



**INVITATION FOR SERVICE PROVIDERS TO REVIEW THE LOCAL ECONOMIC DEVELOPMENT STRATEGY FOR  
uMGUNGUNDLOVU DISTRICT MUNICIPALITY**

**Enquiries: Mr. M.J. Sithole : E-Mail: [mandisa.mthethwa@umdm.gov.za](mailto:mandisa.mthethwa@umdm.gov.za)**

**SUBMISSION OF PROPOSALS DEADLINE**

**Date: 10 October 2023**

**Time: 12h00**

**Venue: uMgungundlovu District Municipality Offices  
242 Langalibalele Street  
Pietermaritzburg**

<b>Name of Organisation</b>			
<b>Physical Address</b>			Street Address
			Suburb
			City
			Province
			Postal Code
<b>Contact Person</b>			
<b>Telephone No.</b>			
<b>E-Mail Address</b>			
<b>Tender Price</b>			
<b>B-BBEE Level</b>		<b>CSD Registration No.</b>	

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**TENDER ADVERT**  
**uMGUNGUNDLOVU DISTRICT MUNICIPALITY**

**INVITATION FOR SERVICE PROVIDERS TO REVIEW THE LOCAL ECONOMIC DEVELOPMENT STRATEGY FOR**  
**uMGUNGUNDLOVU DISTRICT MUNICIPALITY**  
**TENDER NO. 06/2023**

The uMgungundlovu District Municipality (uMDM) seeks professional service providers to assist the uMgungundlovu District Municipality to review the Local Economic Development Strategy for the area, as required in terms of the legislation, for the period of six months. The aim of this project is to undertake a review of the Strategy in order to assess the extent to which the LED Strategy has been implemented within the area and to incorporate changes in demographics and other socio-economic developments including trends that have taken place within the local and regional economy. The review also aims to ensure the alignment of the district programmes, plans, strategies and initiatives with those of the Provincial and National governments. The review will also reflect on new studies and projects that have been funded in the local area that may pose an impact on the economic potential and development of uMgungundlovu region. One of the imperatives of the review process is to ensure that the LED Strategy is aligned with the district Integrated Development Plan (IDP).

Tender documents can be downloaded from the municipal website at [www.umdmd.gov.za](http://www.umdmd.gov.za) or alternatively can be collected from offices of the Cashier at the uMgungundlovu District Municipality, 242 Langalibalele Street, Pietermaritzburg. If tenders are collected, a non-refundable tender deposit of R150.00 is payable to the uMgungundlovu District Municipality. Any queries can be directed to Mr MJ Sithole via email [Mandisa.mthethwa@umdmd.gov.za](mailto:Mandisa.mthethwa@umdmd.gov.za). A Compulsory Briefing Session will be held on **27 September 2023 at 10:00**, at the uMgungundlovu District Municipality, Council Chambers, 242 Langalibalele Street, Pietermaritzburg. Non-attendance at the Compulsory Briefing Session will render any submission invalid.

Tender submissions must be properly bound and must be placed in the tender box situated on the ground floor of the uMgungundlovu District Municipality, 242 Langalibalele Street, Pietermaritzburg, before **12h00 on 10 October 2023**, in a sealed envelope which is clearly marked with the Tender Number and Tender Description. Late quotations or Tenders received by way of Facsimile or E-Mail will under no circumstances be considered.

All eligibility criteria must be furnished accordingly, where mandatory or applicable. Tenderers will thereafter be evaluated in terms of functionality before being evaluated on price and preference. Tenderers that qualified in terms of the functionality criteria will then be evaluated in terms of the 80/20 preference point system as prescribed in terms of the Preferential Procurement Regulations 2022.

Tenderers will be evaluated in terms of eligibility criteria as part of the minimum requirements before evaluated on functionality based on the following criteria:

1. Bidders companies must provide a **minimum of Three reference letters** demonstrating proof of successful completion of developing an LED Strategy at either a National/ provincial /District or Local Sphere of Government with a minimum value of R 300 000.00 within the past 5 years.

Tenderers will be evaluated in terms of functionality as part of the minimum requirements before evaluated on price and preference based on the following criteria:

CRITERIA	WEIGHT
Qualifications of Project Leader (Economics, Development Studies, Commerce, Planning or Business Administration)	25
Project Management experience, for the Project Leader.	20
Economic Research experience, after qualification, for Project Leader.	15
LED Strategy development for District or Local Sphere of Government	10
Project development Experience, for Project Leader.	30
<b>TOTAL</b>	<b>100</b>

A bidder/s that scores less than **60** points out of 100 in respect of functionality will be regarded as submitting a non-responsive bid and will be disqualified.

The 80/20 preference point system in terms of the municipality's SCM Policy will be applicable as follows:

PREFERENCE SYSTEM		POINTS
<b>PRICE</b>		80
<b>SPECIFIC GOALS (20 Points)</b>		
<b>Race</b> (Points are not cumulative)	<b>Sub-Points</b>	10
- Race – ≥50 % Black Owned (HDP)	10	
- Race – <50% Black Owned (HDP)	5	
<b>Locality</b> (Points are not cumulative)	<b>Sub-Points</b>	10
- Locality – Office based in uMgungundlovu District	10	
- Locality – Office based in KwaZulu-Natal (outside uMDM)	5	

- Locality – Office based outside KZN	3	
<b>Total points for PRICE and SPECIFIC GOALS</b>		<b>100</b>

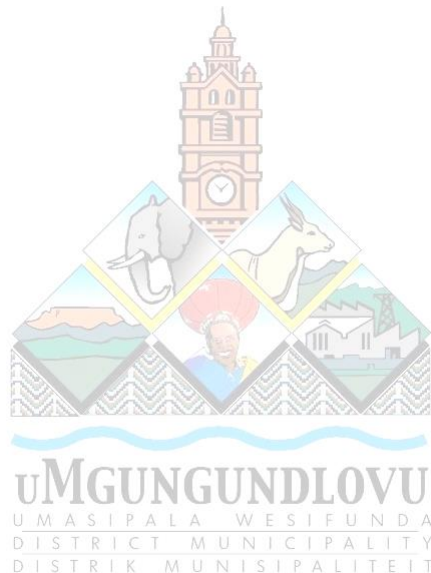
\*\*\*\*Joint Venture: Each Company will be evaluated individually, and the cumulative points will be divided to establish average to obtain Final Specific Goal Points.

All service providers intending to submit a tender are required to be registered on the Central Supplier Database.

Tenderers shall take note of the following Tender Conditions:

- uMgungundlovu District Municipality's procurement policy will apply,
- uMgungundlovu District Municipality does not bind itself to accept the lowest tender or any other tender and reserves the right to accept the whole or part of the tender,
- Tenders submitted are to be valid for a period of 90 days from the closing date for submissions of tenders.

Dr. EX Muthwa  
Acting Municipal Manager  
uMgungundlovu District Municipality



uMgungundlovu District Municipality

TO REVIEW THE LOCAL ECONOMIC DEVELOPMENT STRATEGY – 06/2023

FORM OF OFFER

OFFER

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

TO REVIEW THE LOCAL ECONOMIC DEVELOPMENT STRATEGY – 06/2023

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

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

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF 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 contractor in the conditions of contract identified in the contract data. In the case of any discrepancy between the amount in words and the amount in figures, then the amount in words shall govern.

Signature	
Name	
Capacity	
Name of Tenderer	

Name and  
Signature of

Witness..... Date .....

## FORM OF ACCEPTANCE

*(To be completed by the Employer)*

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 tenderer 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 1 Agreements and tender document, (which includes this agreement)
- Part 2 Pricing Data
- Part 3 Scope of work
- Part 4 Briefing Session
- Part 5 Service Level Agreement

and any drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 5 above.

