



**CLUSTER**  
**Trading Services**

**UNIT**  
**Water and Sanitation**

**DEPARTMENT**  
**Engineering and Data Services**

**PROCUREMENT DOCUMENT**

**PROFESSIONAL SERVICES**

Documents are to be obtained, free of charge, in electronic format, from the [National Treasury's eTenders website](#) or the [eThekweni Municipality's website](#).

**Contract No:** 30379 5W

**Contract Title:** **EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR ETHEKWINI WATER AND SANITATION UNIT**

**CLARIFICATION MEETING AND QUERIES**

**Clarification Meeting:** **Compulsory Clarification Meeting**

**Meeting Location, Date, Time:** Teams,  
Meeting ID: 360 391 292 662  
Passcode: aDMvUX  
09 September 2024 at 14:00

**Queries can be addressed to:** Simon Scruton  
**The Employer's Agent's:** Tel: 031-311-8744  
**Representative:** eMail: [simon.scruton@durban.gov.za](mailto:simon.scruton@durban.gov.za). Email queries to be submitted by 03 October 2024 and consolidated answers to questions to be uploaded by 10 October 2024

**TENDER SUBMISSION**

**The Tender Box in the foyer of the Municipal Building, 166 KE Masinga Road, Durban**

**Delivery Location:** **Bidders are required to also make an** electronic submission via SSS. Bidders must ensure that the hard copy and electronic submission are the same, failing which the submission will be deemed invalid. Bidders are responsible for resolving all access rights and submission queries before the tender closing date.

**SSS Queries Contact: Lindo Dlamini:** Tel: 031-3227133/031-3227153  
email: [selfservice@durban.gov.za](mailto:selfservice@durban.gov.za)

**Closing Date/ Time: Friday, 25 October 2024 at 11h00**

**FACSIMILE, eMAIL, or POSTED TENDERS WILL NOT BE ACCEPTED**

**Issued by:**

**ETHEKWINI MUNICIPALITY**

**Deputy Head: Water & Sanitation Engineering and Data Services**

**Date of Issue: 30/08/2024**

Document Version : 14/03/2023

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## List of Abbreviations

Abbreviation	Description
<b>CAPEX</b>	Capital Expenditure
<b>CIDMS</b>	Cities Infrastructure Delivery and Management System
<b>CIPC</b>	Companies and Intellectual Property Commission
<b>COIDA</b>	Compensation for Occupational Injuries and Diseases Act
<b>DCF</b>	Discounted Cash Flow
<b>DWS</b>	Department of Water and Sanitation
<b>EOI</b>	Expression of Interest
<b>EOIDS</b>	Expression of Interest Data Sheet
<b>EWS</b>	eThekweni Water and Sanitation
<b>GIS</b>	Geographic Information System
<b>IDP</b>	Integrated Development Plan
<b>IRR</b>	Internal Rate of Return
<b>ITB</b>	Instructions to Bidders
<b>JV</b>	Joint Venture
<b>NRW</b>	Non-Revenue Water
<b>PBMC</b>	Performance Based Management Contract
<b>PSP</b>	Professional Service Provider



## 1 Introduction

eThekwini Water and Sanitation (EWS) is a water and sanitation department of the eThekwini Metropolitan Municipal Council, which is a Category A metropolitan municipality, located in the province of KwaZulu–Natal. EWS is accorded the status of Water Services Authority in terms of the Water Act and is responsible for the delivery of water and sanitation services to 4,2 million people residing within the 2559 sq km Municipal area managed by the City.

The eThekwini Municipality has resolved to put in place a Performance Based Management Contract, for a period of 5 years, that will turn around the total performance of the EWS Unit and enable it to provide world class water and sanitation services. The Procurement Process will comprise an Expression of Interest (EOI) stage to pre-qualify bidders (**as per this document**) followed by a **separate** Request for Proposals (RFP) stage.

## 2 Background

eThekwini Water & Sanitation (EWS) is currently facing multiple challenges that hinder its ability to provide reliable and quality water and sanitation services.

