer liable in the Republic of South Africa for any form of taxation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise:</p> <ul style="list-style-type: none"> i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order; ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004 or Database of Restricted Suppliers; iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption; iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct. 		

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 2: CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting this tender for Contract No. **150C/2021/22: PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.**

in response to the invitation for the tender made by the City of Cape Town, 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 Tenderer)

1. I have read and I understand the contents of this Certificate;
2. I understand that this tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the tenderer to sign this Certificate, and to submit this tender on behalf of the tenderer;
4. Each person whose signature appears on this tender has been authorized by the tenderer to determine the terms of, and to sign, the tender, on behalf of the tenderer;
5. For the purposes of this Certificate and this tender, I understand that the word "competitor" shall include any individual or organization, other than the tenderer whether or not affiliated with the tenderer, who:
 - (a) has been requested to submit a tender in response to this invitation to tender;
 - (b) could potentially submit a tender in response to this invitation to tender, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the tenderer and/or is in the same line of business as the tenderer;
6. The tenderer has arrived at this tender independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium¹ will not be construed as collusive tendering;
7. In particular, without limiting the generality of paragraph 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 tender;
 - (e) the submission of a tender which does not meet the specifications and conditions of the tender; or
 - (f) tendering with the intention not to win the tender;

¹Joint 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.

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 invitation to tender relates;
9. The terms of this tender have not been, and will not be, disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening or of the awarding of the contract;
10. I am aware that , in addition and without prejudice to any other remedy provided to combat any restrictive practices related to tenders and contracts, tenders 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

.....
Name

.....
Position

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 3: CERTIFICATE OF AUTHORITY FOR JOINT VENTURES

This returnable schedule is to be completed by joint ventures.

We, the undersigned, are submitting this tender offer in joint venture and hereby authorize Mr/Ms
....., authorised signatory of the company, close corporation or partnership
....., acting in the capacity of lead partner, to sign all documents in
connection with the tender offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
Lead partner		Signature..... Name..... Designation.....
		Signature..... Name..... Designation.....
		Signature..... Name..... Designation.....
		Signature..... Name..... Designation.....

Note :

A copy of the Joint Venture Agreement, showing clearly the **percentage contribution of each partner** to the joint venture, shall be appended to this schedule.

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 4: DECLARATION OF TENDERER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (MBD8)

Where the entity tendering is a joint venture, each party to the joint venture must sign a declaration in terms of the Municipal Finance Management Act, 56 of 2003, and attach it to this schedule.

- 1 The tender offer of any tenderer may be rejected if that tenderer or any of its directors/members 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).
- 2 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
2.1	Is the Tenderer or any of its directors listed on the National Treasury's Database of Restricted Suppliers as a company or person prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website www.treasury.gov.za and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
21.1	If so, furnish particulars:		
2.2	Is the Tenderer or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 12 of 2004? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.2.1	If so, furnish particulars:		
2.3	Was the Tenderer or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.3.1	If so, furnish particulars:		
2.4	Does the Tenderer or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.4.1	If so, furnish particulars:		
2.5	Was any contract between the Tenderer and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.5.1	If so, furnish particulars:		

I, _____, the undersigned,
(full name in block letters)

certify that the information furnished on this declaration form is true and correct, and accept that, in addition to cancellation of a contract, action may be taken against me should this declaration prove to be false.

.....
Signature

.....
Date

Position

Name of Tenderer/Contractor

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 5: DECLARATION OF INTEREST – STATE EMPLOYEES (MBD 4)

1. No bid will be accepted from:
 - 1.1 persons in the service of the state¹, or
 - 1.2 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state, or
 - 1.3 from persons, or entities of which any director, manager or principal shareholder or stakeholder, has been in the service of the City of Cape Town during the twelve months after the City employee has left the employ of the City, or
 - 1.4 from an entity who has employed a former City employee who was at a level of T14 of higher at the time of leaving the City's employ and involved in any of the City's bid committees for the bid submitted, if:
 - 1.4.1 the City employee left the City's employment voluntarily, during a period of 12 months after the City employee has left the employ of the City;
- 1.4.2 the City employee left the City's employment whilst facing disciplinary action by the City, during a period of 24 months after the City employee has left the employ of the City, or any other period prescribed by applicable legislative provisions, after having left the City's employ
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 tenderer 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 tenderer or his or her representative:.....
- 3.2 Identity Number:
- 3.3 Position occupied in the Company (director, trustee, shareholder²):.....
- 3.4 Company or Close Corporation 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.
.....
- 3.9 Have you been in the service of the state for the past twelve months? **YES / NO**
 - 3.9.1 If yes, furnish particulars
.....
.....
- 3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.10.1 If yes, furnish particulars.

.....
.....

3.11 Are you, aware of any relationship (family, friend, other) between any other supplier 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.

.....
.....

13.4 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:

.....
.....

3.15 Have you, or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company been in the service of the City of Cape Town in the past twelve months? **YES / NO**

3.15.1 If yes, furnish particulars

3.16 Do you have any employees who was in the service of the City of Cape Town at a level of T14 or higher at the time they left the employ of the City, and who was involved in any of the City's bid committees for this bid? **YES / NO**

3.16.1 If yes, furnish particulars

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

Full Name	Identity Number	State Employee Number

If the above table does not sufficient to provide the details of all directors / trustees / shareholders, please append full details to the tender submission.

The tenderer hereby certifies that the information set out in this schedule and/or attached thereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in the tender being disqualified, and/or (in the event that the tenderer is successful) the cancellation of the contract, restriction of the tenderer or the exercise by the employer of any other remedies available to it

Signature

Date

Name (PRINT)

(For and on behalf of the tenderer, duly authorised)

¹MSCM 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) an executive member of the accounting authority of any national or provincial public entity; or**
- (f) an employee of Parliament or a provincial legislature.**

² 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.

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 6: AUTHORISATION FOR THE DEDUCTION OF OUTSTANDING AMOUNTS OWED TO THE CITY OF CAPE TOWN

To: THE CITY MANAGER, CITY OF CAPE TOWN

From: _____
(Name of tenderer)

The tenderer:

- a) hereby acknowledges that according to SCM Regulation 38(1)(d)(i) the City Manager may reject the tender of the tenderer if any municipal rates and taxes or municipal service charges owed by the tenderer (or any of its directors/members/partners) to the CCT, or to any other municipality or municipal entity, are in arrears for more than 3 (three) months; and
- b) therefore hereby agrees and authorises the CCT to deduct the full amount outstanding by the Tenderer or any of its directors/members/partners from any payment due to the tenderer; and
- c) confirms the information as set out in the tables below for the purpose of giving effect to b) above;
- d) The tenderer hereby certifies that the information set out in this schedule and/or attached hereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in steps being taken against the tenderer, the tender being disqualified, and/or (in the event that the tenderer is successful) the cancellation of the contract and/or steps in terms of abuse of the Supply Chain Management Policy.
- e)

Physical Business address of the Tenderer	Municipal Account number(s)

If there is not enough space for all the names, please attach the additional details to the Tender Document

Name of Director / Member / Partner	Identity Number	Physical residential address of Director / Member / Partner	Municipal Account number(s)

Signature
Print name:
On behalf of the tenderer (duly authorised)

Date

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 7: DECLARATION IN RESPECT OF COMPLIANCE WITH LABOUR LEGISLATION

Declaration in respect of labour legislation

The tenderer, by signing this schedule, declares that it will comply with all labour legislation, as may be applicable.

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 8: CONFIRMATION OF CITY OF CAPE TOWN SUPPLIER DATABASE REGISTRATION

<u>CITY OF CAPE TOWN</u> SUPPLIER DATABASE REGISTRATION		
COMPANY NAME	REGISTERED YES/NO	REGISTRATION NUMBER IF APPLICABLE

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 9: CONSULTANCY SERVICES PROVIDED TO ORGANS OF STATE

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

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

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

SIGNED ON BEHALF OF TENDERER:.....

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 10: SCHEDULE OF WORK EXPERIENCE OF TENDERER

The tenderer is referred to clause C2.1.4.6 of the Tender Data and shall indicate on the schedule below and must demonstrate successful engagement in an urban rail reform, urban rail business restructuring or reorganizing initiatives and the development of urban rail commuter strategic plans or urban rail corridor plans which will be assessed as part of the quality scoring of this tender

Where the entity tendering is a joint venture, the track record of each party to the joint venture must be submitted as part of this schedule (additional pages may be added if necessary).

TITLE AND BRIEF DESCRIPTION OF PROJECT	VALUE OF CONTRACT	EMPLOYER (include contact details)	DATE COMPLETED

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN**TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT****CONTRACT NO. 150C/2021/22**

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 11: KEY PERSONNEL

The tenderer is referred to the clause C2.1.4.6 of the Tender Data and shall insert in the spaces provided below details of the key personnel required to be in the employment of the tenderer or a specialist consultant/firm, in order for the tenderer to be eligible to submit a tender for this project. The Curriculum Vitae of each individual must be appended to this schedule.

PROJECT LEADER				
NAME	JOB TITLE	QUALIFICATIONS	ECSA REGISTRATION NO.	NO. OF YEARS SPECIFIED EXPERIENCE
RAIL BUSINESS STRATEGIST				
NAME	JOB TITLE	QUALIFICATIONS	NO. OF YEARS SPECIFIED EXPERIENCE	
RAIL STRATEGIC PLANNER				
NAME	JOB TITLE	QUALIFICATIONS	NO. OF YEARS SPECIFIED EXPERIENCE	
RAILWAY SPECIALIST: FACILITIES AND ASSET MANAGEMENT				
NAME	JOB TITLE	QUALIFICATIONS	ECSA REGISTRATION NO.	NO. OF YEARS SPECIFIED EXPERIENCE
RAILWAY SPECIALIST: OPERATIONS				
NAME	JOB TITLE	QUALIFICATIONS	NO. OF YEARS SPECIFIED EXPERIENCE	

PUBLIC TRANSPORT PLANNING SPECIALIST				
NAME	JOB TITLE	QUALIFICATIONS	NO. OF YEARS SPECIFIED EXPERIENCE	
TRANSPORT PLANNER				
NAME	JOB TITLE	QUALIFICATIONS	NO. OF YEARS SPECIFIED EXPERIENCE	
PROJECT MANAGER				
NAME	JOB TITLE	QUALIFICATIONS	REGISTRATION NO.	NO. OF YEARS SPECIFIED EXPERIENCE
LEGAL SPECIALIST				
NAME	JOB TITLE	QUALIFICATIONS	REGISTRATION NO.	NO. OF YEARS SPECIFIED EXPERIENCE

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 12: SUPPORT RESOURCES

The tenderer is referred to clause C2.1.4.3 of the Tender Data and shall state below what software packages are available for use on this project and whether or not they are currently owned and licensed by the tenderer. Therefore, in order to be declared responsive, the tenderer must own and be familiar with the following licensed software packages:

- Geographic Information Systems (GIS) software package that is owned and licensed and capable of creating, managing, analysing geographic, socio-economic and environmental data. Computer Aided Design (CAD) software package that is owned and licensed and capable of creating, managing, analysing, designing and surveying transport infrastructure (inclusive of rail) for the purposes of this project.

SOFTWARE PACKAGE/S AVAILABLE FOR USE			
NAME OF PACKAGES	DESCRIPTION	CURRENTLY OWNED/	LICENCED

SIGNED ON BEHALF OF TENDERER:.....

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 13: PROFESSIONAL INDEMNITY INSURANCE

The tenderer is referred to clause C2.1.4.4 of the Tender Data and shall state below details of the professional indemnity insurance to the value of R80 000 000 held by the tenderer. Where the tenderer is a joint venture, each party to the joint venture must submit details of their professional indemnity insurance. Proof of insurance or confirmation from a reputable Insurance Broker that the tenderer is eligible for the prescribed professional indemnity insurance cover should he/she be awarded the contract, must be appended to this schedule.

PROFESSIONAL INDEMNITY INSURANCE		
NAME OF INSURED	NAME OF INSURER	LIMIT OF INDEMNITY IRO EACH CLAIM

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 14: FUNCTIONALITY CRITERIA

The Tenderer shall provide information for the functionality criteria listed in this Returnable Schedule.

The Tenderer's attention is drawn to clause C2.1.4.6 in the Tender Data for a more detailed explanation of the functionality criteria given in the table below and how the score will be calculated (with applicable values).

Description of quality criteria	Maximum possible score
Track record of tenderer	20
Specific experience of key personnel	70
ISO 9001 : 2008 Certification	10
Maximum possible score	100

The minimum score for quality is **70**. Tenderers that fail to achieve the minimum score for quality will be declared as non-responsive.

Number of sheets appended by the tenderer to this Schedule (If nil, enter NIL).

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 15: PROPOSED WORK PLAN

Not applicable

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 16: CONFIRMATION OF REGISTRATION / ACCREDITATION

ISO 9001: 2008 Certification

Tenderers who are certified as being compliant to the International Organization for Standardization's ISO 9001: 2008 quality management standard, will be awarded 10 score points for quality.

Proof of certification must be attached.