Deviations from and amendments to the documents listed in the tender document and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the Record of Addendum attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule, which must be signed by the authorized representative(s) of both parties.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer's agent (whose details are given in the tender document) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data at, or just after, the date this agreement comes into effect. Failure to fulfill 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 when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer within five days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

### FOR OFFICIAL USE ONLY:

<b>NAME</b>		<b>SIGNATURE</b>	
<b>DATE</b>			
<b>CAPACITY (tick one)</b>	<input type="checkbox"/> Municipal Manager	<input type="checkbox"/> Chief Financial Officer	
<b>FOR THE EMPLOYER</b>	uMGUNGUNDLOVU DISTRICT MUNICIPALITY		
<b>NAME OF WITNESS</b>		<b>SIGNATURE</b>	



**INVITATION TO BID – MBD 1**  
**PART A**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE UMGUNGUNDLOVU DISTRICT MUNICIPALITY					
BID NUMBER:	06/2023	CLOSING DATE:	10 October 2023	CLOSING TIME:	12h00
DESCRIPTION	TO REVIEW THE LOCAL ECONOMIC DEVELOPMENT STRATEGY				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT 242 Langalibalele Street, Pietermaritzburg

SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	[IF YES, ANSWER PART B:3 ]				
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R	
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	FINANCE		DEPARTMENT	Economic Development & Planning – (EDP)	
CONTACT PERSON	Ms. T Khuzwayo		CONTACT PERSON	Mr. M.J. Sithole	
TELEPHONE NUMBER	(033) 897 6954		TELEPHONE NUMBER	(033) 897 6987	
E-MAIL ADDRESS	<a href="mailto:thembisile.Khuzwayo@umdm.gov.za">thembisile.Khuzwayo@umdm.gov.za</a>		E-MAIL ADDRESS	<a href="mailto:mandisa.mthethwa@umdm.gov.za">mandisa.mthethwa@umdm.gov.za</a>	



## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>										
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p>										
<b>2. TAX COMPLIANCE REQUIREMENTS</b>										
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER’S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a>.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>										
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>										
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</td> <td style="width: 30%; text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> </table> <p><b>IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</b></p>	3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
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3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO									


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



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

#### DECLARATION OF INTEREST – MBD 4

1. No bid will be accepted from persons in the service of the state\*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make any offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1	Full Name of Bidder/ Representative	
3.2	Identity Number	
3.3	Position Held in Company E.g. Director	
3.4	Company Registration Number	
3.5	Tax Reference Number	
3.6	VAT Registration Number	

3.7	The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.		
3.8	Are you presently in the service of the State?	Yes	No
3.8.1	If so, furnish particulars		
			
3.9	Have you been in the service of the state for the past twelve months?	Yes	No
3.9.1	If so, 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 so, furnish particulars		

3.11	Are you aware of any relationship (family, friend, other) between bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?	Yes	No
3.11.1	If so, furnish particulars		
3.12	Are any of the company's director, managers, principle shareholders or stakeholders in service of the state:	Yes	No
3.12.1	If so, furnish particulars		
3.13	Are any spouse, child or parent of the company's director's trustees, managers, principle shareholders or stakeholders in service of the state?	Yes	No
3.13.1	If so, furnish particulars		
3.14	Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?	Yes	No
3.14.1	If so, furnish particulars		
	 		

4. Full details of directors / trustees / members / shareholders. (MUST BE FULLY COMPLETED)

Full Name	Identity Number	State Employee Number

**\*MSCM Regulations: “in the service of the state” means to be –**

- (10) 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 N° 1 of 1999):
- (e) a member of the accounting authority of any national or provincial public entity: or
- (f) An employee of Parliament or a provincial legislature

**5. DECLARATION**

I, the undersigned (name) \_\_\_\_\_,

certify that the information furnished in paragraph 3 is correct.

I accept that the State may act against should this declaration prove to be false.



<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			

## PREFERENCE POINTS CLAIM FORM – MBD 6.1

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

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

### 1. GENERAL CONDITIONS

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

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

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

- a) The applicable preference point system for this tender is the **80/20** preference point system.
- b) The **80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

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

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

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

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

80/20

$$Ps = 80 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

### 3.2.1. POINTS AWARDED FOR PRICE

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

80/20

$$Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

- Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration  
Pmax = Price of highest acceptable tender

## 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system, then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.



**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

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

The specific goals allocated points in terms of this tender	Number of points allocated	Number of points claimed. (To be completed by the tenderer)
<b>RACE</b> – Points are not cumulative. <i>Proof: CSD/ CIPC Certificate / copy of ID Document</i>	10 Points Maximum	
➤ Race – ≥ 50% Black Owned (HDP)	10	
➤ Race – < 50% Black Owned (HDP)	5	
<b>LOCALITY</b> – Points are not cumulative. <i>Proof: Municipal Account or Letter from Councillor</i>	10 Points Maximum	
➤ Locality – Office based in uMgungundlovu District	10	
➤ Locality – Office based in KwaZulu-Natal (outside uMDM)	5	
➤ Office based outside of KwaZulu-Natal	3	

#### DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

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



<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			

## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES – MBD 8

10. This Municipal Bidding Document must form part of the bids invited.
2. It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
10. The bid of any bidder may be rejected if that bidder or any of its directors have:
- (a) abused the municipality's / municipal entity's supply chain management system or committed an improper conduct in relation to such system;
  - (b) been convicted for fraud or corruption during the past five (5) years;
  - (c) wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five (5) 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)
10. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid:

Item	Question	Response	
4.1	Is the bidder or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector?  <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied)</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
4.1.1	If so, furnish particulars		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating Corrupt Activities Act (No. 12 of 2004)?  <b>(To access this Register enter the National Treasury's website <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number 012-3265445)</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
4.2.1	If so, furnish particulars		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five (5) years?	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
4.3.1	If so, furnish particulars		

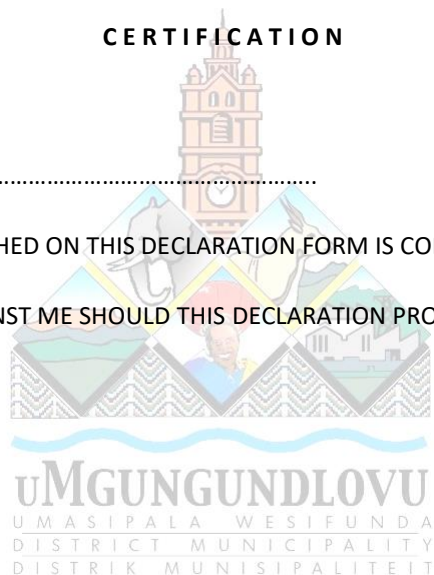
4.4	Does the bidder or any of its directors owe any municipal rates and taxed or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity that is in arrears for more than three (3) months?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
4.4.1	If so, furnish particulars		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of the State terminated during the past five (5) years on account of failure to perform on or comply with the contract?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
4.5.1	If so, furnish particulars		

### CERTIFICATION

I, THE UNDERSIGNED (Name) .....

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

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



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

## CERTIFICATE OF INDEPENDENT BID DETERMINATION – MBD 9

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

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

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

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Municipality / Municipal Entity)

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

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

(Name of Bidder)

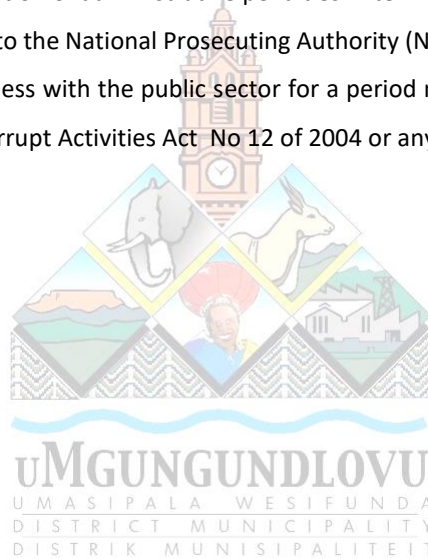
1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on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

- (d) the intention or decision to submit or not to submit, a bid;
- (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
- (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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



<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			



## PROOF OF GOOD STANDING WITH MUNICIPAL ACCOUNTS

The tenderer is to affix to this page either:

- 1) Proof that they are not in arrears for more than 90 days (30 days if the tender price exceeds R10 Million) with municipal rates and taxes and municipal service charges. The latest municipal account is to be attached. **Attach latest municipal account statement behind this page. The statement must not be older than three months from the close of this tender.;** or
- 2) Signed copy of the lease agreement if the tenderer is currently leasing premises and not responsible paying municipal accounts **together with a letter/statement from the landlord** (not older than three months from the close of this tender) stating that no levies are in arrears (*only if applicable*); or
- 3) An affidavit signed and stamped by a Commissioner of Oaths stating that **the business** is not required to pay municipal charges and providing for the reasons thereof (*only if applicable*). In cases where **the business** resides in an area that does not pay for municipal rates and taxes and municipal service charges, a letter from the **Ward Councillor**, must be submitted together with the affidavit.

Note:

- The tender hereby acknowledges that the Municipality may reject the tender of the tenderer if any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors/members/partners.
- It is the responsibility of the service provider to ensure that the statement/proof of municipal good standing being submitted includes proof that the account is not more than 90 days (30 days if the tender price exceeds R10 Million) in arrears.
- For service providers with more than one office branch, the proof of municipal account provided must reflect that of the nominated branch which will undertake the required works.
- Failure to affix such documentation as prescribed to this page shall result in this tender not being further considered for the award of the contract.
- Should this tender be considered for award of the contract, based on proof of submission and should proof of such submission be found to be invalid, erroneous or inaccurate, this tender will no longer be considered for the award of the contract.
- Statements, letters, and affidavits must not be older than three months from the closing date of this tender.

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

## AUTHORITY FOR SIGNATORY

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer **must complete** the certificate set out below for the relevant category, **even if a board resolution letter is attached**.

A Company	B Partnership	C Joint Venture	D Sole Proprietor	E Close Corporation

### A. Certificate for Company

I, ....., chairperson

of the board of .....,

hereby confirm that by resolution of the board (copy attached) taken on

..... 20...., Mr/Ms .....

acting in the capacity of ....., was authorised to sign all documents in connection with this tender for Contract No 06/2023 and any contract resulting from it on behalf of the company.