The financial and service delivery performance of the EWS unit has declined from 2017 due to external factors such as economic downtrends, severe droughts and flood damage, the effects of the covid pandemic as well as a steadily increasing urban population.

Internal factors include reduced institutional memory due to the loss of experienced technical staff; declining capital investment and operating budgets impacting on maintenance; and the lack of dedicated teams to focus on the management of Non-revenue Water (NRW) reduction and asset management. These challenges are outlined in the Turnaround Strategy Report (TAS) which was adopted by the Council on 23 April 2023.

However, notwithstanding these challenges the EWS is a well-established unit with all the operational capabilities and potential to improve delivery of services. The decline of EWS can be addressed through improved management support, financial management and other operational initiatives which will see the establishment of a corporatised Water and Sanitation utility of the future, as articulated in the EWS Turnaround Strategy assessments undertaken and water sector reforms provided in the National Treasury (NT) guidelines note of 1 April 2024. (*Guidance Note: Metro preparations for the introduction of trading services infrastructure financing reforms, starting in 2024/25 with water and sanitation.*)

The challenges faced by EWS are elaborated below.

**Financial Decline:** EWS is operating at a significant loss and is experiencing large negative operating cash flows. The operating cost coverage ratio had declined to 0.85

in 2022 and continues to decline, indicating that the operating revenue is insufficient to cover direct operating costs.

**Non-Revenue Water:** NRW is the difference between the amount of water supplied to EWS and the amount of water that is billed to customers in the municipality. NRW is primarily due to losses within the distribution network and unmetered consumption, resulting in unrecovered revenues. NRW in the eThekweni Municipal area has been increasing and was at 54.44% on 30 June 2024 which is well above the accepted benchmark of 25%.

**Infrastructure Damage:** The floods in April 2022 caused severe damage to EWS water and sanitation infrastructure, impacting water supply, sewer networks, and wastewater treatment. Significant capital investment is required to restore the infrastructure while also including for improved resilience in the design and construction against future floods. A budget of R1.5 billion was approved for restoration work which is currently in progress.

**Electricity Supply:** The intermittent supply of electricity from Eskom (the state-owned electricity supply utility) has been problematic for the provision of water and sanitation services. Without electricity, pumping stations have been unable to maintain water pressure in pipelines, leading to reduced water flow to households and businesses. In recent months the supply of electricity to EWS has improved and as a result the delivery of water and sanitation services has stabilised. Further reductions in electricity load-shedding are expected as Eskom continues to invest in maintenance of its generation fleet. This will further improve the supply of electricity to EWS and eventually continuous supply will be available again.

**Unreliable Services:** Water and sanitation services in eThekweni are becoming increasingly unreliable for some areas. The existing water and sewer network is unable to meet the growing demands, leading to sewer spills, water leaks, and unregulated connections. This negatively affects the quality and reliability of services for residents and businesses. It also leads to increased utilisation of costly, outsourced water tankers, while sewer spillages often contaminate water courses and sewer overflows onto beaches along the coastline having a highly negative effect on the public amenities and tourist areas resulting in reduced local economic activity.

**Revenue Collection:** Revenue collections for water services have declined, posing a direct threat to the financial sustainability of EWS. The revenue collection target is 95%, and the actual revenue collection in mid-2023 was only 68%.

**Institutional Capability:** A decline in the institutional capability within eThekweni Water and Sanitation has been identified in the following areas: strategic planning, Regulatory compliance, data and information management systems, asset management, customer management, financial management, capital investment plans as well as operations and maintenance.

**Customer Responsiveness:** A lower quality of services and poor customer responsiveness lead to customers being less willing to pay for the service. This creates and reinforces a negative cycle where weak finances undermine the organization's capability to invest and maintain services efficiently. There is an increase in service

backlogs for sewer and water leaks which are not resolved within 24 hours as required in the service level agreement.