Certificate No:

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

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SCHEDULE 17: OTHER CRITERIA

Not applicable

SIGNED ON BEHALF OF TENDERER:

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TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

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SCHEDULE 18: PERSONNEL SCHEDULE (OTHER THAN KEY PERSONNEL)

The tenderer shall indicate on the schedule below what human resources, **other than** the key personnel listed in the appropriate clause(s) of the tender conditions, they have at their disposal and intend allocating to this project as and when required.

TITLE	NAME	JOB DESCRIPTION	QUALIFICATIONS AND REGISTRATION (where applicable)
Transport Economist			
Railway: Safety & Security Specialist:			
Property development/ management specialist			
CAD Operator			
GIS Specialist / Analyst			
[Other]			

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

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SCHEDULE 19: SCHEDULE OF SUB-CONTRACTORS

We notify you that it is our intention to employ the following sub-contractors for work (excluding work covered by provisional sums and contingencies) in this contract.

Acceptance of this tender shall not be construed as approval of all or any of the listed sub-contractors. Should any of the sub-contractors not be approved subsequent to acceptance of the tender, this shall in no way invalidate the contract, and the tendered unit rates for the various items making up the work activities shall remain final and binding.

SUB-CONTRACTORS		
Sub-contractor's name	Work activities to be undertaken by the Sub-contractor	Estimated value of work (Rand)

Number of sheets appended by the tenderer to this Schedule (If nil, enter NIL).

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

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SCHEDULE 20: PROPOSED DEVIATIONS AND QUALIFICATIONS BY TENDERER

The Tenderer should record any **proposed** deviations or qualifications he may wish to make to the tender documents in this Returnable Schedule. Alternatively, a tenderer may state such proposed deviations and qualifications in a covering letter attached to his tender and reference such letter in this schedule. Any proposed deviations or qualifications contained in a covering letter which is not referenced in this schedule will not be considered.

The Tenderer's attention is drawn to clause C.3.8 of the Standard Conditions of Tender referenced in the Tender Data regarding the Employer's handling of material deviations and qualifications.

If no deviations or modifications are desired, the schedule hereunder is to be marked NIL and signed by the Tenderer.

PAGE	CLAUSE OR ITEM	PROPOSAL

Number of sheets appended by the tenderer to this Schedule (If nil, enter NIL).

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

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SCHEDULE 21 : RECORD OF ADDENDA TO TENDER DOCUMENTS

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:		
	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT
CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 22 : PRICE BASIS FOR IMPORTED RESOURCES

Not applicable

SIGNED ON BEHALF OF TENDERER:

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 23: PREFERENCE SCHEDULE TO BE USED IN TERMS OF THE AMENDED CODES FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT IN THE CONSTRUCTION SECTOR (2017)

Preference Schedule where preferences are granted in respect of B-BBEE contribution

1 Definitions

The following definitions shall apply to this schedule:

All applicable taxes: Includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

Applicable Code: Shall be either the Amended Codes of Good Practice (published on 11 October 2013) or Sector Specific Codes as indicated in the tender conditions

B-BBEE: Broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.

B-BBEE status level of contributor: 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.

Bid (Tender): A written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals.

Black Designated Groups: The meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003, (Act 53 of 2003).

Black People: The meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act.

Broad-Based Black Economic Empowerment Act: The Broad-Based Black Economic Empowerment Act, Act 53 of 2003.

Consortium or Joint Venture: 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.

Contract Error! Bookmark not defined. The agreement that results from the acceptance of a bid by an organ of state.

Co-operative: A co-operative registered in terms of section 7 of the Co-operatives Act, 2005 (Act no. 14 of 2005).

Designated Group: Black designated groups, black people, women, people with disabilities or small enterprises as defined in section 1 of the National Small Enterprises Act, 1996 (act no. 102 of 1996)

Designated Sector: A sector, sub-sector or industry or product that has been designated in terms of any relevant regulation of the Preferential Procurement Regulations, 2017.

Exempted Micro Enterprise (EME): 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.

Firm Price: The price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.

Functionality: The ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

Military Veteran: The meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011).

National Treasury: The meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999).

Non-firm prices: All prices other than "firm" prices.

Person: Includes a juristic person.

People with disabilities: The meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998).

Price: Includes all applicable taxes less unconditional discounts.

Proof of B-BBEE status level of contributor: The B-BBEE status level certificate issued by an authorised body or person, a sworn affidavit as prescribed by the B-BBEE Codes of good Practice or any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.

Qualifying Small Enterprise (QSE): A qualifying small 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.

Rand Value: means the total estimated value of a contract in Rand, calculated at the time of bid invitations.

Rural Area: A sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area or an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system.

Stipulated Minimum Threshold: The minimum threshold stipulated in terms of any relevant regulation of the Preferential Procurement Regulations, 2017.

Sub-contract: The primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.

The Act: The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000).

Total Revenue: Bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007.

Township: An urban living area that at any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994.

Treasury: The meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999).

Trust: The arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

Trustee: Any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

Youth: The meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

2 Conditions associated with the granting of preferences

A supplier that is granted a preference undertakes to:

- 1) accept that the number of preference points allocated will be based on the B-BBEE status level of contributor of the supplier as at the closing date for submission of quotation offers;
- 2) not sub-contract more than 25% of the value of the contract to sub-contractors that do not have an equal or higher B-BBEE status level of contributor than the supplier, unless the intended sub-contractors are exempted micro enterprises that have the capability and ability to execute the sub-contract works or unless otherwise declared in terms of Section 5 below;
- 3) accept that a contract may not be awarded if the price offered is not market related;
- 4) accept the sanctions set out in Section 3 below should Condition 2(2) be breached, or should the tenderer have submitted any false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of this bid that will affect, or has affected the bid evaluation;
- 5) accept that, in order to qualify for preference points, it is the responsibility of the supplier to submit documentary proof of its BBEE level of contribution in accordance with the Codes of Good Practise, 2013, to the CCT at the Supplier Management Unit located within the Tender Distribution Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5);
- 6) accept that, further to 5) above, Consortiums/Joint Ventures will qualify for preference points, provided that the entity submits the relevant certificate/scorecard in terms of the Preferential Procurement Regulations, 2017. Note that, in the case of unincorporated entities, a verified scorecard in the name of the consortium/Joint Venture must be submitted with the quotation (attached to this schedule);
- 7) accept that if it is found that, in the performance of the contract, the participation of the various partners in a Consortium/ Joint Venture differs substantially from that upon which the consolidated scorecard submitted in terms of 5) above was based, and the impact of which is that the Joint Venture would not have been awarded the contract in terms of the actual B-BBEE level of contribution achieved by the Joint Venture, then a financial penalty shall be applied (in addition to any other remedies that the CCT may have) in accordance with Section 3 below;
- 8) accept that the CCT will verify the B-BBEE level of contributor of the supplier as at the closing date for submission of tender offers, to determine the number of preference points to be awarded to the supplier. In the case of Consortiums/Joint Ventures which tender as unincorporated entities, a verified scorecard submitted with the tender and valid as at the closing date will be used to determine the number of preference points to be awarded to the supplier;

- 9) accept that, notwithstanding 8) above, a supplier will **not** be awarded points for B-BBEE status level of contributor if he indicates in his tender that he intends sub-contracting more than 25% of the value of the contract to sub-contractors that do not qualify for at least the points that the supplier qualifies for unless the intended sub-contractors are exempted micro enterprises that have the capability and ability to execute the sub-contract works;
- 10) accept that any subcontracting arrangements after the award of the tender may only be entered into upon the prior approval of the City of Cape Town; and
- 11) immediately inform the City of Cape Town of any change that may affect the tenderer's B-BBEE level of contribution upon which preference points will be or have been allocated.

3 Sanctions relating to breaches of preference conditions

The sanctions for breaching the conditions associated with the granting of preferences are:

- 1) disqualify the supplier from the quotation process;
- 2) recover costs, losses or damages the CCT has incurred or suffered as a result of the supplier's or contractor's conduct;
- 3) cancel the contract in whole or in part and claim any damages which the CCT has suffered as a result of having to make less favourable arrangements due to such cancellation;
- 4) restrict the supplier, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from the CCT for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied and inform the National Treasury accordingly;
- 5) forward the matter for criminal prosecution; and/or
- 6) financial penalties payable to the CCT, as set out below.

Financial penalty for breach of Condition 2 in Section 2 above:

The penalty to be applied for sub-contracting more than 25% of the value of the contract to sub-contractors that do not qualify for at least the preference points that the supplier qualified for (unless so declared or proven to be beyond the control of the supplier, or the sub-contractors are EMEs that have the capability and ability to execute the sub-contract works) shall be as provided for in the following formula:

$$\text{Penalty} = 0.5 \times E(\%) \times P^*$$

where:

E = The value of work (excluding VAT) executed by sub-contractors that do not qualify for at least the preference points that the supplier qualified for, expressed as a percentage of P*, less 25%

P* = Value of the contract

Financial penalty for breach in terms of condition 6 in Section 2 above:

The penalty to be applied where, in the performance of the contract, the participation of the various partners in a Consortium/ Joint Venture differs substantially from that upon which the consolidated scorecard submitted in terms of 5) in Section 2 above was based, and the impact of which is that the Joint Venture would not have been awarded that contract in terms of the actual B-BBEE level of contribution achieved by the Joint Venture, shall be as provided for in the following formula:

$$\text{Penalty} = 5/100 \times (B-BBEE^a - B-BBEE^t) \times P^*$$

where:

B-BBEE^a = The B-BBEE level of contribution that is achieved, determined in accordance with the actual participation of the Joint Venture partners in the performance of the contract

B-BBEE^t = The B-BBEE level of contribution that was used to determine the number of preference points granted to the Joint Venture at the time of quotation evaluation

P* = Value of the contract

Financial penalty for breach in terms of condition 10 in Section 2 above:

The penalty to be applied where the supplier fails to disclose subcontracting arrangement after the award of the tender is up to a maximum of 10% of the value of the contract.

4 Level of Contribution in respect of enterprise status or structure of the tendering entity (the supplier)

In the interest of transparency, suppliers are required to complete Table 1: Level of Contribution below applicable to the Code they wish to be evaluated against.

Table 1: Level of Contribution: Amended Codes for Measuring Broad-Based Black Economic Empowerment in the Construction Sector.

Type of B-BBEE Contributor	Status (tick box(es) below as applicable)
Exempted Micro Enterprise (EME), 100% black-owned	<input type="checkbox"/>
Exempted Micro Enterprise (EME), at least 51% but less than 100% black-owned	<input type="checkbox"/>
Exempted Micro Enterprise (EME), at least 30% but less than 51% black-owned	<input type="checkbox"/>
Exempted Micro Enterprise (EME), less than 30% black-owned	<input type="checkbox"/>
Exempted Micro Enterprise B-BBEE Status Level of Contributor ¹ <input type="checkbox"/>	<input type="checkbox"/>
Qualifying Small Enterprise B-BBEE Status Level of Contributor ¹ <input type="checkbox"/>	<input type="checkbox"/>
Qualifying Small Enterprise (QSE), 100% black-owned	<input type="checkbox"/>
Qualifying Small Enterprise (QSE), at least 51% but less than 100% black-owned	<input type="checkbox"/>
Qualifying Small Enterprise (QSE), less than 51% black-owned	<input type="checkbox"/>
Verified B-BBEE contributor B-BBEE Status Level of Contributor ¹ <input type="checkbox"/>	<input type="checkbox"/>
Non-compliant contributor	<input type="checkbox"/>

¹ If it is indicated that the company/firm/entity is a verified B-BBEE contributor, then the verified status level of contributor must be inserted in the box provided (insert a number from 1 to 8 as applicable)

5 Declarations

- 1) With reference to Condition 8 in Section 2 above, the supplier declares that:

I/we hereby forfeit my preference points because I /we DO intend sub-contracting more than 25% of the value of the contract to sub-contractors that do not qualify for at least the points that I/we as supplier qualify for or are not exempted micro enterprises that have the capability and ability to execute the sub-contract works

☐

Note:

Tenderers who do not tick this box will be allocated preference points but the sanctions relating to breaches of preference conditions in Section 3 will be applicable if the tenderer contravenes the conditions in Section 2.

- 2) The undersigned, who warrants that he/she is duly authorized to do so on behalf of the supplier, hereby certifies that the preference claimed based on the B-BBEE status level of contribution indicated in Table 1, qualifies the supplier, subject to condition 8 in Section 2 above, for such preference claimed, and acknowledges that:
- (i) the information furnished is true and correct;
 - (ii) the preference claimed is in accordance with the conditions of this schedule;
 - (iii) the supplier may be required to furnish documentary proof to the satisfaction of the CCT that the BBEE level of contributor as at the closing date is correct; and
 - iv) he/she understands the conditions under which preferences are granted, and confirms that the supplier will satisfy the conditions pertaining to the granting of preferences.

Signature

Date

Name (PRINT)

(For and on behalf of the Supplier (duly authorised))

For official use.		
SIGNATURE OF CITY OFFICIALS AT TENDER OPENING		
1.	2.	3.

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 24: SCHEDULE OF PRE-QUALIFICATION CRITERIA SUB-CONTRACTORS

Not applicable.