#### As witnesses:

1. ....

2. ....

Chairman: .....

Date: .....

### B. Certificate for Partnership

We, the undersigned, being the key partners in the business trading as .....

....., hereby authorise

Mr/Ms ....., acting in the capacity of .....

....., to sign all documents in connection with this tender for

Contract No 06/2023 and any contract resulting from it on our behalf.

Name	Address	Signature	Date

*Note: This certificate is to be completed and signed by all key partners upon whom rests the direction of the affairs of the Partnership as a whole.*

### C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms ....., authorised signatory of the company ....., acting in the capacity of lead partner, to sign all documents in connection with this tender for Contract No. 06/2023 and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Name of Firm	Address	Authorising Name and Capacity	Authorising Signature
Lead Partner:			

### D. Certificate for Sole Proprietor

I, ....., hereby confirm that I am

the sole owner of the business trading as .....

As witnesses:

1. ....

Sole Owner: .....

2. ....

Date: .....

### E. Certificate for Close Corporation

We, the undersigned, being the key members in the business trading as .....

....., hereby authorise Mr/Ms .....

acting in the capacity of ....., to sign all to sign all documents in connection with this tender for Contract No 06/2023 and any contract resulting from it on our behalf.

Name	Address	Signature	Date

*Note: This certificate is to be completed and signed by all key partners upon whom rests the direction of the affairs of the Partnership as a whole.*

## BANKING DETAILS

It is the policy of the uMgungundlovu District Municipality to pay all creditors by means of direct bank transfers. Please complete this information and acquire your banker's confirmation.

ACCOUNT HOLDER	
NAME OF BANK	
ACCOUNT NUMBER	
ACCOUNT TYPE	
BRANCH NAME	
BRANCH CODE	
BRANCH CONTACT PERSON	
PHONE NUMBER	
FAX NUMBER	

I/we hereby request and authorise the uMgungundlovu District Municipality to pay any amounts that may accrue to me/us to the credit of my/our bank account.

I/we further undertake to inform the uMgungundlovu District Municipality in advance of any change in my/our bank details and accept that this authority may only be cancelled by me/us by giving thirty days' notice by prepaid registered post.

- Alternatively, the tenderer may submit a letter/declaration from his bank worded as above, providing the required details and it must be signed by an appropriate Bank Official (which should be attached behind this page).

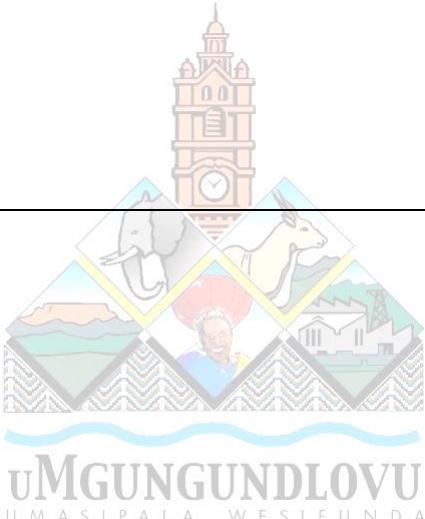
### FOR BANK USE ONLY

<p>I/we hereby certify that the details of our client's bank account as indicated above is correct:</p> <p>.....</p> <p>AUTHORISED SIGNATURE(S)</p>	<p>OFFICIAL DATE STAMP</p>
---	----------------------------

## JOINT VENTURE AGREEMENT

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. ...., authorized 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:

**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.

Service providers intending to tender in the form of Joint Ventures/Consortiums must submit the following documentation together with the tender:

1. Original and valid tax clearance certificate of all parties of the Joint Venture/Consortium;
2. An undertaking duly signed by all parties of the Joint Venture/Consortium indicating their intention to enter into an agreement for the purposes of the contract and;
3. A consolidated valid and original or certified copy of their B-BBEE Status level verification certificate obtainable from a verification agency accredited by SANAS or a registered auditor approved by the Independent Regulatory Board of Auditors (IRBA);
4. Bank rating of all parties of the Joint Venture/Consortium or the bank rating of the joint venture bank account– if applicable;
5. Letter of “Good standing” from the Entity’s Financial Institution (Bank) of all parties of the Joint Venture/Consortium– if applicable;

6. Proof of good standing with municipal accounts of all parties of the Joint Venture/Consortium;
7. Declaration of interest of all parties of the Joint Venture/Consortium;
8. Declaration of bidder's past supply chain management practices of all parties of the Joint Venture/Consortium;
9. Certificate of independent bid determination of all parties of the Joint Venture/Consortium.

Further to the above, the name of the Joint Venture/Consortium must appear on the relevant pages of the document. Failure to comply with these requirements shall lead to disqualification.



<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			

## SCHEDULE OF PROPOSED SUB-CONTRACTORS

The Tenderer shall list below any Sub-Contractors he wishes to employ to carry out part(s) of the Work.

The acceptance of his tender shall not be construed as approval of all or any of the listed Sub-Contractors. Should any or all of the Sub-Contractors not be approved subsequent to acceptance of the tender, this shall in no way invalidate this tender. Furthermore, the tendered unit rates for the various items of work shall remain final and binding.

No.	PROPOSED SUB-CONTRACTORS	PART OR TYPE OF WORK	ADDRESS OF PROPOSED SUBCONTRACTOR	CONTACT DETAILS	VALUE OF WORK I
1					
2					
3					
4					
5					
6					
7					
TOTAL VALUE OF WORKS TO BE SUB-CONTRACTED					R

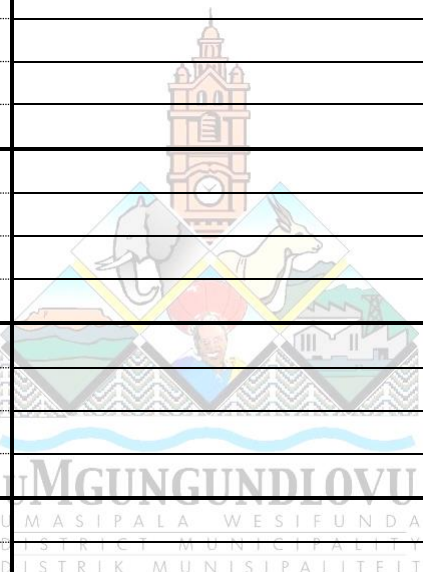
Bidders are requested to furnish certified copies of the proposed subcontractor's CK Certificate, copy of latest municipal statement, BEE Rating Certificate as well as certified copies of the owners' Identity Documents along with this tender.

SIGNED ON BEHALF OF TENDERER: .....



## EXPERIENCE OF TENDERER

The following is a statement of work of a similar nature (E.g., from clients that are either National/Provincial or Local/District municipalities or organs of state for review of the Local Economic Development Strategy) awarded within the past 5 years with a minimum value of R 300 000.00:

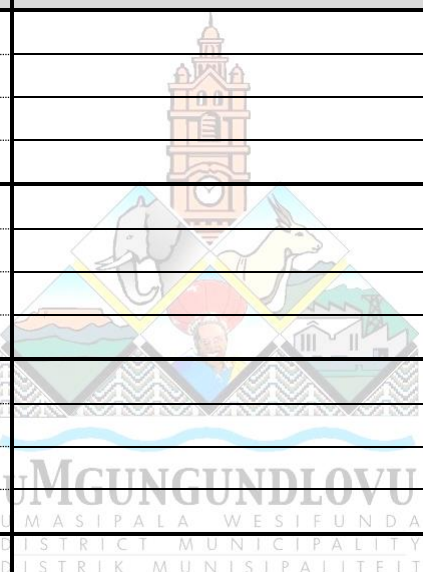
EMPLOYER: CONTACT PERSON AND TELEPHONE NUMBER	DESCRIPTION OF WORK	VALUE OF WORK (inclusive of VAT)	COMPLETION DATE
(Client)			
(Contact Person)			
(tel.)			
(email)			
(Client)			
(Contact Person)			
(tel.)			
(email)			
(Client)			
(Contact Person)			
(tel.)			
(email)			
(Client)			
(Contact Person)			
(tel.)			
(email)			

A separate schedule, clearly referenced, may be inserted here.