**Water Security:** Over the years the eThekwini Municipality has experienced severe droughts and as a result the Provincial Department of Water and Sanitation (DWS) has enforced a reduction in abstraction rates in order to protect the safe yield of water sourced from dams. There is therefore a need for water security to be improved given the growing demands on the water and sewer networks. Ensuring reliable and sustainable water supply is a significant challenge that must be addressed through viable water supply alternatives and initiatives such as PPP for water reuse and desalination. These initiatives need to be fast tracked in order to address the gap in long term investment for new water resources that are required beyond 2030.

**Supply Chain Management:** The eThekwini Municipality currently relies on a centralised supply chain management (SCM) function serving all of the service Departments, which is subject to delays due to the high volume of procurements that it handles. Departments mostly require different and discipline specific SCM approaches, specifications and documentation to fully address their individual requirements. There is a need to establish an improved supply chain management function which is resourced to meet the technical, cost, and performance needs of EWS.

**Political and Administrative Support:** The successful implementation of the turnaround strategy requires strong leadership and sustained commitment at both the political and administrative levels in the Municipality. This includes establishing a business unit, improving management and organizational capability, and making effective use of the private sector.

## 2.1 Objectives of the eThekwini Water and Sanitation Turnaround Strategy

On 24 April 2023 the eThekwini Municipality Council adopted the following Executive Committee recommendation:

“That Council approves the eThekwini Water and Sanitation Turnaround Strategy which outlines a comprehensive vision to improve water and sanitation service within the eThekwini Municipality area thereby achieving a Constitutional obligation to provide basic water and sanitation service to different eThekwini stakeholders and also generating revenue to contribute in the financial sustainability of the Municipality as well as related infrastructural development.”

The objective of the eThekwini Water & Sanitation Turnaround Strategy is to initiate and sustain a turnaround in the provision of water and sanitation services in eThekwini by introducing improved commercial and operational management, through private sector involvement.

To achieve this objective, a Performance Based Management Contract shall be put in place to build the management and technical capacity of EWS over a 5-year period, progressively reducing support over this period as the targets are met.

The desired outcome is to transform EWS into a financially sustainable, efficient, and reliable provider of high-quality water and sanitation services, with specific focus on the following:

- 1) Establishment of a Water Utility with a highly talented and well managed team. This will require completing the ring fencing of the business unit and later transitioning it to a corporatised Water Utility.
- 2) Financial Viability: Improve billing administration, revenue collections and the financial performance of the water and sanitation service, ensuring that operating revenue exceeds operating costs.
- 3) Infrastructure Resilience: Restore and enhance the water and sanitation infrastructure, making it more resilient to natural disasters and operational failures.
- 4) Reliable Services: Provide reliable and uninterrupted water and sanitation services to residents and businesses.
- 5) Non-Revenue Water Reduction: Reduce non-revenue water consumption, including water losses and unrecovered revenue.
- 6) Institutional Capability: Enhance the institutional capability of the eThekweni Water and Sanitation Unit.
- 7) Customer Satisfaction: Improve customer satisfaction by providing a responsive, effective and efficient call centre that enables:
  - 7.1 - Queries to dealt with timeously,
  - 7.2 - Speedy call-out of emergency and maintenance services to undertake necessary repairs to EWS assets.
- 8) Water Security: Ensure water security in eThekweni by meeting the growing demands on the water and sewer network.
- 9) Efficient Supply Chain Management: Improve supply chain management processes to ensure timely procurement of goods and services.

### **3 Summary of EWS infrastructure statistics, customer base and map of service areas**

- Value of Infrastructure Assets – R120,5 bn
- About ±3732 Full-time employees
- Water Supply approx. ±1100 Ml/day
- 6 Water Treatment Works
- 30 Water Pump Stations
- 349 Water Storage Tanks and 53 Elevated Water Storage Tanks
- 12 684 km of Water Mains
- 526 000 Water Connections
- Waste Water Treatment approx. ±550 Ml/day
- 27 Wastewater Treatment Works
- 247 Wastewater Pump Stations
- 8 500 km of Sewer Mains



## 4 Procurement Process

The eThekwini Municipality (the Employer) has resolved to appoint a Company/Consortium to provide performance-based management services for a period of 5 years, to facilitate the turnaround of EWS. The Procurement Process will comprise an Expression of Interest (EOI) stage for pre-qualification of bids (**as per this Bid document**) followed by a **separate** Request for Proposals (RFP) stage.