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

SCHEDULE 25: INFORMATION TO BE PROVIDED WITH THE TENDER

Not applicable

SIGNED ON BEHALF OF TENDERER:

TENDER NO. 150C/2021/22



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

SCM - 515 | Approved by Branch Manager: 03/04/2020

Version: 4

Page 80 of 123

CONTRACT DOCUMENT

FOR THE

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

VOLUME 3: DRAFT CONTRACT

ISSUED BY:

**DIRECTOR: TRANSPORT
PLANNING AND NETWORK
MANAGEMENT
TRANSPORT DIRECTORATE
CITY OF CAPE TOWN**
Tower Block, Civic Centre
12 Hertzog Boulevard
CAPE TOWN
8001

For official use.

TENDER SERIAL No.:

SIGNATURES OF CITY OFFICIALS
AT TENDER OPENING

1.

2.

3.

OCTOBER 2013

NAME OF TENDERING ENTITY	
EMAIL ADDRESS OF TENDERING ENTITY	
FAX NUMBER OF TENDERING ENTITY	
NATURE OF TENDER OFFER (please indicate below)	
Main Offer (see clause C.2.12)	
Alternative Offer (see clause C.2.12)	

FILE REFERENCE NO:

Part C1: Agreements and Contract Data

	Pages
C1.2 Contract Data (data provided by the Employer)	82 – 91
C1.3 Occupational Health and Safety Agreement	92
C1.4 Insurance Broker’s Warranty	93

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

C1.2 Contract Data

Part 1: Contract Data provided by the Employer

GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract are the **Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1015)**, as published by the Construction Industry Development Board.

Copies of these General Conditions of Contract may be obtained from the Construction Industry Development Board's website www.cidb.org.za. Copies of the General Conditions of Contract are also available for inspection and scrutiny at the offices of the Employer.

The pro-formas attached to the Standard Professional Services Contract (July 2009) on pages 17 to 24 shall not apply to this Contract and shall be replaced with the documentation bound into this Contract Document.

The General Conditions of Contract make several references to the Contract Data for specific data, which together with the standard contract collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the General Conditions of Contract.

The General Conditions of Contract shall be read in conjunction with the variations, amendments and additions set out in the Contract Specific Data below. Each item of data given below is cross-referenced to the clause in the General Conditions of Contract to which it mainly applies.

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

- a) the Form of Offer and Acceptance,
- b) the Contract Specific Data within the Contract Data,
- c) the General Conditions of Contract
- d) the Scope of Work, and
- e) the Pricing Data.

If an ambiguity or discrepancy is found in the documents, the Employer shall issue any necessary clarification or instruction.

CONTRACT SPECIFIC DATA

The following contract specific data is applicable to this Contract:

Clause 1:

*Add the following to the definition of **Employer**:*

The **Employer** is the **CITY OF CAPE TOWN**.

*Replace the definition of **Key Persons** with the following:*

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

*Add the following to the definition of **Period of Performance**:*

The period(s) of performance for this service is as follows:

From date of commencement of contract to 30 June 2025

Inception Report: 10 Weeks after commencement of contract

*Add the following to the definition of **Project**:*

The project is the **PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.**

*Add the following to the definition of **Service Provider**:*

The contracting party may be a consortium/joint venture contracting as a formally constituted Joint Venture Partnership, in which all parties are jointly and severally liable. In terms of this definition, the words consortium and joint venture shall be regarded as synonymous.

*Delete the definition of **Services** and replace with the following:*

The work to be performed by the Service Provider based upon the relevant scope of construction works as described in the Scope of Work.

*Add the following to the definition of **Start Date**:*

The Start Date is the date when the service provider confirms receipt of one fully completed original copy of this document, including the acceptance part of the form of offer and acceptance, and schedule of deviations (if any).

Replace the words "time for completion" with "Period of Performance".

Add the following definition:

Intellectual Property

Any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

Clause 3

*Delete the heading and replace with **"Governing law and policies"***

Add the following after clause 3.1

Clause 3.2

- a) The parties agree that this contract shall also be subject to the Employer's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, **save that if the Employer adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract.** Please refer to this document contained on the CCT's website.
- b) Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by the Employer of any other remedies available to it as described in the SCM Policy.

Clause 3.2

Replace the words "time for completion" with "Period of Performance".

Clause 3.4 and Clause 4.3.2:

Add the following:

The authorised and designated representative of the Employer is the **Director: TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT.**

The address for receipt of communications is:

Telephone: (021) 400 4735
E-mail: Neil.Slingers@capetown.gov.za
Postal Address: PO Box 298
CAPE TOWN
8000
Physical Address: 14th Floor Tower Block
Civic Centre
12 Hertzog Boulevard
CAPE TOWN
8001

Clause 3.4.1:

Add the following to the first sentence:

... , and may be given as set out hereunder and shall be deemed to have been received when:

- a) hand delivered – on the working day of delivery
- b) sent by registered mail – five (5) working days after mailing
- c) sent by email or telefax – one (1) working day after transmission

Clause 3.5:

Add the following:

The location for the performance of the Project will be the **OFFICE** of the service provider. Key personnel will be expected to work out of the local office as the exigencies of this contract require.

Clause 3.9.1:

Add the following after f):

- g) a change in the cost of the construction works applicable to the services

Clause 3.9.2:

Replace the words “6 weeks” with “21 days”.

Add the following at the end of the clause:

Should any of the event described in clause 3.9.1 occur, the professional fees and disbursement may be adjusted in a fair and reasonable manner. The Service Provider shall, however, not be entitled to an adjustment to the extent that the variation is due to the negligence or default of the Service Provider. The Service Provider is required to provide all necessary substantiating documents required by the employer to evaluate the request for variation.

Clause 3.9.3:

Delete the clause and replace with the following:

The Employer shall assess the changes to the Contract Price proposed by the Service Provider on any fair and reasonable basis. The Employer may assess these changes on the effect of the event on the Services based on the time-based fees as stated in the Pricing Data.

Clause 3.9.2:

Replace the words “6 weeks” with “21 days”.

Clause 3.9.3:

Add the following:

The time-based fees used to determine changes to the Contract Price are as stated in the Pricing Data.

Clause 3.12

Delete the heading and replace with “Penalties and fines”

Clause 3.12.1

Add the following:

The penalty amount per day for delayed items and agreed deliverables is as follows:
R 10 000

The maximum penalty amount is as follows:
R 300 000.00

Add the following after 3.12.2

Clause 3.12.3

The Employer may impose the following additional penalties or fines:

- a) Penalties for breach of conditions of granting preferences in terms of the **Preference Schedule**.
- b) Penalties for failure to meet targeted labour and local enterprises contract participation goals (if applicable)
- c) Any other fines or penalties levied in accordance with any of the specifications.

Clause 3.15.1:

Add the following:

The programme shall be submitted within **14** days of the Start Date.

Clause 3.16.2:

Replace the words "in which the start date falls" with "prior to the closing date of the tender".

Add the following:

The indices are those contained in Table A of the P0141 Consumer Price Index for the **CPI for services** published by Statistics South Africa.

Clause 3.17: Price adjustment due to content imported from outside South Africa

Add the following clause after clause 3.16

3.17.1 General

3.17.1.1 Price adjustment of any resources imported from outside the Republic of South Africa will be permitted **only** in respect of the following variables:

- (a) Variations in Rates of Exchange as detailed in Clause 3.17.2,
- (b) Variations in Customs Surcharge and Customs Duty as detailed in Clause 3.17.3, and
- (c) Labour and material cost variations in the relevant industries of the countries from which the resources are imported as detailed in Clause 3.17.5.

3.17.1.2 The value of any resources imported from outside South Africa inserted in the schedule titled **Price Basis for Imported Resources** and subject to Clause 3.17.2 shall be deducted from the total values to be adjusted by the Contract Price Adjustment Factor. Any resources not inserted in the schedule titled **Price Basis for Imported Resources** shall be deemed not to be imported into South Africa for the purposes of Contract Price Adjustment.

3.17.2 Variations in Rates of Exchange

3.17.2.1 Adjustment for variations in rates of exchange shall be based on the following:

- (a) The Tenderer shall have completed the schedule titled **Price Basis for Imported Resources** for all imported resources intended to be subject to variations in rates of exchange, subject to the following:
 - i. the value in foreign currency inserted in column (A) shall be subject to Clause 3.17.2 (e) when recalculating the Rand value,
 - ii. the rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by Council's main banker, Nedbank, on the Base Date, rounded to the second decimal place, subject to sub-paragraph iii. below,
 - iii. if the rate of exchange inserted by the Tenderer differs from the Nedbank rate referred to above, then the Nedbank rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly, without altering the price in the Pricing Schedule for the relevant items, and

- iv. if a quotation from a supplier or sub-contractor provides for variations in rates of exchange, the Service Provider may **only** claim for variations in rates of exchange if he binds the supplier or sub-contractor to the same provision to take out forward cover as described in sub-paragraph (b) below.
- (b) The Service Provider (or supplier or sub-contractor) shall within five working days from the date of placing a firm order on an overseas supplier, cover or recover forward by way of a contract with a bank which is an authorised foreign exchange dealer, the foreign exchange component of the cost of any imported resources inserted by the Tenderer in the schedule titled **Price Basis for Imported Resources**.
- (c) When the Service Provider (or supplier or sub-contractor) so obtains forward cover, the Service Provider shall immediately notify the Employer of the rate obtained and furnish the Employer with a copy of the foreign exchange contract note.
- (d) Based on the evidence provided in sub-paragraph (c) above, the value in Rand inserted in column (C) of the schedule titled **Price Basis for Imported Resources** shall be recalculated using the forward cover rate obtained, and any increase or decrease in the Rand value defined in Clause 3.17.5 shall be adjusted accordingly, subject to sub-paragraph (e) below.
- (e) The adjustments shall be calculated upon the value in foreign currency in the Service Provider's (or supplier's or sub-contractor's) **forward cover contract**, provided that, should this value exceed the value in foreign currency inserted in column (A) of the schedule titled **Price Basis for Imported Resources**, then the value in column (A) shall be used.

3.17.3 Variations in Customs Surcharge and Customs Duty

- (a) Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in the schedule titled **Price Basis for Imported Resources** and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable or to the foreign exchange rate used by the authorities, shall be adjusted accordingly.
- (b) The Tenderer shall state the Customs Duty Tariff Reference applicable to each item and the Service Provider shall advise the Employer of any changes which occur.

3.17.4 Value of Imported resources at Base Date

3.17.4.1 The Rand value of imported resources inserted in the schedule titled **Price Basis for Imported Resources** (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by Council's main banker, Nedbank, on the Base Date rounded to the second decimal place (column(B)), to which shall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).

3.17.5 Variation in labour and material costs of imported resources

3.17.5.1 If the prices for imported resources are not fixed, the Service Provider shall in his Tender specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices and relative proportions of labour and material on which his Tender prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.

3.17.5.2 Failure to specify a formula in the Tender shall mean that the prices are fixed or shall be deemed to be fixed.

Clause 4.7:

Add the following:

Payment of the tendered basic fee for normal services shall be in accordance with Clause 9 in Part C2.1 Pricing Assumptions.

Clause 5.4.1:

Add the following:

The Service Provider is required to take out and maintain, for the full duration of the performance of this contract, the following insurance cover:

- a) Professional Indemnity (PI) insurance providing cover in an amount of not less than R80 000 000 in respect of each and every claim during the period of insurance. Where the entity tendering is a joint venture then

- the value of the PI insurance cover required may be shared between the joint venture partners in proportion to the percentage contribution of each party to the joint venture.
- b) Public Liability insurance with a limit of indemnity of not less than R20 000 000 for any single claim, the number of claims to be unlimited during the contract period.
 - c) Insurance in terms of the provisions of the Compensation for Occupational Injuries and Diseases (COID) Act No. 130 of 1993.

The Service Provider shall ensure that any sub-contractors engaged in construction activities shall, in addition to the Public Liability and COID Insurances as described above, also take out and maintain contractors all risks insurance to the value of the work being undertaken.

Clause 5.4.2

Add the following:

Evidence of insurance or confirmation (warranty) from a reputable Insurance Broker that the required insurances are in place, shall be submitted within **14** days of the Start Date.

Add the following clause after Clause 5.4.2:

5.4.3 The Service Provider shall maintain the insurance policy/ies for the duration of the liability period in terms of Clause 13.4 and shall upon request by the Employer provide periodic proof of such insurance.

Clause 5.5:

Add the following:

The Service Provider is required to obtain the Employer's prior approval in writing before taking any of the following actions:

- a) Replacing any of the key personnel listed at the time of tender.
- b) Occupying any public land or facility for any purpose that will cause disruption and or inconvenience to the users of such land or facility in respect of any construction contract.
- c) Making a material change, addition or omission from the approved designs.
- d) The exercising of any discretion in terms of any terms and conditions in this contract, that results in the utilisation of any of the contingency allowance, increasing the contract value or awarding any additional time as detailed in the relevant contract conditions.
- e) Permitting advance payment for items not listed in the Advance Payment Schedule.
- f) Nominating the Employer's Agent Representative.
- g) Delegation of Employer's Agent authority in terms.
- h) Granting permission to work during non-working times.
- i) Suspend the progress of the works.
- j) The issuing of an instruction to accelerate progress.

Clause 6.4:

Add the following clause after Clause 6.3:

6.4 Conflict of interest

The Service Provider shall immediately disclose any potential conflict of interest or involvement in the project other than a professional interest in terms of this Contract.