SIGNATURE: ..... DATE: .....  
(of person authorised to sign on behalf of the Tenderer)

### EXPERIENCE OF TENDERER (Cont.)

The following is a statement of work of a similar nature (E.g., from clients that are either National/Provincial or Local/District municipalities or organs of state for review of the Local Economic Development Strategy) awarded within the past 5 years with a minimum value of R 300 000.00:

EMPLOYER: CONTACT PERSON AND TELEPHONE NUMBER	DESCRIPTION OF WORK	VALUE OF WORK (inclusive of VAT)	COMPLETION DATE
(Client)			
(Contact Person)			
(tel.)			
(email)			
(Client)			
(Contact Person)			
(tel.)			
(email)			
(Client)			
(Contact Person)			
(tel.)			
(email)			
(Client)			
(Contact Person)			
(tel.)			
(email)			

SIGNATURE: ..... DATE: .....  
(of person authorised to sign on behalf of the Tenderer)

## REFERENCE LETTERS

Bidders must have **specific experience** {(i.e., Bidders must provide a **minimum of Three reference letters** demonstrating proof of successful completion of developing an LED Strategy at either a National/ provincial /District or Local Sphere of Government with a minimum value of R 300 000.00

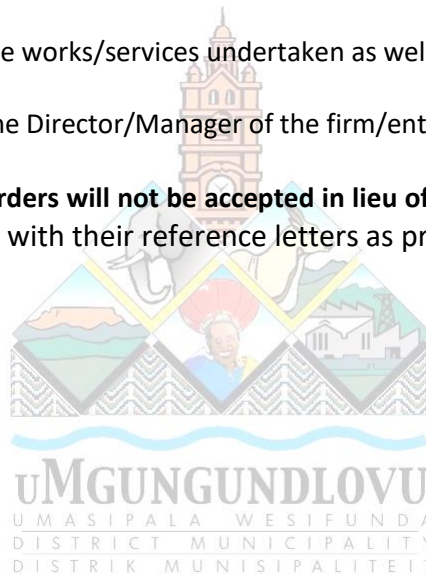
And submit recent references (in a form of written proof/(s) on organization's letterhead including relevant contact person, **nature of service, contract amount, commencement date, end date**, and contact details) of similar work undertaken.

Reference Letters must make reference to the nature of the works/services undertaken as well as the **total value of the works** executed by the bidder.

Reference Letters are to be signed by the referee (either the Director/Manager of the firm/entity or their delegated official) and dated.

**Bidders are to note that appointment letters/purchase orders will not be accepted in lieu of reference letters.** However, bidder may now appendage their respective appointment letters/Purchase Orders with their reference letters as proof of the value of the contract.

Attach Letters of Reference to this page.



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

## RECORD OF ADDENDA

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.

Communications regarding the revision of this tender document can be also be viewed on the following websites:  
[www.etenders.treasury.gov.za](http://www.etenders.treasury.gov.za) or [www.umd.gov.za](http://www.umd.gov.za) under SCM > Tender.

NO	DATE	TITLE OR DETAILS
1.		
2.		
3.		

*Attach additional pages if more space is required.*

**Failure to acknowledge any addendum released by uMgungundlovu District Municipality will result in your tender submission being declared non-responsive.**

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

## ELIGIBILITY CRITERIA

Tender offers will only be accepted if:

2. The tenderer must be compliant in their tax matters with the South African Revenue Services (SARS);
3. The Form of Offer is completed and signed;
4. The tenderer has attended the Compulsory Briefing Session;
5. The tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 person prohibited from doing business with the public sector;
6. The tenderer has not:
  - i. abused the Employer's Supply Chain Management System; or
  - ii. failed to perform on any previous contract and has been given a written notice to this effect;
7. The tenderer is registered on the Central Supplier Database;
8. The tenderer is not in arrears for more than 90 days (30 days if the tender price exceeds R10 Million) with municipal rates and taxes and municipal service charges. The latest municipal account is to be attached. The statement must not be older than three months from the closing date of this tender. Alternatively, if the tenderer is currently leasing premises and is not responsible for the payment of municipal services, a copy of the Lease Agreement together with the landlords letter confirming levies are up to date must be attached;
9. A Joint-Venture Agreement, if applicable, is submitted with tender;
10. Bidders companies must provide a **minimum of Three reference letters** demonstrating proof of successful completion of developing an LED Strategy at either a National/ provincial /District or Local Sphere of Government with a minimum value of R300 000.00
11. The tenderers scores more than or equal to 60 points out of 100 in respect of the Functionality Test;
12. The following schedules are fully completed and signed:
  - i. Invitation to bid – MBD 1
  - ii. Declaration of interest – MBD 4
  - iii. Declaration of bidder's past supply chain management practices – MBD 8
  - iv. Certificate of independent bid determination – MBD 9
  - v. Proof of good standing with municipal accounts
  - vi. Authority for signatory
  - vii. Joint venture agreement (if applicable)
  - viii. Record of addenda

## FUNCTIONALITY TEST

Service Providers will be evaluated in terms of functionality as part of the minimum requirements before evaluated on price as follows:

Criteria	Max Points
Qualifications of Project Leader (Economics, Development Studies, Commerce, Planning or Business Administration)	25
Project Management experience, for the Project Leader.	20
Economic Research experience, after qualification, for Project Leader.	15
LED Strategy development for National/Provincial or District or Local Sphere of Government	10
Project development Experience, for Project Leader.	30
<b>Total</b>	<b>100</b>

Service Providers that qualified pre-evaluation in terms of the functionality cut-off points of 60 points will then be evaluated in terms 80/20 preference point system.

<b>Qualifications of Project Leader (Economics, Development Studies, Commerce, Planning or Business Administration) – Proof: Certified copy of qualification</b> Points are not cumulative; only highest applicable points will be awarded	Weight
Master's Degree	25
Honour's Degree	20
Bachelor's Degree or Lower	15

<b>Project Management Experience of Project Leader – Proof: CV of the project Leader</b> Points are not cumulative; only highest applicable points will be awarded	Weight
Over 10 Years' Experience	15
≤ 10 Years ≥ 5 Years' Experience	10
3 to 5 Years Experience	5
< 3 Years Experience	0

<b>Economic Research Experience of Project Leader – Proof: Reference letter from previous client</b> Points are not cumulative; only highest applicable points will be awarded	<b>Weight</b>
Over 10 Years' Experience	15
≤ 10 Years ≥ 5 Years' Experience	10
≤ 5 Years Experience	5

<b>LED Strategy development for National/ provincial /District or Local Sphere of Government – Proof: Bidders Companies Reference Letter confirming developed LED Strategy</b> Points are not cumulative; only highest applicable points will be awarded	<b>Weight</b>
National/Provincial Spheres of Government	10
District Municipality Sphere of Government	10
Local Sphere of Government	10

<b>Project Development Experience of Project Leader – Proof: CV of the project Leader Outline</b> Project Development Experience Points are not cumulative; only highest applicable points will be awarded	<b>Weight</b>
Over 10 Years' Experience	30
≤ 10 Years ≥ 5 Years' Experience	25
≤ 5 Years Experience	15

**Note: A bidder/s that scores less than 60 points out of 100 in respect of functionality will be regarded as submitting a non-responsive bid and will be disqualified.**

Should the relevant bidder/s meet the minimum required percentage or minimum points, they will be evaluated in terms of price and preference as per the PPPFA Act, No.5 of 2000 and its associated Regulations issued by the National Treasury.

<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			



## COMPANY PROFILE

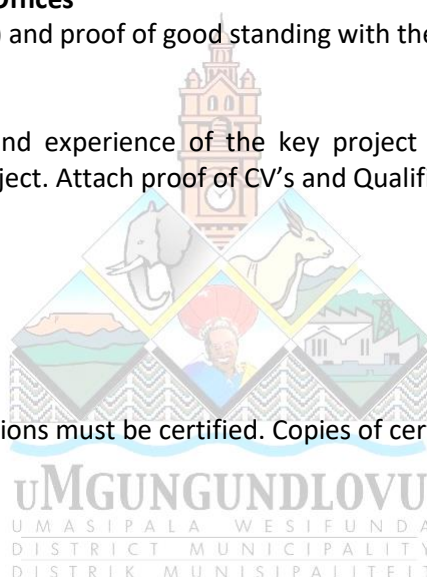
Bidders are required to submit a Company Profile that records evidence of previous work which substantiate their ability to undertake specific tasks.

The Company Profile must include the following items:

- **Company Registration Documents**
- **ID Documents**
- Latest Financial Statements
- VAT Registration Certificate
- Proof of Experience in the Industry
- **Proof of Locality of Registered Offices**
- Letter of Good Standing (COIDA) and proof of good standing with the Unemployment Insurance Fund (UIF) – if applicable
- OHS Act Policy
- Proof of qualifications, skills, and experience of the key project personnel/experts to be assigned and committed to work on the project. Attach proof of CV's and Qualifications.

Please note that all copies of qualifications must be certified. Copies of certified documents will not be accepted.

**Attach Company Profile to this page.**



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

## CENTRAL SUPPLIER DATABASE REGISTRATION

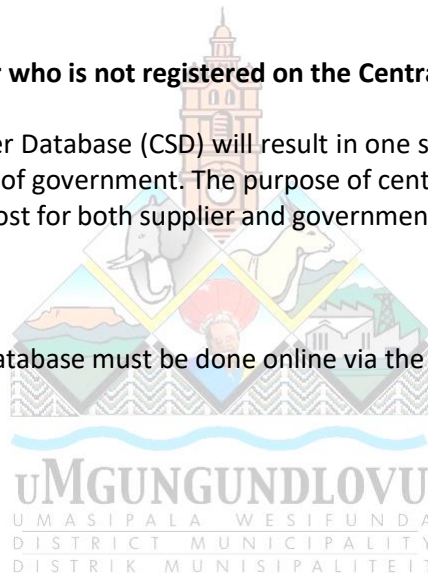
<b>Name of Tenderer</b>	
<b>Supplier Number</b>	

**No awards will be made to a tenderer who is not registered on the Central Supplier Database (CSD).**

The establishment of a Central Supplier Database (CSD) will result in one single database to serve as the source of all supplier information for all spheres of government. The purpose of centralising government's supplier database is to reduce duplication of effort and cost for both supplier and government while enabling electronic procurement processes.