An Independent Auditor will also be appointed separately to monitor the Performance Based Management Contractor's performance targets.

Process Target dates for the Procurement of a Performance Based Management Contract are currently as follows. –

Target Date	Milestone
8 August 2024	Advertisement of the first Stage EOI for response by interested parties
11 October 2024	Closing Date for EOI submissions
26 November 2024	Completion of EOI evaluations
20 January 2025	1) Second Stage RFP Invitations issued to successful EOI bidders 2) RFP for Independent Auditor for the PBMC
21 March 2025	Closing Date for RFP submissions
6 May 2025	Completion of RFP evaluations by Project Team
1 July 2025	Award of Contract by the eThekwini Municipality for PBMC and Independent Auditor.

## **5 Contents and Description of the Expression of Interest Document**

### **5.1 Expression of Interest Document**

This Expression of Interest Document comprises all of the Parts I – VIII as indicated below, and which should be read in conjunction with any Addendum issued in accordance with section 6.4, Amendment of Expression of Interest Document.

- Section 7 - Part I: Instructions to Bidders (ITB)
- Section 8 - Part II: Expression of Interest Data Sheet (EOIDS)
- Section 9 - Part III: Evaluation Criteria and Requirements
- Section 10 - Part IV: Submission Forms
- Section 11 - Part V: Eligible Countries
- Section 12 - Part VI: Debarred Bidders
- Section 13 - Part VII: Scope of the Performance Based Management Contract
- Section 14 – Part VIII: Annexures

6.1.1 Unless obtained directly from the Employer, the Employer accepts no responsibility for the completeness of the document, responses to requests for clarification, the minutes of the pre-Submission meeting (if any), or Addenda to the Expression of Interest Document in accordance with section 6.4 Amendment of Expression of Interest Document. In case of any discrepancies, documents issued directly by the Employer shall prevail.

6.1.2 The Bidder is expected to examine all instructions, forms, and terms in the Expression of Interest Document and to furnish with its Submission all information or documentation as is required by the Expression of Interest Document.

## 5.2 Clarification of EOI Document

An Applicant requiring any clarification of the Expression of Interest Document shall contact the Employer in writing at the Employer's address indicated **in the EOIDS**. The Employer will respond in writing to any request for clarification provided that such request is received no later than fourteen (14) days prior to the deadline for submission of the applications. The Employer shall forward a copy of its response to all prospective Applicants who have obtained the EOI Document directly from the Employer, including a description of the inquiry but without identifying its source. If indicated **in the EOIDS**, the Employer shall also promptly publish its response at the web page identified **in the EOIDS**. Should the Employer deem it necessary to amend the EOI Document as a result of a clarification, it shall do so following the procedure under section 5.4 Amendment of Expression of Interest Document, and in accordance with the provisions of section ITB 7.15.

## 5.3 Pre-submission Clarification Meeting

The Bidder's designated representative is invited at the Bidder's cost to attend a compulsory pre-Submission Clarification meeting at the place, date and time mentioned in the EOIDS. During this pre-Submission Clarification meeting, prospective Bidders may request clarification of the project requirement, the criteria for qualifications or any other aspects of the Expression of Interest Document.

Minutes of the pre-Submission Clarification meeting, if applicable, including the text of the questions asked by Bidders, including those during the meeting (without identifying the source) and the responses given, together with any responses prepared after the meeting will be transmitted promptly to all prospective Bidders who have obtained the Expression of Interest Document. Any modification to the Expression of Interest Document that may become necessary following the pre-Submission Clarification meeting, shall be made by the Employer exclusively through the use of an Addendum pursuant to section 6.3 Amendment of Expression of Interest Document.