Clause 7.1.2

Add the following:

Key Persons shall be those individuals listed under "Key personnel" in Part C3.1 Scope of Work.

Clause 7.2.1:

Add the following:

The Service Provider shall provide appropriate Personnel for such time periods as required and shall enter all data pertaining to Personnel and Key Persons on the Personnel Schedule (comprised of Schedules 11 and 18, Part T2.2 : Returnable Schedules).

Clause 8.1:

Add the following:

The Service Provider is to commence the performance of the Services within **14** days of the Start Date.

Clause 8.4.1:

Delete "or" at the end of Clause 8.4.1(d) and add the following three clauses after Clause 8.4.1(e):

- f) if the Service Provider has failed to provide the required insurances within the prescribed time;
- g) if the Service Provider has committed a corrupt or fraudulent act during the tender process or the execution of the Contract;

- h) if the Service Provider has benefitted from an official or other role player committing any corrupt or fraudulent act during the tender process or in the execution of the Contract;
- i) if a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the Employer follows the processes as described in its SCM Policy; or
- j) The implementation of the contract may result in reputational risk or harm to the City as a result of (inter alia):
 - (i) reports of poor governance and/or unethical behaviour;
 - (ii) association with known family of notorious individuals;
 - (iii) poor performance issues, known to the Employer;
 - (iv) negative social media reports; or
 - (v) adverse assurance (e.g. due diligence) report outcomes.;

Clause 8.4.3(c):

Add the following:

The period of suspension under Clause 8.5 is not to exceed 6 months.

Clause 8.4.4:

Delete the content of this clause and replace with the following:

Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge, including any pro-rata payment for partially completed Services, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

Add the following after clause 8.4.5:

Clause 8.4.6

In addition to anything else contained in this contract, the Employer may make either of the following elections to ensure its rights are protected and any negative impact on service delivery is mitigated in instances where the Service Provider has been liquidated:

- a) accept a contractor's proposal (via the trustee / liquidator) to render delivery utilising the appropriate contractual mechanisms; or
- b) terminate the contract, as the liquidator proposed contractor is deemed unacceptable to the employer, at any time by giving written notice to the contractor (via the trustee / liquidator).

Clause 9:

Delete the clause and replace with the following:

- 9.1 The Service Provider acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Employer.
- 9.2 The Service Provider hereby assigns to the Employer, all Intellectual Property created, developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.
- 9.3 The Service Provider shall, and warrants that it shall:
 - 9.3.1 not be entitled to use the Employer's Intellectual Property for any purpose other than as contemplated in this contract;
 - 9.3.2 not modify, add to, change or alter the Employer's Intellectual Property, or any information or data related thereto, nor may the Service Provider produce any product as a result of, including and/or arising from any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Employer;
 - 9.3.3 not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Employer;
 - 9.3.4 comply with all reasonable directions or instructions given to it by the Employer in relation to the form and manner of use of the Employer's Intellectual Property, including without limitation, any brand guidelines which the Employer may provide to the Service Provider from time to time;

- 9.3.5 procure that its employees, directors, members and contractors comply strictly with the provisions of clauses 9.3.1 to 9.3.3 above;
- unless the Employer expressly agrees thereto in writing after obtaining due internal authority.
- 9.4 The Service Provider represents and warrants to the Employer that, in providing goods, services or both, as the case may be, for the duration of the contract, it will not infringe or make unauthorised use of the Intellectual Property rights of any third party and hereby indemnifies the Employer from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorised use by the Service Provider of any third party's Intellectual Property rights.
- 9.5 In the event that the contract is cancelled, terminated, ended or is declared void, any and all of the Employer's Intellectual Property, and any and all information and data related thereto, shall be immediately handed over to the Employer by the Service Provider and no copies thereof shall be retained by the Service Provider unless the Employer expressly and in writing, after obtaining due internal authority, agrees otherwise.
- 9.6 Copyright of all documents prepared for the project, and the patent rights or ownership in any plant, machine, item, system or process designed or devised, shall be vested with the Employer. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.
- 9.7 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.
- 9.8 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

Clause 11.1:

Add the following:

A Service Provider may not sub-contract any work which he has the skill and competency to perform, unless he has the Employer's prior approval in writing.

Clause 12.1.2:

Add the following:

Interim settlement of disputes is to be by **mediation**.

Clause 12.2.1:

Add the following:

In the event that the parties fail to agree on a mediator, the mediator is nominated by the **President of the South African Institution of Civil Engineering**.

Clause 12.2.4:

Add the following:

Final settlement is by **litigation**.

Clause 12.3.3:

In the event that the parties fail to agree on an adjudicator, the adjudicator is nominated by the **President of the South African Institution of Civil Engineering**.

Clause 13.1:

Add the following clause after Clause 13.1.3:

- 13.1.4 The Employer and the Service Provider shall enter into an agreement to complete the Services required for the Project in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act No. 85 of 1993 and the Construction Regulations, 2014 promulgated thereunder.

An agreement is included in the Contract Document (C1.3 of Contract Data) and shall be completed and submitted to the Employer together with a letter of good standing from the Compensation Commissioner (if not insured with a licenced compensation insurer) within fourteen (14) days of the Start Date. The Service Provider shall ensure that any letter of good standing shall be timeously renewed in order that it remains in full force for the duration of the Contract.

Clause 13.4:

Delete the content of this clause and replace with the following:

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within a liability period of five years, which period shall commence on the earlier of:

- (a) Final completion of the construction contract.
- (b) Suspension, postponement, expiry or termination of all construction contracts.
- (c) Cancellation or termination of this Contract.

Clause 13.7.3:

Add the following clause after Clause 13.7.2:

- 13.7.3 The Service Provider hereby indemnifies the Employer against all claims by third parties which arise out of or in connection with the Services rendered under this Contract and where such claims are the consequence of breach by the Service Provider to exercise reasonable professional skill, care and diligence in the exercising of its obligations.

Clause 14.5:

Add the following new clause after Clauses 14.4:

Clause 14.5: Tax Invoices

Section 20(1) of the Value Added Tax Act No. 89 of 1991 requires that a supplier (person supplying goods or services) who is registered as a VAT vendor issue to the recipient a tax invoice within 21 days of the date of a supply whether requested or not.

The Service Provider shall provide a tax invoice (VAT invoice) which shall be included with each account delivered to the Employer in terms of Clause 14. Failure by the Service Provider to provide a tax invoice (VAT invoice) timeously may delay payment by the Employer and no interest shall accrue.

Clause 14.6: More frequent payments

The Service Provider may submit a fully motivated application regarding more frequent payment to the Employer's Project Manager to be submitted to the Employer for consideration. Requests for more frequent payments will be considered at the sole discretion of the Employer and is not a right in terms of this contract.

Clause 15:

Add the following:

The interest rate will be the prime interest rate of the Employer's Bank at the time the amount is due.

Part 2: Data provided by the Service Provider

The **Service Provider** is:

Postal Address:
.....

Physical Address:
.....

Telephone:

Facsimile:

Email:.....

The **authorised and designated representative** of the Service Provider is:

Name:

The address for receipt of communication is:

Address:
.....

Telephone:

Facsimile:

Email:.....

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

C1.3 Occupational Health and Safety Agreement

AGREEMENT MADE AND ENTERED INTO BETWEEN THE CITY OF CAPE TOWN (HEREINAFTER CALLED THE "EMPLOYER") AND

..... ,
(Service Provider/Mandatar/Company/CC Name)

IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 85 OF 1993 AS AMENDED.

I,, representing

....., as an employer
in its own right, do hereby undertake to ensure, as far as is reasonably practicable, that all work will be performed, and all equipment, machinery or plant used in such a manner as to comply with the provisions of the Occupational Health and Safety Act (OHSA) and the Regulations promulgated thereunder.

I furthermore confirm that I am/we are registered with the Compensation Commissioner and that all registration and assessment monies due to the Compensation Commissioner have been fully paid or that I/We are insured with an approved licensed compensation insurer.

COID ACT Registration Number:

OR Compensation Insurer: Policy No.:

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge him/them with the duty of ensuring that the provisions of OHSA and Regulations as well as the Council's Special Conditions of Contract, Way Leave, Lock-Out and Work Permit Procedures are adhered to as far as reasonably practicable.

I further undertake to ensure that any subcontractors employed by me will enter into an occupational health and safety agreement separately, and that such subcontractors comply with the conditions set.

I hereby declare that I have read and understand the appended Occupational Health and Safety Conditions and undertake to comply therewith at all times.

I hereby also undertake to comply with the Occupational Health and Safety Specification and Plan.

Signed aton the.....day of.....20....

Witness

Mandatar

Signed at on the.....day of.....20

Witness

for and on behalf of
City of Cape Town

CITY OF CAPE TOWN

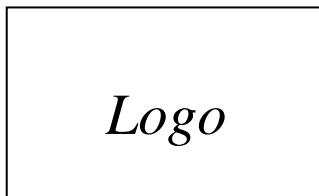
TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

C1.4 Insurance Broker's Warranty

Pro Forma



Letterhead of Contractor's Insurance Broker

Date _____

CITY OF CAPE TOWN
City Manager
Civic Centre
12 Hertzog Boulevard
Cape Town
8000

Dear Sir

CONTRACT NO.: 150C/2021/22

CONTRACT TITLE: PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.ING

NAME OF CONTRACTOR: _____

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned contract have been issued and/or in the case of blanket/umbrella policies, have been endorsed to reflect the interests of the CITY OF CAPE TOWN with regard to the abovementioned contract, and that all the insurances and endorsements, etc., are all in accordance with the requirements of the contract.

I furthermore confirm that all premiums in the above regard have been paid.

Yours faithfully

Signed: _____

For: _____

Part C2: Pricing Data

	Pages
C2.1 Pricing Assumptions.....	95 – 96

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

C2.1 Pricing Assumptions

Pricing Assumptions mean the criteria as set out below, read together with all Parts of this contract document, which it will be assumed in the contract, that the tenderer has taken into account when developing his prices.

1. The short descriptions given in the Activity Schedule below are brief descriptions used to identify the activities for which prices are required. Detailed descriptions of the activities to be priced are provided in the Scope of Work.
2. For the purpose of the Activity Schedule, the following words shall have the meanings hereby assigned to them:

Unit:	The unit of measurement for each item of work.
Quantity:	The number of units of work for each item.
Rate:	The agreed payment per unit of measurement.
Amount:	The product of the quantity and the agreed rate for an item.
Sum:	An agreed lump sum payment amount for an item, the extent of which is described in the Scope of Work, but the quantity of work which is not measured in any units.
3. A rate, sum, and/or price as applicable, is to be entered against each item in the Activity Schedule. **An item against which no rate is/are entered, or if anything other than a rate or a nil rate (for example, a zero, a dash or the word "included" or abbreviations thereof) is entered against an item, it will also be regarded as a nil rate having been entered against that item, i.e. that there is no charge for that item.** The Tenderer may be requested to clarify nil rates, or items regarded as having nil rates; and the Employer may also perform a risk analysis with regard to the reasonableness of such rates.
4. The rates, sums, and prices in the Activity Schedule are to be fully inclusive prices for the work described under the several items. Such prices and rates are to cover all costs and expenses that may be required in and for the execution of the work described in accordance with the provisions of the Scope of Work, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract Data, as well as overhead charges and profit. The rates, sums and prices rates shall include for all payments to administrative, clerical and secretarial staff used to support professional and technical staff.
5. Where quantities are given in the Activity Schedule, these are provisional and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in the Activity Schedule. In respect of time based services, the allocation of staff must be agreed with the employer before such services are rendered.
6. Provision for time-based services which fall beyond the scope of normal services as described in the Scope of Work has been made in the Pricing Schedule. This provision is for services provided on instruction from the Employer and will be deducted in whole or part if not required. The estimated period of involvement of each category of person must be agreed with the Employer before any work in this regard commences.
7. The categories of persons (A, B, C, D) in respect of time-based fee rates for professional services shall be as defined in the relevant guideline scope(s) of services (as referenced in the Specifications).

8. A higher category person undertaking lower category work will be reimbursed, in respect of time-based fees, at the lower category rate.
9. Tenderers are to note that only those recoverable expenses listed in the Activity Schedule will be reimbursed to the Service Provider. No reimbursement of costs for subsistence, typing, printing/copying (other than reports and/or tender documents), communications or computer hardware and/or software will be made and these costs will be deemed to be included in rates, sums, and prices for normal and additional services rendered.
10. Items for printing/copying shall be for specified contract documents, reports, manuals and drawings, excluding general correspondence, minor reports, progress reports, etc. which shall be deemed to be included in the professional fees. Payment will only be made for copies of reports and drawings submitted to the Employer or issued, as specified or requested by the Employer, and all drafts shall be for the Service Provider's account.
11. The reimbursement of all travel expenses shall be included in their respective rates of specialist and key personnel.
12. Tenderers are to note that the planning for this contract is based on a three-year budget which is subject to change. While the Employer has every intention to complete the full scope of works, the Employer reserves the right to reduce or increase the scope of works according to the dictates of the budget, or to terminate this contract, without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge in this regard. The Service Provider shall however be entitled to pro-rata payment for all services carried out in terms of any adjustment to the Scope of Work or, in the case of termination, remuneration and/or reimbursement as described in Clause 8.4.4 of the Standard Professional Services contract as amended by the Contract Data.
13. All charges in respect of attendance at meetings and the provision of secretarial services, shall be included in the tendered basic fee for normal services.