Registration on the Central Supplier Database must be done online via the website:

<https://secure.csd.gov.za/>



<b>SIGNATURE</b>		<b>NAME (PRINT)</b>	
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME OF FIRM</b>			

## SCHEDULE OF ALTERNATIVES

Should the Tenderer not be able to meet any requirement of the Tender Documents, he shall state below:

Page and Item	Alteration Proposed by Tenderer	Accepted/Rejected by uMDM

- Any items that are to be considered as an alternative **MUST** be reported to the municipality not later than 7 working days from the closing date.
- The municipality must then confirm or reject the alternative in writing. If the municipality fails to respond in writing prior to the close of the tender, the bidder must then consider the alternative as being rejected. Correspondence from the municipality in response to the application must be appendaged behind this page.



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

## NOTICE OF COMPULSORY BRIEFING SESSION

A compulsory briefing session will be held on **27 September 2023 at 10h00**

The meeting point for the Briefing Session will be at the Council Chambers, 242 Langalibalele Street, Pietermaritzburg.

### Compulsory Briefing Session Certificate

It is hereby certified that I have attended the Compulsory Briefing Session and have satisfied myself of the conditions and circumstances which may influence the Works and the cost thereof.

*(Print clearly)*

NAME OF REPRESENTATIVE	
ON BEHALF OF TENDERER	
ADDRESS	
TELEPHONE NUMBER	
SIGNATURE (FOR TENDERER) (MUST BE FULLY <u>SIGNED</u> )	

### FOR OFFICIAL USE ONLY

I CONFIRM THAT THE TENDERER WAS PRESENT AT THE COMPULSORY BRIEFING SESSION	OFFICIAL DATE STAMP
--	---------------------

## SCOPE OF WORKS

The uMgungundlovu District Municipality seeks professional service providers to assist the uMgungundlovu District Municipality to review the Local Economic Development Strategy for the area, as required in terms of the legislation, for a period not exceeding 8 months.

### LOCAL ECONOMIC DEVELOPMENT STRATEGY TERMS OF REFERENCE

#### 1. Introduction and Background to the Study

uMgungundlovu District has a Local Economic Development Strategy that was compiled in 2007. In view of the requirements for local government to have a credible LED strategy in place, the current Economic Development Strategy needs to be reviewed to reflect the most recent local and regional development dynamics and include an implementation plan. Reviewing the strategy will enable the municipality to determine how its LED strategy is progressing and identify any recent developments that may hinder or assist in the implementation of the strategy. The intention of this review is to provide an analysis of recent socio economic and demographic trends within the Municipality in order to reflect changes in the local economy and lessons learnt from the implementation of the LED Strategy developed in 2007. It is envisaged that the outcome of the review process will provide clear direction and guide the district in undertaking successful economic development initiatives based on the current regional economic situation.

#### Purpose of the Terms of Reference

The purpose of this document is to solicit the services of a competitive service provider to assist uMgungundlovu District in undertaking a review of its Local Economic Development Strategy for the area. The aim of this project is to undertake a review of the Strategy in order to assess the extent to which the LED Strategy has been implemented within the area and to incorporate changes in demographics and other socio-economic developments including trends that have taken place within the local and regional economy. The review also aims to ensure the alignment of the district programmes, plans, strategies and initiatives with those of the Provincial and National governments. The review will also reflect on new studies and projects that have been funded in the local area that may pose an impact on the economic potential and development of uMgungundlovu region. One of the imperatives of the review process is to ensure that the LED Strategy is aligned with the district Integrated Development Plan (IDP).

Prospective bidders can include a firm or consortium of firms or a consortium of individual experts.

uMgungundlovu is looking for service providers who can effectively demonstrate how they will deliver these objectives whilst providing value for money. It is important therefore that prospective bidders clearly and concisely describe their methodology / approach towards each of the specific outputs, programmes, projects, time frames, resource allocations, deliverables and risk management strategies.

#### 2. Project Objectives

## **2.1 Overall Project Objective**

The overall objective of the project is to undertake an LED Strategy Review in order to identify economic development needs, opportunities and comparative advantages of the uMgungundlovu District. The review process should also seek to inform and guide the municipality on ways to facilitate development; facilitate job creation within uMgungundlovu; promote the creation and growth of small enterprises; foster productive economic linkages within the region's economy; enhance the stability and growth prospects of uMgungundlovu and surrounding economy and promote inward investment.

## **3.1 Specific Activities and Outputs**

### **3.1.1 Project Inception**

The service provider is required to provide a detailed Inception report noting overall approach, methodology, detailed activities, timelines and associated resource allocations to successfully complete the project for incorporation in the Service Level Agreement between the parties.

The Inception report will serve as a discussion document and will be the basis on which the detailed approach to the project is agreed. The Inception report is an interim deliverable that is expected to be completed within weeks from the time the service provider is appointed.

The appointed Service Provider is required to establish the Project Steering Committee (PSC) for the LED Strategy Review. The project Steering Committee (PSC) should incorporate all relevant Stakeholders from the Public and Private Sector to oversee the formulation of the LED Strategy. The PSC should meet monthly for the duration of the project and all administration related to the PSC will be the responsibility of the appointed service provider.

The purpose of the PSC will be to ensure understanding, alignment, coordination and the buy-in from the all the relevant stakeholders. The PSC should consist of at least the following stakeholders:

- Local municipalities
- Provincial Government Departments: EDTEA, Cogta,
- Organized Business and Sector Organizations
- Informal Business: Local Informal Business Chambers
- Relevant NGO's and NPO's

### 3.1.2 Situation Analysis

This phase should involve a review of recent relevant district, provincial and national policies, programmes, strategies/ plans and projects; (e.g. New Growth Path Framework, PGDS, PSEDs, KZN Industrial Strategy, Spatial Development Strategy, UMDM IDP, uMgungundlovu District Growth and Development Strategy, DDM, SDF and many others in order to ensure alignment of the district economic development efforts and initiatives with provincial priorities and strategies. It will also allow alignment with the uMgungundlovu District Spatial Economic Development Strategy and Corridor Plan.

The overall purpose of this phase should be to gather all relevant information pertaining to the existing development situation of the area; in order to provide a background and analysis of the current demographic, social and economic characteristics of the district in order to reflect on changes. The population should be analysed in terms of numbers, profile, household income, employment, skills levels etc. It should also provide a strategic assessment, which identifies the key socio-economic issues and trends that will define the strategic role of the study area within uMgungundlovu; focusing on the key strengths and weaknesses of the main economic sectors (SWOT Analysis), as well as the opportunities that exist with regards to further development of these sectors.

### 3.1.3 Strategic Framework

Once the economic needs and potential of the area have been established it will be possible to develop a strategic framework for the area, which is aligned to the wider economic development strategies and plans for the district. The Strategic Framework component will identify means for the district to unlock the economic development potential within its jurisdiction. This phase should focus on the identification of tools and strategies that should be adopted by the municipality in order to create an enabling environment for local economic development, based on the challenges and economic opportunities identified in the situational analysis.

This phase should combine opportunities for development of the formal economy, informal economy, LED projects, entrepreneurial support and skills development amongst the previously disadvantaged members of the regions population. This phase should include the undertaking of a SWOT analysis. The service provide is also expected to assist with the formulation of a database of existing and potential economic opportunities as well as a project identification and prioritisation framework (matrix), which can guide the district with respect to project prioritisation and integration. The strategy must also take into account the N3 corridor development and its potential.

The formulation of the plan should also take into consideration various sector plans which include uMgungundlovu Rural Development Plan. It is essential that all the components of these plans be explored. The LED strategy needs to consolidate these opportunities for the realisation of the strategic objectives.

Based on information gathered in the preceding phases and through consultation with relevant stakeholders; this phase should set out the key economic development projects that should be explored by the district. This Phase must include an assessment of each local context (local municipality) to ensure holistic development that is both integrated and coordinated. This phase should also provide an analysis of the current institutional and staffing arrangements within the district and its implication to LED implementation.