## 5.4 Amendment of Expression of Interest Document

At any time prior to the deadline for submission of EOI Submissions, the Employer may amend the Expression of Interest Document by issuing an Addendum.

Any Addendum issued shall be part of the Expression of Interest Document and shall be communicated in writing to all Bidders who have obtained the Expression of Interest Document from the Employer. The Employer shall promptly publish the Addendum at the Employer's web page identified **in the EOIDS**.

To give Bidders reasonable time to take an Addendum into account in preparing their Submissions, the Employer may, at its discretion, extend the deadline for Submissions in accordance with ITB 7.11.

## **7 Part I – Instructions to Bidders (ITB)**

### **7.1 Scope of Submission**

As indicated in Part II – Expression of Interest Data Sheet (EOIDS), the Employer, as defined in the **EOIDS**, issues this EOI Document (“Expression of Interest Document”) to prospective Bidders (“Bidders”) interested in submitting Expression of Interest submissions (“EOI Submissions”) for the Performance Based Management Contract described in Part VII – Indicative Scope of Performance Based Management Contract. The second stage Request for Proposal (RFP) Bid number corresponding to this first stage Expression of Interest is **not** provided in the EOIDS.

### **7.2 Eligible Bidders**

7.2.1 EOI Bidders shall meet the eligibility criteria as per this ITB.

7.2.2 An EOI Bidder may be a firm that is a private entity, a state-owned enterprise or institution subject to section ITB 7.2.7 or any combination of such entities in the form of a joint venture (“JV”) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Performance Based Management Contract as detailed in the RFP document, in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Expression of Interest process, Request for Proposals (RFP) bidding process (in the event the JV submits a Bid), and during contract execution (in the event the JV is awarded the Contract). Unless specified in the EOIDS, there is no limit on the number of members in a JV.

7.2.3 A firm may submit an Expression of Interest either individually, or as part of a joint venture, or consortium. A firm prequalified through the EOI process which is invited to submit a Request for Proposals (RFP) bid, will not be permitted to submit separate RFP bids both as an individual firm and as a part of the joint venture or consortium. However, a firm may participate as a subcontractor in more than one RFP Bid, but only in that capacity. Bids submitted in violation of this procedure will be rejected.

7.2.4 An EOI Bidder may have the nationality of any country. A Bidder shall be deemed to have the nationality of a particular country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of the Performance Based Management Contractor, proposed specialized sub-contractors or suppliers for any part of the **Performance Based Management Contract** arising from the invited **RFP** process.

7.2.5 EOI Bidders shall not have a conflict of interest. EOI Bidders shall be considered to have a conflict of interest, if they, or any of their affiliates, participate(d) or

contribute(d) as a consultant in the preparation of the eThekweni Water and Sanitation Turnaround Strategy or have been hired or proposed to be hired by the Employer for any part of the management services that are the subject of this Expression of Interest. In addition, EOI Bidders may be considered to have a conflict of interest if they have a close business or family relationship with any professional staff of eThekweni Water and Sanitation (or of any project implementing agency who may be employed by EWS) who are directly or indirectly involved in the preparation of the Expression of Interest Document or Request for Proposals (RFP) Bid Document and related specifications, and/or the any of the Bid evaluation processes; unless the conflict stemming from such relationship has been resolved in a manner acceptable to EWS throughout the Expression of Interest process.

7.2.6 An EOI Bidder that has been debarred by the eThekweni Municipality, pursuant to Clause 56 - Blacklisting; of the eThekweni Municipality's Supply Chain Management (SCM) Policy, and in accordance with its prevailing sanctions policies and procedures shall be ineligible to be prequalified for, initially selected for, bid for, propose for, or be awarded an eThekweni Municipality contractor benefit from an eThekweni Municipality contract, financially or otherwise, during such period of time as eThekweni Municipality shall have determined. The list of debarred firms and individuals is available at the electronic address specified **in the EOIDs**.