Part C3: Scope of Work

	Pages
C3.1 Scope of Work	98 – 116
C3.2 Annexes.....	117 – 119

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN

C3.1 Scope of Work

CONTENTS	PAGE
1. INTRODUCTION	98
2. BACKGROUND	99
3. EMPLOYER'S OBJECTIVE	101
4. DESCRIPTION OF THE SERVICES REQUIRED	102
5. EXTENT OF THE SERVICES	103
6. USE OF REASONABLE SKILL AND CARE	103
7. BRIEF	103
8. DELIVERABLES	107
9. GENERAL	109
10. REFERENCE DATA	110
11. APPLICABLE NATIONAL AND INTERNATIONAL STANDARDS	110
12. INTELLECTUAL PROPERTY RIGHTS	110
13. APPROVALS	111
14. PROCUREMENT	111
15. FORMAT OF COMMUNICATION	112
16. KEY PERSONNEL	112
17. MANAGEMENT MEETINGS	115

1. INTRODUCTION

The purpose of this project is to investigate the feasibility, risk and the implications of the urban passenger rail function as part of the City's public transport function i.e. as the rail component of an authority-controlled network at municipal level of integrated, quality public transport services. As such the project would focus on the development of a feasible incremental and structured approach towards the planning, operations and management of an improved urban rail service. Therefore, this will confirm the probability of the City of Cape Town to incorporate all transport modes effectively and efficiently into a fully integrated public transport system and articulate this in its Comprehensive Integrated Transport Plan (ITP).

A Professional Service Provider is required to provide the professional services necessary to implement this project, which, in terms of the Municipal Finance Management Act, 56 of 2003 and the Municipal Supply Chain Management Regulations, 2005, must be procured through a competitive bidding process. The purpose of this document is therefore to invite tenderers from suitably qualified and experienced consulting firms for Contract No **150C/2021/22: PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN**, which will be evaluated using a financial offer and preferences based system as described in the tender data.

2. BACKGROUND

Urban rail services are of paramount importance to those that live and work in the City of Cape Town and its functional area. Unfortunately, the urban rail service has been in decline for many years and with most economically active passengers, transferring to the City's road network leads to detrimental economic and environmental impacts for both the affected commuters and the City. The impact of a depressed economy, lack of investment, lack of maintenance, vandalism and crime has exacerbated the situation leading to the dire status of rail system with the loss of assets, illegal occupation of rail reserves by informal dwellings, and the collapse of services.

A brief assessment of the status of the rail system undertaken in late 2019 is set out below. This situation deteriorated further given the impact of the SARS-COVID 19 pandemic.

The City's urban rail network consists of some 270km of route km (+/-600km of single track plus more than 120km of yard track), 119 stations, staging yards and depots. Most of the network is owned by PRASA while the Monte Vista - Bellville – Wellington rail line is owned by Transnet Freight Rail (TfR).

Although the network (together with its planned extension) is well distributed through the City, the central line is currently not serviceable. Furthermore, illegal occupation of the e Philippi staging yards rendered this facility inoperable.

In 1995 the network was served by 95 train sets (383motor coaches and 807 trailer coaches)¹. As of December 2019 there were 44 sets in operation² of which some 27 sets are running with a reduced number of coaches.

In 1993 the rail system serviced 617 000 passenger trips per day. By 1997 this had increased to a peak of 774 000 passenger trips per day. However, by 2012 passenger trips declined and reduced to approximately 620 000. (Table 1.)

Table 1: Cape Town Service Lines - Boarding Passengers (Rail Census, 2012)

Description	Passengers boarding both directions		
	MetroPlus	Metro	Total
1 Simonstown to Cape Town	33,581	63,189	96,770
2 Retreat to Cape Town via Maitland	15,271	30,658	45,929
4 Wellington to Cape Town via Woodstock	18,871	72,509	91,380
5 Bellville to Cape Town via Monte Vista	3,299	8,761	12,060
7 Eersterivier to Cape Town via Woodstock	4,626	13,416	18,042
9 Strand to Cape Town via Woodstock	10,220	34,082	44,302
10 Bellville to Cape Town via Langa and Esplanade	1,859	33,184	35,043
11 Bellville to Cape Town via Pinelands	0	959	959
13 Kapteinsklip to Cape Town via Pinelands and Woodstock	6,233	66,248	72,481
14 Kapteinsklip to Cape Town via Mutual and Esplanade	388	5,852	6,240
15 Khayelitsha to Cape Town via Mutual and Esplanade	13,211	120,554	133,765
17 Khayelitsha to Cape Town via Pinelands and Woodstock	1,498	17,040	18,538
19 Wellington to Cape Town via Monte Vista	1,367	3,603	4,970
21 Muldersvlei to Cape Town via Woodstock	7,618	31,098	38,716
23 Strand to Cape Town via Monte Vista	1,025	1,613	2,638
Total	119,067	502,766	621,833

Prior to the impact of Covid 19 it was estimated that that the network served less than 220 000 passenger trips per day i.e. less than one third of the network capacity. Some estimates range between 150 000 to 200 000 passenger trips per day which is 25% to 30 % of 2013/14 ridership³.

¹ On Track Study Cape Metropolitan Council, July 1998

² On 27/01/2020 in a radio report attributed to PRASA it was stated that 31 sets of the required 88 sets were currently in operation.

³ Ref: MyCiTi N2 Expressway and Phase 2 Programme Review; Dec 2019, PwC.

While to the City endeavours toward building an inclusive city by delivering an efficient and integrated transport system in Cape Town through focusing on Transit Oriented Development (TOD) and other catalytic projects, the provision of the City's commuter rail services is the responsibility of the Passenger Rail Agency of South Africa (PRASA), a state-owned entity (SOE) which reports directly to the Department of Transport.

The Legal Succession to the South African Transport Services Act (Act 9 of 1989), as amended, assigns the main object and the main business of the Corporation (PRASA) as being "to ensure that, at the request of the Department of Transport, rail commuter services are provided within, to and from the Republic in the public interest" It is evident that PRASA have not been able to fulfil their obligations in this regard, notwithstanding their intended investment in the modernization of the rail system and re-instatement of the central line.

The National Land Transport Act, No. 5 of 2009 (NLTA) provides that local government, especially metropolitan municipalities, are tasked with "the planning, implementation and management of modally integrated public transport⁴ networks and travel corridors for transport within the municipal area." Section 11(1)(c) of the NLTA sets out the transport functions of a municipality. Herein, the NLTA further emphasizes the establishment of an Intermodal Planning Committee where there is a significant passenger rail services in its jurisdiction.

Section 152 of the Constitution of South Africa states that an objective of local government is "to ensure the provision of services to communities in a sustainable manner; to promote social and economic development; to promote a safe and healthy environment." The current state of repair of the City's rail system is impeding the City from delivering on its Constitutional mandate and is in fact working against it.

Section 156(4) of the Constitution states: "The national government and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4⁵ or Part A of Schedule 5 which necessarily relates to local government, if,

- i. that matter would most effectively be administered locally; and
- ii. the municipality has the capacity to administer it."

Against the backdrop of the declining state urban rail service and the poor response by the rail authority to address this crisis, the City has taken a position that it considers its approach to the management and operation of urban rail services. Consequently, the Council of the City of Cape Town at its meeting of 26 October 2017 resolved, inter alia, that its Transport Department submit to the Department of Transport and to Treasury an application for the assignment of the urban rail function to the City.

An application was submitted but was deemed premature (as per National Treasury⁶) as no final decision regarding the question of the assignment has been made by central government.

Notwithstanding Treasury's position the issue of devolution and assignment of the urban rail function is in part supported in the National Rail Policy Draft White Paper (June 2017) drafted by the Department of Transport, which states that "around the world, urban rail generally has always been a local government function. It is better managed at local level by people who are in touch with local needs." Further, the Department's draft White Paper on Rail Policy sets out a time for the full assignment of the urban rail function to municipalities, given further impetus to the City seeking the assignment of the rail function.

In terms of the National Land Transport Act, 2009 (Act No. 5 of 2009), the City, as the Planning Authority is required to prepare a Comprehensive Integrated Transport Plan (CITP), the requirements of which are set out in the Schedule, "Minimum Requirements for the Preparation of Integrated Transport Plans."

Comprehensive Integrated Transport Plans (CITPs and DITPs) must contain a long-term component, which identifies the long-term vision and objectives for the transport system in the region, and the strategy for developing the transport system over time to achieve the set objectives.

In 2007 the Cabinet approved the national Public Transport Strategy which had to focus areas; Accelerated Modal Upgrading and Integrated Rapid Public Transport Networks (IRPTNs). Modal Upgrading focused on improving the quality of the public transport fleet and its current operations while

⁴ "land transport" as defined in the NLTA means the movement of persons and goods on or across land by means of any conveyance and through the use of any infrastructure and facilities in connection therewith

⁵ Schedule 4, part A lists "Public transport" as a function

⁶ National Treasury comments in respect of MFMA Sc33 application.

the introduction of IRPTNs focuses on implementing high quality networks of car competitive services, namely Rapid Rail and Bus Rapid Transit systems, in major cities. IRPTNs are not separate from ITPs but form an integral part of the ITP of the relevant planning authority. Institutionally, the Public Transport Strategy envisages the phasing in of an authority-controlled network at municipal level of integrated, quality public transport services. While the intention to devolve the urban rail function is not explicitly stated, it is noted that targeted municipalities may request assignment of the operating licensing function which would require⁷:

- A robust integrated network plan which also includes integrating the road-based and non-motorised systems with the rail priority corridors.
- A process of creating the skills and capacity to manage the network in terms of performance contracts with fare revenues accruing to the authority (road-based system) and managing performance agreements with PRASA for the rail priority corridors.
- A process of business planning and negotiation to include existing operators and their employees in the network for both road-based and rail-based priority corridors.

The purpose of this undertaking is therefore primarily to provide the City with a full appreciation of the feasibility, risk and the implications of phasing in the urban rail component of an authority-controlled network at municipal level of integrated, quality public transport services.

Further, it will contribute to:

- the identification of the vision and objectives for the rail component of the transport system in the region that will be communicated through the reviews of the Comprehensive Integrated Transport Plan.
- the phased strategy approach for developing an effective municipal level controlled integrated, quality public transport service to be communicated in the City's Integrated Transport Plan (ITP).
- The provision of informed decisions should national government sanction that commuter rail functions be devolved and assigned to municipalities in part or in full, or the City actively pursue the assignment thereof.
- Informing the City on key elements should it pursue the provision of public transport services that operates on a rail track or any guided rail mechanism, including light rail, that is not the assigned responsibility of PRASA.

3. EMPLOYER'S OBJECTIVE

It is the City of Cape Town's goal is to have a multimodal transport system restored, preserved and may assist in promoting the growth of the urban rail system as the backbone of the City's public transport system. Also, to ensure that the necessary resources are secured to safeguard the effective and efficient execution of responsibilities in this regard.

In support of this goal the City intends embarking on a multi-faceted response, a part of which is this project, the primary objective of which, is to investigate the feasibility, risk and the implications of urban rail functions being undertaken by the City as part of its municipal public transport function.

As such the Professional Service Provider would need to:

- Detail the strategic alignment between all legislative parameters regarding the provision of integrated public transport assigned to municipal entities.
- Focus on the development of a feasible incremental and structured approach towards the planning, operations and management of an improved urban rail service thus allowing the City to incorporate all transport modes effectively and efficiently into a fully integrated public transport system.
- Identify and evaluate the options and mechanisms available to the City to possibly undertaking the urban rail function and determine the implications of such for the City. This would include, inter alia:
 - The financing mechanisms available for and cost of the provision of operations and further capital investment
 - Implications pertaining to the restoration and sustainability of passenger rail services.
- Consider the processes by which the City can undertake public transport services whether in terms of its mandate to provide "municipal public transport" which may include rail services. Develop an

⁷ National Land Transport Act, 2009 (Act No. 5 of 2009) Minimum requirements for the preparation of Integrated Transport Plans, 2016.

incremental phased and sustainable model for the undertaking rail functions where stage gates are identified at key decision points thus allowing decision makers to fully evaluate each stage before committing the City thereto and proceeding to the next phase. This will require an assessment and evaluation of the options available per phase and the consequence of pursuing such.

- Engage with affected stakeholders as their buy-in is leveraged to collaborate effectively and contribute to the process. These may include national and provincial departments, PRASA, Transnet, municipalities within the City's functional region, other metropolitan cities, and co-opted stakeholders (e.g. rail operators, business representatives, and other user groups).
- Take due cognizance of national transport policy including current statutes that affect the outcome of this project (e.g., the Municipal Systems Act, 32 of 2000 Section 86) and identify any recommendations that may need to inform policy revisions required to achieve the objectives.

A further objective that the Service Provider may be required to assist the Employer with any project or activity associated with the Employer's intent to improve, secure, and reinstate the City's urban rail system and its supporting services. The extent of any such services shall be agreed between parties and shall be subject to the approval of the Employer.