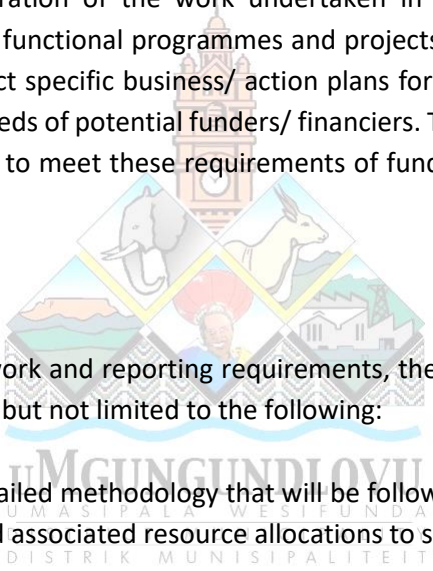
#### **3.1.4 Monitoring & Evaluation Framework**

A performance monitoring and evaluation mechanism should be developed to assess and manage the achievement of the strategic targets over the short, medium and long term. This framework should be based on targets interpreted in terms of key performance indicators (KPIs).

#### **3.1.5 Implementation Strategy**

This phase will involve the integration of the work undertaken in the previous phases into a coherent Implementation plan consisting of functional programmes and projects. It should include the prioritisation of projects, and preparation of project specific business/ action plans for those identified projects as well as an investigation of the information needs of potential funders/ financiers. The business planning work undertaken during this phase will be expected to meet these requirements of funders ensuring that the project business plans produced are bankable.

### **3.2 Key Outputs and Deliverables**

- 
- (1) In accordance with the scope of work and reporting requirements, the Service Provider is required to deliver interim and final material related, but not limited to the following:
    - (a) An inception report and a detailed methodology that will be followed, all logistical arrangements, activity based work-plan, timelines and associated resource allocations to successfully complete the project.
    - (b) A comprehensive situational analysis of the region that encompass:
      - A detailed analysis of the region's economy in order to establish the economic development potential of the area and an understanding of the recent demographic, socioeconomic and institutional trends.
      - A preliminary analysis of existing infrastructure in terms of roads, water, electricity
      - Analysis of existing and potential business/ investment opportunities as well as property trends
      - Strategic assessment of the district area and linkages to the broader economy.
      - A consultative process which will be critical for the SWOT analysis.
      - Assessment of the institutional capacity to undertake and implement economic development initiatives in the area.
      - To undertake an economic analysis to identify the key economic trends in the region that is supported by economic data from reputable sources. The economic and business intelligence data



gathering process should focus on macro economy, formal businesses and informal businesses. Also the improved land use of traditional land for Communal / Commercial Agricultural purposes.

- To establish and determine what sectors, commodities and market opportunities exist in the district that are significant to economic activity and could be developed in order to positively impact on economic growth.
- To develop an implementable LED Strategic Framework for the Municipality in partnership with local stakeholders and relevant agencies to support sustainable economic development.
- To formulate a data- base of projects currently being implemented together with a sustainability analysis as well as economic development opportunities or projects that can be pursued in the future.
- To formulate a matrix to assist in the identification and prioritization of strategic economic development projects
- Proposal for creating jobs through the utilization of the key potential growth sectors in the district.
- Provide information on the regulatory framework within the district and its impact on economic development
- A district comprehensive situational analysis which includes economic profile; employment trends, educational qualities and basic skills audit and provide a data base of all stakeholders/Community Based Organizations operating in the district.
- Provide specific area spatial opportunity map for each economic sector (Precinct plans and Nodes).
- Identify projects and prioritize projects with catalytic potential.
- Provide implementation plan and the estimated costs there-off.
- Training program opportunities and institutions available to partner with.
- Risk assessment.

(c) A strategic development framework, incorporating, but not limited to the following:

- A long-term vision and goals concerning economic development within the region.
- Identification of sector potential and opportunities within the district.
- Analysis of the current institutional and staffing arrangements and the development of an appropriate institutional framework.
- Formulation of a strategic development framework with key programmes based on the lead sectors and opportunities identified in the area.
- Identification of infrastructure requirements that would have to be in place for the successful implementation of projects.

(d) A monitoring and evaluation framework to allow the district to:

- Effectively monitor and evaluate the implementation of the LED Strategy

(e) A comprehensive implementation plan consisting of but not limited to the following aspects:

- Identification of key programmes and projects that are clearly linked to the prevailing local economic situation and tangible local resources available in the area.
- Prioritisation of projects in terms of timelines, budget and impact.
- Individual Business/ action plans for prioritised projects.
- Recommendations pertaining to the necessary institutional requirements that would have to be in place for the successful implementation of the project.

#### **4. EXPECTATIONS**

Use of various strategic tools such as Porter 's Diamond, Five Forces Model, Value Chain Analysis, PACA etc.

- Conducting of interviews with the formal and informal business community to understand their challenges and expectations for strategic support.
- Clear alignment of proposed strategies with the NSDP, ASGISA, PGDS, KZN Industrial Strategy and the UMgungundlovu LED Plan etc.
- Identify the district vision for LED and develop means for achieving the vision.
- Involve LED stakeholders to develop a strategy for local economic development for the municipality.
- Indicate the most promising sectors, priority interventions and their configurations.
- Develop proposals for the development of the promising sectors.
- Identify the local economy's most promising sectors and the main impediments to the unfolding of its potential.

#### **5. REVIEW AND FINALIZATION OF LED STRATEGY**

This LED Strategy will be tested with key stakeholders within and outside the Municipality. A one-day workshop will be held in this regard to be attended by the Project Team and other relevant stakeholders to be identified by the Project Team. Following the review by key identified stakeholders, the consultants will undertake a revision of the draft LED strategy document for final submission.

##### **5.1 Led Business Plan Formulation**

###### **5.1.1 Develop Led Business Plan**

Based on the LED strategy formulated above, and a review of existing funding sources and projects, and the municipal operating budget, the consultants will develop a business plan with an indicative budget for the implementation of the Led strategy. This business plan will address the following key issues:

- Implementation responsibilities
- Institutional and capacity requirements
- Funding sources
- An indicative budget per programs and sub-project

### **5.1.2 Test and Review Business Plan**

The business plan will be tested with relevant implementing agencies at a workshop. Based on the comments received the business plan will be finalized.

### **5.1.3 Draft Technical Support Budget for Implementation**

Following approval of the overall LED strategy and the business plan by the uMgungundlovu District Municipality, the consultants will assist in the preparation of a budget for technical support to implement the LED strategy.

### **5.1.4 Technical Support During Implementation**

This will involve ongoing technical support to the implementing agencies in the implantation of the LED strategy, comprising amongst other components:

- The development of project-specific business plan
- The preparation of funding applications; and
- The establishment of project management capacity

## **6. PROJECT MANAGEMENT PROCESS**

The service provider will report to the Economic Development and Planning Department and will be required to sign a Service Level Agreement (SLA). The appointed service provider will present an inception report to uMgungundlovu District Municipality at the commencement of the work. The HOD and LED officials will co-manage the service provider. The preliminary and the final LED strategy will be reviewed by uMgungundlovu District Municipality. Comments and inputs will also be sought from LED professionals and other institutions with experience in Local Economic Development. The draft LED Strategy is expected to be submitted within Four (4) months of the commencement of work.

## **7. REPORTING REQUIREMENTS**

The following are reporting requirements:

- An inception report- to provide more details on how the service provider will conduct the project. Timelines and milestones should also be spelt out clearly.
- A status quo report- this should provide information on the economic status quo of the district.
- Strategy framework report- identify strategies and rationale.
- Project identification and implementation plan- identification of projects, prioritization of projects and the implementation plan.

## **8. ANTICIPATED TIMEFRAMES**

The project should be finalized for a period not exceeding Eight (8) months of appointment and the situational analysis should be submitted within 2 months of appointment. The project milestones should be determined by agreement at project inception. Reports must be directed to the PSC for approval. A final report should be submitted once all comments from the PSC are incorporated into the document and approved by the PSC.

## **9. REQUIREMENTS**

### **9.1 Project Management**

The service provider appointed to undertake this project should demonstrate the following key competencies:

- Sufficient knowledge and expertise in order to accurately assess the factors that will impact on the successful implementation of the project mentioned above.
- Be suitably qualified and experienced to provide detailed and specialist advice and information on the formulation of the above project.
- Proven track record (timely, effective and efficient delivery).
- Sufficient sectoral knowledge and expertise in order to accurately assess the critical factors affecting economic development in the region.
- Similar assignment undertaken will be an advantage.
- Strategy development and presentation skills.
- Technical ability to interpret the requirements.
- A sound approach and methodology towards delivering on the assignment.

## 9.2 Team Composition

The proposal must provide a detailed description of the Team composition which shall include:

### 9.2.1 Key Expert 1: Team Leader

The Team Leader must have an officially recognized qualification with majors in Economics, Development Studies, Commerce, Town Planning or Business Administration ~~5~~ with experience of at least 3-10 years *or more* relevant experience in Local Economic Development and project development.

The Team Leader should possess skills and competencies in the following areas: economic development strategy development, project development, project management, small business development, informal economy, policy framework as well as institutional development.