7.2.7 EOI Bidders that are state-owned enterprises or institutions in the Republic of South Africa may be eligible to prequalify, compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to EWS that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the Employer.

7.2.8 An EOI Bidder shall not be under suspension from Bidding by the Employer as the result of the execution of a Bid/Proposal–Securing Declaration.

7.2.9 An EOI Bidder shall provide such documentary evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.

### **7.3 Cost of Submissions**

The Bidder shall bear all costs associated with the preparation and submission of its EOI Submission. EWS will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Expression of Interest process.

### **7.4 Language of Submission**

The EOI Submission as well as all correspondence and documents relating to the Expression of Interest exchanged by the Bidder and EWS, shall be written in the language specified **in the EOIDs**. Supporting documents and printed literature that are part of the Submission may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the language specified in the EOIDs, in which case, for purposes of interpretation of the Submission, the translation shall govern.

## 7.5 Documents Comprising the EOI Submission

The Submission shall comprise the following:

- **EOI Submission Letter**, in accordance with ITB 7.6;
- **Eligibility:** documentary evidence establishing the Bidder's eligibility, in accordance with ITB 7.2;
- **Qualifications:** documentary evidence establishing the Bidder's qualifications – Part III Evaluation Criteria and Requirements, and Part IV Submission Forms (in accordance with ITB 7.8); and
- any other document required as specified **in the EOIDS**.

## 7.6 EOI Submission Form

The Bidder shall complete an EOI Submission Letter as provided in Part IV – Submission Forms. This Letter must be completed without any alteration to its format.

## 7.7 Documents Establishing the Eligibility of the Bidder

To establish its eligibility in accordance with ITB 7.2, the Bidder shall complete the eligibility declarations in the EOI Submission Letter and Forms ELI (eligibility) 1.1 and 1.2, included in Part IV – Submission Forms.

## 7.8 Documents Establishing the Qualifications of the Bidder

To establish its qualifications to perform the proposed Performance Based Management Contract in accordance with Part III – Evaluation Criteria and Requirements, the Bidder shall provide the information requested in the corresponding Information Sheets included in Part IV – Submission Forms.

Wherever a Submission Form requires a Bidder to state a monetary amount, Bidders should indicate the ZAR equivalent using the rate of exchange determined as follows:

- For turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amount for that year is to be converted).
- Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the publicly available source identified **in the EOIDS**. Any error in determining the exchange rates in the Submission may be corrected by EWS.

## 7.9 Signing of the Submission and Number of Copies

The Bidder shall prepare one original of the documents comprising the Submission as described in ITB 7.5 and clearly mark it "ORIGINAL". The original of the Submission shall

be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. In case the Bidder is a JV, the Submission shall be signed by an authorized representative of the JV on behalf of the JV and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized signatories.

The Bidder shall submit copies of the signed original Submission, in the number specified **in the EOIDS**, and clearly mark them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.

### **7.10 Sealing and Marking of Submissions**

The Bidder shall enclose the original and the copies of the Submission in a sealed envelope that shall:

- bear the name and address of the Bidder; and
- be addressed to the Employer, in accordance with **EOIDS 8.1**; and
- bear the specific identification of this Expression of Interest document indicated **in the EOIDS 8.1**.

The Employer will accept no responsibility for not processing any submission envelope that was not identified as above.

### **7.11 Deadline for Submission of EOI Submissions**

Bidders must submit their EOI Submissions by hand. Submissions shall be received by the Employer at the address and no later than the deadline indicated in the EOIDS. When so specified in the EOIDS, Bidders have the option of submitting their Submissions electronically, in accordance with electronic EOI submission procedures specified in the EOIDS.

The Employer may, at its discretion, extend the deadline for the submission of EOI Submissions by amending the Expression of Interest Document in accordance with section 6.4 - Amendment of Expression of Interest Document, in which case all rights and obligations of the Employer and the Bidders subject to the previous deadline shall thereafter be subject to the deadline as extended.

### **7.12 Late Submissions**

Late submissions will **not** be accepted under any circumstances.