4. DESCRIPTION OF THE SERVICES REQUIRED

The Service Provider is required to provide the following limited services described in the Scope of Services of the Guideline for Services and Processes for Estimating Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000) as amended or amplified upon in the project brief and in sections 4.1, 4.2 and 4.3. It is however anticipated that the services to be provided will generally, but not exclusively, fall within the following categories.

4.1 Planning, Studies, Investigations and Assessments

The provision of the requisite services described in Clause 3.1 of the Guideline for Services and Processes for Estimating Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (referred to in the sections below as the Guidelines). These typical services will relate to the carrying out the scoping of services and key issues, studies, and investigations as well as the preparation and submission of reports embodying preliminary proposals or initial feasibility studies and will normally be remunerated on a time and cost basis.

Pricing and Payment:

- i. Services shall be remunerated on a time and cost basis.
- ii. For further details regarding pricing refer to Part C2: Pricing data.

4.2 Concept and Viability

The provision of services described in Clause 3.2.2 of the Guidelines for Services and Processes for Estimating Fees for Persons Registered in terms of the Engineering Profession Act (2000), as amended or amplified upon in this project brief below. These services shall be clarified further during the Inception phase of this project.

For pricing purposes, the basic fee tendered (1.1 in Part C2.2 Schedule of Rates) shall include for all costs in respect of Concept and Viability as well as the services described here within.

4.3 Additional Services

In addition to the services listed as "Additional Services" described in Clause 3.3 of the Guideline and listed under the following headings may, as required, be applicable.

4.3.1 Additional Services pertaining to all Stages of the Project

The provision of the applicable services listed in Clause 3.3.1 of the Guideline.

Pricing and Payment:

- i. Services shall be remunerated on a time and cost basis.

- ii. An agreement on the extent of services and remuneration for this category of Service is to be concluded before such services commence and should be in writing.
- iii. For further details regarding pricing refer to Part C2: Pricing data.

5. EXTENT OF SERVICES

The Service Provider's multidisciplinary professional services team, with its specialist skills, will be required to assist the Employer with the investigation into feasibility, risk and implications of the City of Cape Town (City) undertaking an urban rail / commuter rail function.

In general, the services required may amongst others, cover the following.

- Business re-engineering and management with proficiencies in the areas of institutional / organisational reform, facilitate functions from state to local authorities; resource planning, governance; financial management etc.
- Project and programme management with capability of managing rail related and business re-engineering type project.
- Transport planning, with an emphasis on the incorporation of existing and conceptual integrated transport networks and systems
- Railway operations and railway engineering.
- Exploration of passenger / urban rail integration in terms of securitization, ticketing, timetabling, branding, etc.
- Facilities and asset management (maintenance) with expertise in railway related assets including property, infrastructure, rolling stock etc.
- Legal services with proficiencies in South African transport law, contracts, and concessions.
- Labour specialist services with experience in South African labour law and change management
- Safety and security specialist services with experience in the South African rail sector.
- Marketing and communications; Customer services
- Stakeholder facilitation
- Land use development planning with transit-oriented development focusing on station precinct development and the commercialization thereof
- Property valuations and value capture and income generation assessments
- Security assessments and security planning

It must be noted that the services to be provided in terms of this contract are inextricably linked to the Employer's three-year budget cycle and allocations per financial year (from 1 July to 30 June). While the Employer has every intention of completing the full Scope of Work the Employer's budget is subject to periodic review. Should it become necessary to vary the scope of work or even extend, suspend, or terminate this contract for budgetary or any other reason, such variation, suspension, or termination shall be dealt with in accordance with the provisions of the Standard Professional Services Contract, as amended by the Contract Data.

6. USE OF REASONABLE SKILL AND CARE

The provision of rail services in the City has significant long-term implications for residents of Cape Town, commuters, property owners, businesses, and other organs of state, affecting the economic, the spatial development and the biophysical, socio-economic, and cultural environments within the City.

For these reasons, the Service Provider is required to provide all aspects of the Services described within the parameters of this tender with all reasonable care, diligence, and skill in accordance with generally accepted professional techniques and standards.

7. BRIEF

The project brief is to investigate the feasibility, risk and the implications of urban rail functions being undertaken by the City as part of its municipal public transport function i.e. as a component of the City's Comprehensive Integrated Transport Plan and an "authority-controlled network at municipal level of integrated, quality public transport services" (or alternatively as a member of a regional rail authority responsible for the management of the region's urban rail system.)

The project shall focus on the development of a feasible, incremental, and structured approach towards the planning, operations and management of an improved urban rail service thus allowing the City to incorporate all transport modes effectively and efficiently into a fully integrated public transport system.

As such this would allow the strategy to be articulated in its Comprehensive Integrated Transport Plan (CITP).

7.1 Initial Phase and Inception Report (10 weeks)

On the commencement of the project a project inception report shall be prepared by the Service Provider which shall set out inter alia the initial project programme, estimated budget and resources allocations for this project. This may be updated from time to time and shall form the basis on which all work and progress can be monitored. This preparatory work will require in-depth discussions with the Employer to further develop the study objectives, risks and authority etc.

The inception report is to be completed within ten (10) weeks from the date the Service Provider receives of a complete signed copy of the contract and its preparation should not preclude any other concurrent work, where such is possible.

7.2 General description of services

The following sections serve to broadly describe the work to be undertaken. However, given the nature of the project the work described below is not deemed to be complete. Within the scope of the project objectives it may be required to extend or curtail the work described below which is to be done in consultation with the Employer.

7.2.1 Develop a baseline / status quo assessment of the City's rail system

To establish a baseline assessment and develop level-of-service criteria to sufficient detail to inform the study objectives. The Service Provider will require further in-depth discussions with the Employer's project management team to fully develop the baseline requirements, which may require:

- i. Assessing the information needs for the study, whether this information is available and from whom, and acquiring available information. Addressing how information gaps can be managed will also be required and identifying any risks in any assumptions made thereon.
- ii. Undertaking an analysis of the system description, service planning, operations, asset ownership etc. to establish a baseline assessment of urban rail services and conditions within Cape Town.
- iii. Undertaking an analysis of operational cost, capital cost and life-cycle cost requirements for the current as well as future scenarios. Current and possible future income streams will need to be assessed.
- iv. Reviewing the implications of PRASA's modernization program and future rail extension projects e.g., Blue Downs Rail link. This will include the implications and risks associated with capital funding for these on-going PRASA projects. The central line revitalization project shall be included in this review.
- v. An assessment of the legislation, regulations, by-laws etc. pertaining to and affecting rail transport within the City and its functional areas. This shall include PRASA's role as set out in the Legal Succession to the South African Transport Services Act (as amended) as well as other legislation that applies to the assignment of functions to local government.

The purpose of the above and the following sections is to set the groundwork for the development and analysis of alternatives options for the City to undertake rail functions as a component of its municipal public transport mandate through focusing on the key components required to respond to the objective of developing an appropriate and viable comprehensive business model and its incorporation into the CITP.

7.2.2 An assessment of international practice

A review of international practice where key factors leading to the successful devolution (and failures) are to be considered. This should include socio-economic, environmental, cultural and political factors which may have influence outcomes. This assessment will need to take due cognizance that international practice may/will not be comparable in its application in the local context. However, reference to and the inclusion of comparable attributes (in current or future state) shall be referenced and highlighted and contributed towards this assessment.

7.2.3 End-state system requirements for Cape Town

The service provider shall undertake an exercise to materialise the end-state level-of-service and other standards to be met and maintained and will need to be agreed as this will form a baseline towards integrated, intermodal and interoperable public transport. This is to be done in consultation with the Employer's project management team.

7.3 Institutional structure and business model

Undertake an investigation of an appropriate institutional structure and business model for a municipal or authority-controlled rail network and system as an integrated component of the City's Integrated Rapid Transport municipal public transport services. This may include:

- i. An in-depth analysis of alternative institutional arrangements, which is comparable with and considers current public transport institutional arrangements. This assessment of the institutional and business structures shall address appropriate models for an incremental / phased approach towards rail integration, intermodality, and interoperability.
- ii. The City's proposed rail business structure i.e., how business like, how competitive and how separate core functions should be.
- iii. The horizontal and vertical separation of the business structure to better manage, for example a decentralized vs. monolithic structure and/or to help expand private sector participation and competition in train services as determined to be appropriate for the City's urban rail system.

An assessment of the organizational and business structure options for a municipal or regional authority-controlled rail services organization and how these can be organized to increase overall service efficiencies and effective performance. This will need to be done in the context of the objectives of the City's CIP and the region's specific environment by taking, where appropriate, the organizational structures, performances and experiences of other railway authorities into account.

The assessment must also focus on the objectives of improving mobility, safety and services for users as well as fostering the integration of public transport modes.

7.4 Financial sustainability

A critical factor affecting the viability of devolving the urban rail functions to the City is financial sustainability and the City's ability to afford to grow and maintain the system. As such, the development of a robust financial model to inform business planning parameters is essential. This will require:

- i. an analysis and assessment of the business feasibility for the City of Cape Town to adopt the various institutional and business structures/models towards rail integration, intermodality and interoperability. It will require the testing of various assumptions relating to the business structure, operating model, and the operational costs, capital requirements and funding/revenue streams. (These aspects are not exhaustive and will need to be developed further.)
- ii. to the fullest extent of the City and the Professional Service Provider, identifying key business and financial risks associated with the current rail authority and identify mitigation strategies.
- iii. With the input and confirmation of other spheres of government, confirm and defend rail infrastructure as a key economic asset, subject to financial sustainability considerations.
- iv. assessing the level of funding and grant appropriations (operational and capital) to be required for the urban rail service together with other revenue streams.
- v. Developing an objective approach to budget allocation and the subsidization of urban rail for detailed engagement with national Department of Transport and national Department of Treasury.
- vi. Confirm infrastructure investment alignment between catalytic projects and other prioritised projects as detailed within the Integrated Public Transport Network Plan.

The content and extent of the financial modelling will be further developed by the Employer's project manager in consultation with the Service Provider.

7.5 Strategic Assessment and recommendations

The development of alternative options for the City / regional authority to undertake rail functions as part of the City's municipal public transport mandate (or other authority mandate) must present the basis for a strategic assessment of viable options. This assessment shall essentially inform on a recommended strategy on the way forward.

The strategy will be informed by an in-depth analysis of feasible alternative institutional arrangements and associated business / financial models towards the rail integration, intermodality and interoperability of rail functions. This includes an exploration of concessionary options of the rail network and stations (either the rail system in its entirety or by corridor) in Cape Town through appropriate business / organisation structure models.

The alternative analysis is intended to be central to informing decision makers on the way forward and shall inform on the appropriate implementation strategy towards rail integration, intermodality and interoperability.

The strategy shall address an incremental approach towards rail integration, intermodality and interoperability that should consider the complexity and demand for all road based public transport and have at least one intermediate phase where the City takes responsibility for issuing and managing performance-based concessions to operators.

7.6 Risk Assessment and Mitigation

Concurrent to the above requirements and as an informative to this work the Service Provider shall prepare a risk management strategy addressing and bringing into effect the incremental-to-full scenario and processes towards rail integration, intermodality and interoperability as well as for the post- scenario. In particular, but not exclusively, the risk assessment shall include:

- i. the level of funding including grant appropriations (operational and capital) needed and assurance of funding sustainability
- ii. a safety and security risk assessment to determine exposure / risk to people, assets, operations and infrastructure and appropriate mitigation measures and costs to enhance the protection of people, assets, operations and infrastructure to an acceptable standard. These assessments should form part of the baseline studies, the findings and recommendations of which must be incorporated into the assessment of options and suggested strategies.
- iii. Risks associated with change management.
- iv. Mechanisms to prepare transport plans / service level agreements in such a way that ensures and monitors implementation and performance of passenger rail operators and associated services.

7.7 Stakeholder engagement and project communication strategy

It is essential that affected stakeholders, including the national Department of Transport (DOT), the Provincial Government of the Western Cape (PGWC), PRASA, Metrorail and Transnet Freight Rail (TfR) be engaged during the study. As such the Service Provider will assist with managing the requisite stakeholder engagement process. This will include the planning and managing any engagements as well as attending to associated secretariat services. Through this engagement process it is important to leverage the buy-in of critical stakeholders, especially in relation to key decision points. The Service Provider shall engage with the Employer's representative before any such activity may proceed. Further engagement with the City's Corporate Communications Unit may also be required.

Another component will be the engagement with the wider affected community. As required, the Service Provider together with Transport Directorate's Marketing and Communications Department shall prepare a stakeholder engagement strategy which shall be carefully managed and implemented as the project progresses. Extreme care will need to be taken to ensure appropriate information is released timeously without raising undue expectations. A key component of this strategy should focus on the affected communities and the role they can play in supporting the reform of "their" rail system

7.8 Project Management and other Facilitation Services

Effective project management and facilitation is required between concurrent activities to expedite coordination and integration of multiple work-streams to achieve the required project outcomes.

Where multiple activities are concurrently underway, the Service Provider will ensure that work-streams are integrated and informed by each another to ensure consistency in respect of assumptions, parameters and other relevant information. This shall apply to the Service providers own multi-disciplinary team and sub-consultants (if employed).

A brief description of the project management services required is set out in Section 4 of the Scope of Work.

Throughout the project the Service Provider will need to report project status and outcomes of various subject studies to the Employer's project management structures.