### 9.2.2 Key Expert 2: Economic Development Acumen.

The Economic Development Specialist must have an officially recognized qualification with majors in Economics, Development Studies, Commerce, Planning or Business Administration with experience of at least 3-10 ~~5~~ years relevant experience in local economic development. The Specialist should have a sound knowledge of business planning practices, market research, financial analysis and budget preparation with experience in project management and small business development. The Specialist should have knowledge of feasibility studies, sector studies, business plans, IDPs (integrated development plans), project financing, SWOT and LED Plans; small business development; partnerships for economic development; legislation, policy and strategies affecting local economic development including research methodologies. The Specialist should also have extensive experience in report writing and possess good presentation skills.

### 9.2.3 Key Expert 3: Sector Specialist/ Researcher

The Sector Specialist must have an officially recognized qualification with majors in Economics, with 5-10 years relevant experience. The project leader should have a sound knowledge of local economic development, economic research, and project management.

## 10. SELECTION CRITERIA

Proposals will be evaluated in two phases which is functionality (on their compliance to the above-mentioned requirements) and price in accordance with the Supply Chain Management Policies as well as the Preferential Procurement Policy Framework.

80 points will be allocated for price and 20 points will be allocated to preference. Functionality points will be allocated as reflected in the table below:

The KwaZulu-Natal Co-operative Governance & Traditional Affairs as part of the South Africa Government adheres to all the regulations of procurement including but not limited to the Preferential Procurement Policy Framework Act and Broad Based Black Economic Empowerment Codes.

## 11. GENERAL INFORMATION

No proposal is to be sent by email, telegraph, facsimile or any other electronic means. Listed hereunder are the returnable documents to be submitted with the proposal.

- A valid tax clearance certificate;
- The provincial supplier database registration number;
- A Company's profile;
- A description of the Company/s activities;
- Project approach and implementation plan
- CVs of personnel assigned to the project
- A description of the Company/s service offerings within the Training and development services.
- References confirming past performance of Training and Development (Project Management) related work in Public Sector

## USER DEPARTMENT CONTACT INFORMATION

**The contact person for the technical enquiries on the Terms of Reference during office hours is:**

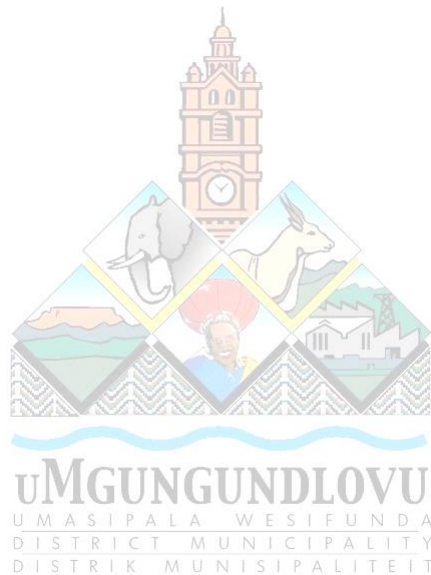
Name : Mr MJ Sitole  
Tel : 033-897 6987  
Email : [mandisa.mthethwa@umdm.gov.za](mailto:mandisa.mthethwa@umdm.gov.za)

## CANCELLATION OF CONTRACT

uMDM reserves the right to cancel the contract in the event of one or more of the following circumstances:

- Serious discrepancy in the provision of the required services by the bidder.
- Breach by the vendors of any of the terms and conditions of the tender.
- Any action by the bidder which is in breach of law or accepted practices in the commercial transactions.
- If the Vendor goes into liquidation voluntarily or otherwise.

**TIMEFRAME:** The timeframe for the completion of the works should be for a period not exceeding Eight (8) months.



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

### PRICING SCHEDULE

DESCRIPTION	COST
Review of Local Economic Development Strategy (as per specification)	R
VAT	R
<b>TOTAL</b> (To be taken to Contract Form on page 6)	R



**PRICES MUST BE FIXED FOR THE DURATION OF THE CONTRACT, NO OTHER FEES WILL BE ENTERTAINED OTHER THAN THOSE THAT ARE DECLARED ABOVE.**

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			



## SPECIAL CONDITIONS OF TENDER

1. **Time for Practical Completion or Delivery:** The time for achieving Practical Completion of the entire Works is eight (8) months from the Commencement Date of the Contract, including the year-end break and allowance for the lead time the supply of any materials.
2. **Penalty for Delay:** Failure to complete the required goods and/or services by the due completion, the municipality shall deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance.
3. **Poor Performance:**
  - 3.1. Issues of poor/ unsatisfactory performance will be communicated in writing, compelling the service provider to perform according to the contract and thus to rectify or to restrain from unacceptable actions.
  - 3.2. Where the supplier fails to render the services within the stipulated period, or should services rendered be deemed not to the satisfaction of the uMgungundlovu District Municipality, the tenderer will receive written notice of poor performance. Failure to address performance issues could result in penalties being applied and/or the entire contract being reviewed or cancelled.
  - 3.3. The municipality further reserves the right to refer matters of poor performance and/or fraudulent conduct by the supplier to National Treasury for inclusion in their Restricted Supplier Database.





## GENERAL CONDITIONS OF TENDER

### 1. General Conditions of Contract

This Bid is subject to the General Conditions of Contract (GCC) 2010 and, if applicable, any other Special Conditions of Contract.

### 2. Submission of Tenders

Sealed tenders, with the "Tender Number and Title" clearly endorsed on the envelope, must be deposited in the tender box indicated at the offices of the uMgungundlovu District Municipality, 242 Langalibalele Street, Pietermaritzburg.

All literature must be securely attached to the tender. The Council shall not be held liable for any loss or damages sustained due to the service provider's failure to comply with this condition.

If a courier service company is being used for delivery of the tender document, the tender description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the tender box. The uMDM will not be held responsible for any tender document which is not timeously delivered, mislaid or incorrectly delivered due to the negligence of the courier company or any other party involved in the delivery of the tender document.

Please note:

- Tenders that are deposited in the incorrect box will not be considered.
- Telegraphic or faxed tenders will not be accepted.
- The use of correction fluid/tape on the bid documents is not allowed. If there is an error, draw a line through it, initial next to it and make the correction directly above /below/next to it.
- All bids must be submitted in writing on the official forms supplied (not to be re-typed)
- All prices shall be quoted in South African currency.

### 3. Quality Assurance

Any defects, patent or latent, which are attributable to poor workmanship, will be rectified by the bidder at own cost and time and all costs relating to the correction of defects will be expressly and separately noted on billing documentation.

### 4. Brand Name

- i. Special brands, where named, are used to indicate the standard of quality desired. Tenderer's equal/similar item will be considered, provided that the Tenderer specifies brand name(s) and submits full specifications. If the full set of specifications of the alternative item is not submitted, the item will not be evaluated and will not be considered for award.
- ii. In the event the Municipality elects to accept an alternative item purported to be equal/similar by the Tenderer, the Municipality may request the tenderer to provide samples of the alternative offer for testing and inspection. Acceptance of the item(s) will be conditional on such inspection and testing after receipt.
- iii. If, in the sole judgment of the Municipality, the item is determined not to be equal/similar, the item shall be collected by the Bidder and not be considered for award.
- iv. The samples must be within 30 days of notification. The samples will be discarded if not collected within 30 days and the Municipality will not be accountable for any loss suffered by the bidder due to the discarding of the samples.
- v. If a tenderer wishes to have an equal/similar item considered they must declare it first.

## **5. Validity Period**

Bids shall remain valid for ninety (90) days after the tender closure date.

## **6. Renewal of Contract**

The Municipality may exercise its option to renew this agreement, with a financial escalation clause, in line with the latest CPI statistics, which will commence at the end of the contract period, and the terms thereof for a further period not exceeding 6 (six) months at a time, upon giving 30 days' notice to the Service Provider of its intention to exercise that option.

## **7. Quantities of Specific Items**

If tenders are called for a specific number of items, the Municipality reserves the right to change the number of such items to be higher or lower. The successful bidder will then be given an opportunity to evaluate the new scenario and inform the Municipality if it is acceptable. If the successful bidder does not accept the new scenario, it will be offered to the second-placed bidder. The process will be continued to the Municipality's satisfaction.

## **8. Intellectual Property Rights**

Copyright, patent rights and other similar rights in any works or products created as a result of the performance of this proposal and its assignments will vest in and are hereby transferred to uMgungundlovu District Municipality (uMDM), unless specifically agreed otherwise, in the form of individual written Agreement signed by both parties. For this purpose only, all works created in terms of this proposal and the assignments thereof will be deemed to have been created under the control and direction of uMDM.

## **9. Disbursements, Travel And Subsistence**

No bidder will be refunded any cost or disbursements incurred in respect of the project, save where the prior written approval of uMDM has been obtained in respect of such expenditure.

Any authorized disbursements will be refunded at the reasonable and actual cost determined by uMDM. Any expenditure incurred by the successful bidder in respect of authorized travel for the project will be refunded in accordance with the uMDM travel policy as applicable from time to time. The rates payable for the use of private vehicles will be the prevailing rates quoted by the Automobile Association of South Africa

All claims in respect of authorized disbursements (travel and subsistence costs) must be substantiated by documentary evidence such as receipts and logs of kilometres travelled.