7.9 Quality Assurance System

The rail environment is a heavily regulated domain where record keeping, quality assurance and quality management system are an essential prerequisite. As such, all documentation for this project shall be prepared and organised in a manner that complies with / satisfies the requisite ISO and / or SANS standards applicable to the SA rail industry. These requirements shall be defined and separately agreed in writing during the inception stage.

7.10 Additional services

The Service Provider may be required to assist the Employer with ad-hoc investigations and activities for the following:

- i. The preparation and / or revision of the City's Comprehensive Integrated Transport Plan, the Commuter Rail Plan and its constituent components with a focus on rail.
- ii. Undertake an appraisal of the City's planned rail network and infrastructure improvements to inform future investment programs etc.
- iii. Joint PRASA-City initiatives affecting the focused on immediate actions which are conducive to a noticeable improvement in the rail services in the short term and or projects that will improve overall operational effectiveness and efficiency.
- iv. Investigate future rail and road based public transport interface requirements (operations and infrastructure) along identified corridors which responds to the spatial developments needs of the corridor and influence area.
- v. Deliver the detail towards (and intricacies of) a Rail Interface Agreement between the City and PRASA that outlines the expected norms and standards regarding areas of jurisdiction and responsibility in facility management and operational activities.
- vi. Through the involvement and contribution of other stakeholders and government institutions, identify the strategic elements required to protect passengers, surrounding communities and all rail infrastructure as a key economic asset.

The extent of work that may be undertaken in this area by the Service Provider, which may include both planning and execution phases to support this Programme, is to be developed and agreed to with the Employer.

8. DELIVERABLES

The following section describes the key deliverables anticipated at the time of tender. Additional deliverables may be identified during the execution of the study, or any associated works undertaken in line with the objectives of this project.

8.1 Inception Report, master programme and short-term implementation plan

Within the 10 weeks of receipt of a complete signed copy of the contract, the Service Provider must provide an Inception Report outlining a work breakdown structure, master programme, a project risk assessment, and key resources to be assigned to the project activities.

The master programme shall be accompanied by an estimated project cash-flow, and both shall be used to monitor the project through the monthly progress report.

The master programme and cash-flow may be updated during the execution of the project as more information becomes available. This will be subject to discussion with, and approval of the Employer's project manager. Approval for any such amendments will not be unreasonably withheld.

8.2 Project Report

The primary deliverables will be reports documenting the outcome of various stages (interim deliverables) of the project. The following reports are deemed to be provided through the execution of the project. However, the actual requirements and timing may be confirmed with the Employer's project manager during the project inception stage.

- i. Baseline report

- ii. Analysis of international practice
- iii. Setting of objectives for the rail system
- iv. Urban rail institutional remodelling alternative analysis

This should include an analysis of the alternative institutional and business models that are central to the project's objective of the establishing a sustainable and effective functional role the City can perform in the management of its urban rail system. The analysis should present the viable options for the roll of all spheres of government and affected SOE's as may be applicable, as well as the potential for private sector. These models should reflect both the vertical and horizontal segmentation of the consistent components urban rail system. The reports shall clearly articulate the evaluation process, addressing financial, legal, institutional issues, labour needs, timelines, risks, etc for each of the viable alternatives. The report should conclude with a recommended preferred option for the City to pursue.

- vi. Business process plan

Subject to the successful conclusion of the alternate analysis and approval of the recommended option an indicative business process rollout plan may be required. This requirement will be subject to the Employer's approval to proceed. This report would inter alia set out the scope of the business, a schedule and budget requirement for rollout, stakeholder engagement, including labour etc.

8.3 Ad-hoc project reports

In executing the services various subject specific matter will need to be investigated and evaluated as part of the project which must be documented. This information should be presented in separate reports where it is necessary to only carry the conclusions and, or recommendations into a consolidated project report.

8.4 Peer Review

Subject to the direction of the Employer's project manager a peer review may be requested.

8.5 Presentations

The service provider will be required to prepare presentations (PowerPoint) relating to project various stages for presentation to the project team and oversight bodies.

8.6 Project Progress Reports

The following reports will be required throughout the tenure of the project. The actual requirements and timing may be confirmed with the Employer's project manager during the project inception stage.

Monthly Progress Report

- i. The Employer's project manager shall be provided with a monthly Project Status Report addressing progress and costs including variances from planned values. Key issues, events and risks affecting project activities shall also be reported.
- ii. Quarterly Project Report
- iii. The Employer's project manager shall be provided with a quarterly project report which shall be similar to the monthly report in structure but modified to include a more descriptive narrative pertaining to the major work streams, the content of which should be provided by the respective work stream leaders. This report will be made available for wider distribution to key stakeholders and oversight bodies and will need to be tailored for such.
- iv. The Monthly Progress Report shall be included with the processing of monthly invoicing as part of the list of evidence items
- v. Close-out report

A close-out report shall be provided at the conclusion of the project.

8.7 Printed and electronic documentation formats

The Employer shall receive copies of these reports in both printed and electronic format. All electronic records shall be in a format that is compatible with MSOffice / MS Project or in a PDF formats.

All project documentation shall, where appropriate conform to the basic requirements set out in the Employer's publication templates. Alternative formats may be adopted in specific cases subject to the approval of the Employer.

8.8 Project Records

All project records including reports, programmes, presentations etc. as well as all projects meeting minutes shall be kept in the Employer's registry. In this regard the Service provider shall provide the Employer with copies of all project documentation and electronic format.

9. GENERAL

9.1 Time Frames/Milestones

The contract period / period of performance shall be set as out in the Contract Data.

Milestones set by the Employer typically revolve around budget cycles and the need to spend the budget in any given financial year. The important milestones are therefore the financial year end (30 June each year), and the Service Provider will be expected to establish a project programme, in consultation with the Employer that takes cognisance of the budgets available and the budget cycles.

This program shall be agreed by the parties and shall form the basis project master plan established during the project inception stage. Once agreed, the Service Provider is expected to ensure that the programme is adhered to, and to intervene timeously if necessary. Where necessary or required by the Employer the Service Provider shall submit a revised master programme.

9.2 Places for the Performance of Specific Tasks

It is anticipated that most of the work involved will be undertaken in the City of Cape Town municipal area. As the conditions permit, the Service Provider will be required to attend meetings in the Cape Town municipal area, within PRASA's Western Cape functional area, and through preferred online platforms.

Where meetings with National and Provincial Government Departments or others involve travelling outside of the Cape Town municipal area, to be reimbursed for travel to such meetings the Service provider will require the prior approval of the Employer.

9.3 Reporting Requirements

Aside from the particular reports required in terms of the deliverables stated above, the Service Provider may be required to prepare, or contribute to, ad hoc reports on specific aspects of the project.

Furthermore, the Service Provider shall submit monthly cost reports (including cash flows) to the Employer showing expenditure in respect of both the Service Provider's appointment and the sub-consultants, together with the estimated final costs.

A preliminary Project Close-Out Report shall be submitted to the Employer within three months of the Certificate of Completion having been issued, which shall be updated as necessary and re-submitted within three months of the issue of the Final Approval Certificate.

9.4 Data availability

A key challenge in that data relating to the City's urban rail system, specifically local operational and financial data may not be readily available. Urban rail data is available at a national scale with assumptions being made at a regional level. Approaches proceed without detailed information (with caveats) and ways to obtain/collect information will need to be considered.

9.5 Ongoing PRASA projects and policy changes

It should be assumed (unless otherwise indicated that PRASA's modernization programme Regional Rail Plan and other projects and programmes coordinated by PRASA (and/or others) will continue to run concurrently with this project until their conclusion. Should these projects lead to an alternative scenario affecting the City's intention regarding urban rail then this will need to be addressed, in consultation with the Employer's representative.

Similarly, should any national policy directive or legislative / regulatory amendment that may affect the City's intention regarding urban rail then this will need to be addressed in consultation with the Employer's representative.

9.6 Municipal budget cycle

It must be noted that the services to be provided in terms of this project are inextricably linked to the Employer's budget cycle and the receipt of funding. The execution of all works the procurement of goods and services shall therefore be programmed to make full use of, but not exceed, the budget provision in any given financial year.

9.7 SA Legislation

Work on this project is to be governed, interpreted and implemented in accordance with the laws of the Republic of South Africa.

10. REFERENCE DATA

The following documents are contained in the electronic media included with the tender documentation.

- i. Business Plan for the Assignment of Urban Rail (2017)
- ii. Comprehensive Integrated Transport Plan 2018 – 2023
- iii. Integrated Public Transport Network Plan (2032)
- iv. Transit Oriented Development (TOD) Strategic Framework

NOTE: These documents are submitted for information only and may not be circulated or quoted (except in the tenderer's submission) without the Employer's permission unless the relevant documentation has been published by the City and is in the public domain.

11. APPLICABLE NATIONAL AND INTERNATIONAL STANDARDS

The Service Provider shall ensure that cognisance of all applicable national and international standards is taken in the execution of his/her own work and that of his/her sub-consultants in the design and compilation of specifications for this project. International standards should only be used where no national standards exist, or where it is the norm to use or refer to international standards.

Work on this project is to be governed, interpreted, and implemented in accordance with the laws of the Republic of South Africa.

12. INTELLECTUAL PROPERTY RIGHTS

The copyright and all other intellectual property rights in any work product or materials made by the Service Provider in the course of, and/or incidental to, the provision of the Services in terms of this Agreement ("Services IP"), shall be with, and vest in, the City. The Service Provider hereby irrevocably cedes, assigns, transfers, and makes over all the Services IP to the City and waives in favour of the City all moral rights in respect of the Services IP.

The Service Provider must ensure that all copyright and all other intellectual property rights in any new work product or materials made by Sub-Contractors in the course of, and/or incidental to, the provision of their services in terms of the applicable Service Level Agreements ("SLA IP") shall be with, and vest in, the City. The Service Provider must ensure that the relevant Sub-Contractors irrevocably cede, assign, transfer and make over all the SLA IP to the City and waive in favour of the City all moral rights in respect of the SLA IP in terms of the applicable Service Level Agreements.

All Intellectual Property Rights belonging to a Party prior to the execution of this Agreement ('PRIOR IP') shall remain vested in that Party. This shall include Intellectual Property, proprietary information, or confidential know-how relevant to the Services which is in the possession of a Party prior to the commencement of the Services or generated after commencement of the Services but independent of the Services. The Service Provider hereby grants a non-exclusive, non-transferable right to use their Prior IP to the City.

All Intellectual Property Rights developed from the provision of the Services utilising the Prior IP rights will vest in the Party who is the Owner of the Prior IP and such Party hereby grants a non-exclusive, non-transferable right to use their Prior IP to the other Party. It is recorded that ownership of any Post IP rights which relate to enhancements in terms of the provision of the services, made to the Prior IP and which are severable will vest in the City and that each party remains owner of its own Prior IP.

The Parties grant to each other the abovementioned Post IP rights acquired in terms of clause 18.4 on a non-exclusive, non-transferable basis which will endure for a period of ten (10) years from date of delivery of the Services.

13. APPROVALS

The Service Provider shall, in addition to any other approvals set out in the Contract, be responsible for obtaining the following approvals from the Employer.

- i. Approval of the implementation programme as set out in the Inception Report.
- ii. Approval to proceed beyond the agreed decision points as set out in the inception report as may be applicable.
- iii. In respect of any Additional Services and other time-based services, approval thereof.
- iv. Approval for the employment of specialist sub-consultants.
- v. Approval to travel outside of the project functional area to attend meetings or for other purposes where the cost of travel and/or accommodation will be incurred as a project related cost.

Notwithstanding any approval received from the Employer, the Service Provider shall remain responsible for all work carried out by the Service Provider and its sub-consultants in terms of this contract on behalf of the Employer.

14. PROCUREMENT

14.1 Preferential Procurement

The Works shall be executed in accordance with the conditions associated with the granting of preferences detailed in the Preference Schedule (Schedule 23)⁸ where preferences are granted in respect of B-BBEE contribution.

Financial penalties, as described in the Preference Schedule, shall be applied if the Contractor is found to have breached and of the conditions contained in the Preference Schedule (unless proven to be beyond the control of the Contractor).

Notwithstanding the application of penalties, the Contractor's attention is drawn to other sanctions that may be applied by the Employer (listed in the Preference Schedule) with due consideration to the circumstances.

14.2 Sub-contracting of services

If the Service Provider sub-contracts services during the contract period the sub-contracted services shall be procured through an open competitive bidding process as set out in the Employer's Supply Chain Management Policy (Refer to SCM Policy Clauses 171, 17.1 and 173 where the Service Provider is deemed to be the responsible agent and contractor.)

If the Service Provider is required to perform the Services in co-operation with others, he may make recommendations to the Employer in respect of the appointment of such others. In such cases the Service Provider shall, however, only be responsible for his own performance and the performance of Subcontractors procured by the Service Provider, unless otherwise provided for.

⁸ schedule 23: preference schedule to be used in terms of the amended codes for measuring broad-based black economic empowerment in the construction sector (2017) and its transitional measures.

14.3 Monitoring the use of sub-contractors/sub-consultants and joint ventures

Notwithstanding the restriction on sub-contracting as described on the **Preference Schedule**, it is recognised that sub-contracting is an integral part of construction, which the conditions of contract make provision for.