All expenses incurred by the bidder for the proposal and presentations are the responsibility of the bidder and will not be reimbursed by uMDM.

## **10. Certified Copies**

The tenderer shall, where required in terms of the tender document submit with the proposal, certified copies of all certificates specified. Failure to do so may render the proposal liable to rejection on the grounds of being incomplete. Copies of certified documents will not be accepted.

## **11. Bids Exceeding R10 Million**

If the tendered value exceeds R10 million (VAT included), bidders are required to furnish:

- i. if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:

- for the past three years; or
- since their establishment if established during the past three years;
- ii. a certificate signed by the bidder certifying that the bidder 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;
- iii. particulars of any contracts awarded to the bidder 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
- iv. 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; and
- v. Disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

#### **12. Acceptance or Rejection of a Tender**

The Municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The Municipality does not bind itself to accepting the lowest tender.

#### **13. Completion of Tender Documents**

The original tender document must be completed fully in black ink and signed by the authorised signatory to validate the tender. Tender documents may not be retyped. Retyped documents will result in the disqualification of the tender. The complete original tender document must be returned. Missing pages will result in the disqualification of the tender.

No unauthorised alteration of this set of tender documents will be allowed. Any unauthorised alteration will disqualify the tender automatically. Any ambiguity has to be cleared with contact person for the tender before the tender closure.

#### **14. Site / Information Meetings**

Site or information meetings, if specified, are compulsory. Bids will not be accepted from bidders who have not attended compulsory site or information meetings. Bidders that arrive 15 minutes or more after the advertised time the meeting starts will not be allowed to attend the meeting or to sign the attendance register. If a bidder is delayed, he must inform the contact person before the meeting commence and will only be allowed to attend the meeting if the chairperson of the meeting as well as all the other bidders attending the meeting, give permission to do so.

#### **15. Contact with Municipality after Tender Closure Date**

Bidders shall not contact the uMgungundlovu District Municipality on any matter relating to their bid from the time of the opening of the bid to the time the contract is awarded. If a bidder wishes to bring additional information to the notice of the uMgungundlovu District Municipality, it should do so in writing to the uMgungundlovu District Municipality. Any effort by the firm to influence the uMgungundlovu District Municipality in the bid evaluation, bid comparison or contract award decisions may result in the rejection of the bid.

#### **16. Opening, Recording and Publications of Tenders Received**

Tenders will be opened on the closing date immediately after the closing time specified in the tender documents. If requested by any bidder present, the names of the bidders, and if practical, the total amount of each bid and of any alternative bids will be read out aloud.

Details of tenders received in time will be recorded in a register which is open to public inspection. Faxed, e-mailed and late tenders will not be accepted.

## **17. Procurement Policy**

Bids will be awarded in accordance with the Preferential Procurement Regulations, 2017 pertaining to the Preferential Procurement Policy Framework Act, No 5 of 2000 and its amendments as well as the Municipality's Supply Chain Management Policy.

## **18. Wrong Information Furnished**

Where a contract has been awarded on the strength of the information furnished by the bidder which, after the conclusion of the relevant agreement, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have, recover from the contractor all costs, losses or damages incurred or sustained by the Municipality as a result of the award of the contract.

## **19. Cost of Materials**

The Municipality shall bear the cost of all materials required and supplied by the successful bidder unless it has already been included as part of the price tendered. In this instance, the municipality may request a minimum of 3 quotations for these materials must be produced when submitting a claim. A maximum mark up of 10% is allowed on materials supplied.

## **20. Value-Added Tax**

Tax invoices are to comply with the requirements as contained in the Value Added Tax Act, Act 89 of 1991. The content of the invoice must contain sufficient information for audit purposes.

It is a requirement of this contract that the amount of value-added tax (VAT) must be shown clearly on each invoice.

The amended Value-Added Tax Act requires that a Tax Invoice for supplies in excess of R3, 000 should, in addition to the other required information, also disclose the VAT registration number of the recipient, with effect from 1 March 2005.

The VAT registration number of the Municipality is 4000791642.

## **21. Central Supplier Database**

No awards will be made to a tenderer who is not registered on the Central Supplier Database.

## **22. Inducements, rewards, gifts and other abuses of the Supply Chain Management System**

No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of, may directly or indirectly:

- i. Influence or interfere with the work of any uMDM officials involved in the tender process in order to inter alia:
  - a. influence the process and/or outcome of a tender;
  - b. incite breach of confidentiality and/or the offering of bribes;
  - c. cause over- or under-invoicing;
  - d. influence the choice of procurement method or technical standards;
  - e. Influence any uMDM official in any way which may secure an unfair advantage during or at any stage of the procurement process.
- ii. Abuse of the supply chain management system is not permitted and may result in the tender being rejected, cancellation of the contract, "blacklisting" and/or any such remedies as set out in the uMDM's SCM Policy.

## GENERAL CONDITIONS OF CONTRACT 2010

### 1. DEFINITIONS

The following terms shall be interpreted as indicated:

- 1.1. "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2. "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3. "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4. "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5. "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally
- 1.6. "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7. "Day" means calendar day.
- 1.8. "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.9. "Delivery ex stock" means immediate delivery directly from stock actually on hand
- 1.10. "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11. "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12. "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable.
- 1.13. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.14. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.15. "GCC" means the General Conditions of Contract.
- 1.16. "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.17. "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

- 1.18. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.19. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.20. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.21. "Project site" where applicable, means the place indicated in bidding documents.
- 1.22. "Purchaser" means the organization purchasing the goods.
- 1.23. "Republic" means the Republic of South Africa.
- 1.24. "SCC" means the Special Conditions of Contract.
- 1.25. "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.26. "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.27. "Tort" means in breach of contract.
- 1.28. "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.29. "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

- 2.1. These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2. Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2. Invitations to bid are usually published in locally distributed news media and on the municipality / municipal entity website.

## **4. Standards**

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

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

- 5.1. The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
- 5.2. The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.



- 5.3. Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4. The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent Rights**

- 6.1. The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2. When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

## **7. Performance Security**

- 7.1. Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2. The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3. The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
  - 7.3.1. bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - 7.3.2. a cashier's or certified cheque
- 7.4. The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

## **8. Inspections, tests and analyses**

- 8.1. All pre-bidding testing will be for the account of the bidder.
- 8.2. If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspections tests and analysis, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organization acting on behalf of the purchaser.
- 8.3. If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4. If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5. Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6. Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

- 8.7. Any contract goods may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 8.8. The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

## **9. Packing**

- 9.1. The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2. The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery**

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

## **11. Insurance**

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

## **12. Transportation**

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

## **13. Incidental**

- 13.1. The supplier may be required to provide any or all of the following services, including additional services, if any:
- 13.1.1. performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - 13.1.2. furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - 13.1.3. furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - 13.1.4. performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - 13.1.5. training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.



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

#### **14. Spare Parts**

- 14.1. As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- 14.1.1. such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and;
- 14.1.2. in the event of termination of production of the spare parts:
- 14.1.2.1. advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
- 14.1.2.2. following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### **15. Warranty**

- 15.1. The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2. This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3. The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4. Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5. If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

#### **16. Payment**

- 16.1. The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2. The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3. Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4. Payment will be made in Rand unless otherwise stipulated.

## 17. Prices

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

## 18. Variation Orders

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

## 19. Assignment

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

## 20. Subcontracts

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

## 21. Delays in the supplier's performance

- 21.1. Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2. If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3. The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.4. Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22 without the application of penalties.
- 21.5. Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

## 22. Penalties

Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

## 23. Termination for default

- 23.1. The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- 23.1.1. if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
  - 23.1.2. if the Supplier fails to perform any other obligation(s) under the contract; or
  - 23.1.3. if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2. In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3. Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4. If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5. Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchase actively associated.
- 23.6. If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- 23.6.1. the name and address of the supplier and / or person restricted by the purchaser;
  - 23.6.2. the date of commencement of the restriction
  - 23.6.3. the period of restriction; and
  - 23.6.4. the reasons for the restriction.

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

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

## **24. Anti-dumping and countervailing duties and rights**

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

## **25. Force Majeure**

- 25.1. Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2. If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

## **26. Termination for Insolvency**

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

## **27. Settlement of Disputes**

- 27.1. If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2. If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3. Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4. Notwithstanding any reference to mediation and/or court proceedings herein,
  - 27.4.1. the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
  - 27.4.2. the purchaser shall pay the supplier any monies due for goods delivered and / or services rendered according to the prescripts of the contract.

## **28. Limitation of liability**

- 28.1. Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- 28.1.1. the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- 28.1.2. the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment

## **29. Governing Language**

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

## **30. Applicable Law**

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

## **31. Notices**

- 31.1. Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2. The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

## **32. Taxes and duties**

- 32.1. A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2. A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3. No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4. No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

## **33. Transfer of contracts**

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

#### 34. Amendment of contracts

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

#### 35. Prohibition of restrictive practices.

- 35.1. In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.
- 35.2. If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.
- 35.3. If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