In order, however, to comply with the requirements of the **Preference Schedule**, the Contractor shall submit to the Employer's Agent, on a monthly basis, a **B-BBEE Sub-contract Expenditure Report**. The format of this report is provided in Annex 2 attached.

The Contractor shall submit to the Employer's Agent documentary evidence in accordance with the applicable codes of good practise, of the B-BBEE status level of every sub-contractor employed by the Contractor. Until such time as documentary evidence as described above has been submitted to the Employer's Agent, a sub-contractor shall be deemed to be a non-compliant contributor.

The Contractor shall furthermore, on the written request of the Employer's Agent, provide documentary evidence showing the value of work sub-contracted to any or all of the sub-contractors employed by the Contractor.

14.4 Forms for contract administration

The Service Provider shall complete, sign and submit with each monthly statement for payment, the following updated returns (the format of which are attached in C3.2 Annexes as amended from time to time):

- B-BBEE Sub-contract Expenditure Report (Annex 1)
- Joint Venture Expenditure Report (Annex 2)

The **B-BBEE Sub-contract Expenditure Report** is required for monitoring the prime contractor's compliance with the sub-contracting conditions of the **Preference Schedule**.

The Joint Venture Expenditure Report is required for monitoring the joint venture's compliance with the percentage contributions of the JV partners as tendered, where the joint venture has been awarded preference points in respect of its consolidated B-BBEE scorecard.

In respect of Annexes 1 and 2, the Employer shall, in addition to any other sanctions available to it, apply the financial penalties applicable to breach of preferencing conditions in the **Preference Schedule** Preference Schedule in Part T2.2 Returnable Schedules. In the case of joint ventures (Annex 2), the contractor shall prove his compliance with item 6) in Section 2 of the Preference Schedule by providing a consolidated scorecard at his own cost on instruction from the Employer's Agent.

15. FORMAT OF COMMUNICATION

All requests for formal approval from the Employer, or any other body, shall be submitted in writing in hardcopy & electrical format. Interim payment claims shall be submitted in the same format, accompanied by an original tax invoice. Ad-hoc communication between the Employer and the Service Provider may be conducted per facsimile or in electronic format (e-mail).

All plans and contract documents submitted for approval shall be in hardcopy format.

Any notice, request, consent, approvals or other communication made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract Data. Each communication between the employer and the Supplier shall be to or from the Employer's agent only.

Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by the Supplier.

16. PERSONNEL REQUIREMENTS

As the work required in terms of this tender is of a complex nature and requires considerable expertise and experience, it is essential that suitably qualified and experienced personnel be provided by the successful Service Provider.

Specialist personal required from the various disciplines required to perform core services related to the scope of work may be required in addition to the Key Personnel which the Service Provider shall provide and maintain as required in terms of the Contract for work. (Refer below to Cl 13 and to Cl F.2.1.4.2)

16.1 KEY PERSONNEL

The Service Provider shall maintain the involvement of the following key personnel as the exigencies of this contract require:

Item	Key Personnel	Qualification(see note 2) and Professional Registration Requirements	Required Experience	Verifiable
1	Project Leader	Registered in a professional capacity with the Engineering Council of South Africa (ECSA)	12 years' verifiable post graduate experience acting as the project leader in managing multidisciplinary professional teams	
2	Rail Business Strategist	A Post graduate degree(NQF9) in one of the following disciplines: Transport Business Finance	12 years' verifiable post graduate experience in urban rail reform, urban rail restructuring initiatives or urban rail feasibility studies.	
3	Rail Strategic Planner	Bachelor's degree (NQF 8) in the Built Environment	10 years post graduate experience in the development of strategic urban commuter rail master plans or rail corridor master plans	
4	Railway specialist: Facilities and Asset Management	Bachelor's degree (NQF 8) in the Built Environment Registered in a professional capacity with the Engineering Council of South Africa (ECSA),	10 years post graduate experience in railway asset management i.e., Track & Structures, Rolling Stock, Signaling, Systems.	
5	Railway specialist: Operations	A Bachelor's degree (NQF 8) in the Built Environment	10 years post graduate experience working in an urban rail network operations environment evaluating rail system operations and /or managing concessions and/or service level agreements) with rail operators.	
6	Public Transport Planning Specialist	A Bachelor's degree (NQF 8) in a Transport Discipline	10 years post graduate experience in public transport policy and planning encompassing a wide spectrum of road based public transport including Rail	
7	Transport Planner	A Bachelor's degree (NQF 8) in a Transport Discipline	10 years post graduate experience in road and rail based transport planning and a demonstrated ability to interpret data, modelling results, trends, etc. and to use such interpretation to develop appropriate solutions.	
8	Project Manager	Bachelor's degree in the Built Environment (NQF 7). Registration as a Professional Project Manager	8 years' verifiable post graduate experience as a project manager managing multi-disciplinary teams and/or multi-disciplinary projects	
9	Legal specialist	A Bachelor's degree (NQF 8) in the legal field. An admitted attorney or advocate	10 years post graduate experience in the application, interpretation and analysis of legislation pertaining to the	

			public transport sector and experience in developing, interpreting, and drafting contract parameters / contracts between public sector organisations and private entities.
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16.2 Additional Specialists

In addition to the key personnel the Service Provider shall, as the exigencies of the contract require, maintain the involvement the Additional Specialists listed below to undertake the Scope of Work.

	Additional Specialist	Qualification and Professional Registration	Experience
1	Transport Economist	A Bachelor's degree (NQF 8) in Economics or Transport Economics	At least ten years (10) post graduate experience in evaluating transport related project feasibility, including cost – benefit analysis, travel time cost savings and employment impacts with a particular focus on public transport economics, as well as experience in assessing the effect of various urban interventions on a metropolitan scale
2	Railway: Safety & Security Specialist:	A qualified specialist with a relevant Bachelor's degree (NQF 8) in a Safety and Security Management discipline	At least eight (8) years of experience with specialist knowledge in developing or managing rail system security requirements (best practices) for the protection of assets and personnel. A working knowledge of the South African rail safety and security sector will be advantageous
3	Property development / management specialist	A qualified specialist (in Property Management / Development disciplines)	At least ten years' (10) combined and verifiable experience in the field of property economics and market research, development feasibility, value capture, retail development and land management, with experience in the public transport sector and local property sector.
4	CAD Operator	A relevant tertiary qualification	At least eight years (8) of verifiable, post graduate experience in drawing concept designs for transport projects including drawing cross sections, long sections, layout plans,

			intersection geometric layouts, etc.
5	GIS Specialist / Analyst	Registered with the South African Geomatics Council (SAGC)	At least eight years (8) verifiable experience using commercial GIS software such as ArcGIS and TransCAD.

It is essential that the Key Personnel and the Additional Specialists collectively have a sound knowledge of all aspects of the South African rail sector, in particular urban rail, and are able to fully support the project team in this regard.

Key Personnel and Specialists will be expected to operate out of the local office as the exigencies of this project require.

Should it become necessary to replace any of the key personnel listed at the time of tender during this contract, they may only be replaced by individuals with similar or better qualifications and experience, who satisfy the minimum requirements and then only with the approval of the Employer.

16.3 ADDITIONAL ADVISORY MULTIDISCIPLINARY SERVICES

For all other professional services included in the tender the categories of persons (A, B, C, D) are defined below. Examples of these persons / specialists include, but is not limited to, Social Scientists, Environmental Scientists, Financial Planners, Labour Specialist and so on:

Category A: in respect of a private consulting practice shall mean a top practitioner with 12 years' experience whose expertise and relevant experience is nationally or internationally recognized and provides advice at a level of specialization where such advice is recognized as that of an expert.

Category B: in respect of a private consulting practice, shall mean a partner, a sole proprietor, a director, or a member who, jointly or severally with other partners, co-directors or co-members, bears the risks of the business, or takes responsibility for the projects and related liabilities of such practice and where his/her level of expertise and relevant experience is commensurate with the position, performs work of a conceptual nature, provides strategic guidance in planning and executing a project and/or carries responsibility for quality management pertaining to a project, and more than 10 years experience.

Category C: in respect of a private consulting practice, shall mean a salaried professional staff with more than 5 years relevant experience and carries a direct technical responsibility for one or more specific activities related to a project. A person referred to in Category A and B may also fall in the category if such a person performs work at this level.

Category D: in respect of a private consulting practice, shall mean all other salaried technical staff with more than 3 years relevant experience performing work with direction and control provided by any person contemplated in categories A, B or C.

17. MANAGEMENT MEETINGS

The Inception Report shall include, within the Programme, a list of meetings to be held annually which contains contract meetings, project meetings, technical meetings and ad-hoc meetings. During the project, the Service Provider will be expected to initially attend amongst others, monthly management meetings with the Employer's project management team (PMT), and at a lesser interval the Project Steering Committee. The Service Provider will generally present the project status and its findings and proposals at these meetings and take direction from the PMT and Steering Committee in this regard.

The Service Provider will be required to provide secretariat services at all meetings which shall include arranging meetings, sending out agendas and record of minutes of meetings as well as actively participating in the project related meetings.

The Service Provider shall provide the Employer with hard copy documentation and electronic records for uploading on the Employer's electronic document repositories. Minutes of meetings are to be provided within the timeframe stipulated by the Employer at commencement of contract. Where not stipulated of meetings are to be provided within one week of meetings.

It is the intention that the following project meetings will be held:

i. Project Administration Meeting

Project administration meetings are to be held with the Employer's Project Manager monthly where issues pertain to the project administration and project progress payments shall be addressed.

ii. Project Management Meeting (PMT)

Project Management Meetings are to be held at monthly intervals with work-team leaders, specialists, and the Employers representatives to monitor progress, address technical issues, risk, etc. and provide an overall technical project management role.

iii. Project Steering Committee

A high-level steering committee established to oversee the project which shall be attended by the Employer's senior management, the Employer's project manager and the Service Provider's senior team leaders who should meet at least on a quarterly basis. During the project start-up phase these meetings may be held more frequently.

iv. Other Meetings

The Service Provider will be expected to attend ad hoc meetings with the Employer, stakeholder groups, or other authorities to address specific issues as and when the need may arise.

17.1 General

The Service Provider shall be represented at all meetings by at-least two of the key personnel, preferably the project leader and an additional specialist. The service provider shall provide secretarial services (for record keeping purposes) at all management, site/technical, and ad-hoc meetings.

All charges in respect of attendance at meetings and the provision of secretarial services shall be included in the tendered basic fee (Item No .1.1: C2.2 Pricing Schedule).

CITY OF CAPE TOWN

TRANSPORT DIRECTORATE: TRANSPORT PLANNING AND NETWORK MANAGEMENT

CONTRACT NO. 150C/2021/22

PROVISION OF PROFESSIONAL SERVICES TO UNDERTAKE AN INVESTIGATION ENABLING THE CITY OF CAPE TOWN TO SUPPORT THE RESTORATION AND SUSTAINABILITY OF PASSENGER RAIL SERVICES THAT ALIGNS WITH THE CITY'S COMPREHENSIVE INTEGRATED TRANSPORT PLAN.

C3.2 Annexes

Annex 1: B-BBEE Sub-contract Expenditure Report

Annex 2: Joint Venture Expenditure Report

ANNEX 1

CITY OF CAPE TOWN

CONTRACT NO. AND NAME:

CONTRACTOR (SERVICE PROVIDER):

B-BBEE SUB-CONTRACT EXPENDITURE REPORT BASED ON PAYMENT NO.

Value of the contract (as defined in Schedule 24: Preferencing Schedule) (P*)	R	B-BBEE Status Level of Prime Contractor	
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Name of Sub-contractor (list all Sub-contractors)	B-BBEE Status Level of Sub-contractor ¹	Total Value of Sub- contract (excl VAT) ¹	Value of Sub-contract work to date (excl VAT) ¹	Value of Sub-contract work to Sub-contractors with a lower B- BBEE Status Level than Prime Contractor
Sub-contractor A		R	R	R
Sub-contractor B		R	R	R
Sub-contractor C		R	R	R

¹Documentary evidence to be provided

Total:	R
Expressed as a percentage of P*	%

Signatures

Declared by Contractor
(Service Provider) to be true
and correct:

.....

Date:

Verified by Employer's
Representative:

.....

Date:

ANNEX 2

CITY OF CAPE TOWN

CONTRACT NO. AND NAME:

CONTRACTOR (SERVICE PROVIDER):

JOINT VENTURE EXPENDITURE REPORT BASED ON PAYMENT NO.

Value of the contract (as defined in Schedule 19: Preferencing Schedule) (P*)	R	B-BBEE Status Level of Joint Venture	
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Name of Joint Venture partner (list all)	B-BBEE Status Level of each JV partner as at contract award	Percentage contribution of JV partner per JV Agreement ¹ A	Total value of JV partner's contribution (excl. VAT) ¹ B = A% x P*	Value of JV partner's contribution to date (excl. VAT) ¹ C	Value of JV partner's contribution as a percentage of the work executed to date D = C/P*x100
JV Partner A		%	R	R	%
JV Partner B		%	R	R	%
JV Partner C		%	R	R	%

¹Documentary evidence to be provided

Signatures

Declared by Contractor
(Service Provider) to
be true and correct:

Date:

Verified by Employer's
Representative:

Date:

Part C4: Site Information

Not Applicable