### **7.13 Opening of Submissions**

The Employer shall open all EOI Submissions at the date, time and place specified **in the EOIDS**.

The Employer shall prepare a record of the opening of Submissions to include, as a minimum, the name of the Bidders. A copy of the record shall be distributed to all Bidders.

## **7.14 Confidentiality**

Information relating to the EOI Submissions, their evaluation and results shall not be disclosed to Bidders, or any other persons not officially concerned with the Expression of Interest process until the notification of Expression of Interest results is made to all Bidders in accordance with ITB 7.22. From the deadline for EOI Submissions to the time of notification of the results of the Expression of Interest in accordance with ITB 7.22, any Bidder that wishes to contact the Employer on any matter related to the Expression of Interest process may do so only in writing.

## **7.15 Clarification of Submissions**

To assist in the evaluation of EOI Submissions, the Employer may, at its discretion, ask a Bidder for a clarification (including missing documents) of its Submission, to be submitted within a stated reasonable time period. Any request for clarification from the Employer and all clarifications from the Bidder shall be in writing.

If a Bidder does not provide clarifications and/or documents requested by the date and time set in the Employer's request for clarification, its EOI Submission shall be evaluated based on the information and documents available at the time of evaluation of the Submission.

## **7.16 Responsiveness of Submissions**

The Employer may reject any EOI Submission which is not responsive to the requirements of the Expression of Interest Document. In case the information furnished by the Bidder is incomplete or otherwise requires clarification as per ITB 7.15, and the Bidder fails to provide satisfactory clarification and/or missing information, it may result in disqualification of the Bidder.

## **7.17 Margin of Preference**

Unless otherwise specified in the **EOIDS**, a margin of preference for domestic Bidders shall **not** apply in the Expression of Interest stage of this project.

The Request for Proposals (RFP) Bidding process resulting from this Expression of Interest, will however include a margin of preference in terms of the eThekwini Municipality's Supply Chain Policy.

The Bidder shall not be permitted to subcontract the whole of the proposed Performance Based Management Contract to be awarded through the second stage RFP process. The Employer, in ITB 7.29, may permit the EOI Bidder to propose subcontractors for certain specialized aspects of the Performance Based Management Contract as indicated therein as ("Specialized Subcontractors"). EOI Bidders planning to use such Specialized Subcontractors shall specify, in the EOI Submission Letter, the activity(ies) or parts of the Performance Based Management Contract services proposed to be subcontracted along with details of the proposed subcontractors including their qualification and experience.

## **7.18 Evaluation of Submissions**

The Employer shall use the factors, methods, criteria, and requirements defined in Part III – Evaluation Criteria and Requirements, to evaluate the qualifications of the Bidders, and no other methods, criteria, or requirements shall be used. The Employer reserves the right to waive minor deviations from the qualification criteria if they do not materially affect the technical capability and financial resources of a Bidder to perform the Performance Based Management Contract (PBMC) arising from the second stage RFP process.

Subcontractors proposed by the Bidder shall be fully qualified to undertake their respective parts of the Performance Based Management Contract. The subcontractor's qualifications shall not be included by the Bidder, for evaluation purposes, in the EOI submission unless their parts of the management services were previously designated by the Employer **in the EOIDS** as can be met by Specialized Subcontractors, in which case, the qualifications of the Specialized Subcontractor proposed by the Bidder may be added to the qualifications of the Bidder for the purpose of the evaluation.

Only the qualifications of the Bidder shall be considered. The qualifications of other firms, including the Bidder's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors in accordance with ITB 7.19 above) or any other firm(s) different from the Bidder shall not be considered.

## **7.19 Employer's Right to Accept or Reject Submissions**

The Employer reserves the right to accept or reject any EOI Submission, and to annul the Expression of Interest process and reject all EOI Submissions at any time, without thereby incurring any liability to the Bidders.

## **7.20 Expression of Interest of Bidders**

All Bidders whose EOI Submissions substantially meet or exceed the specified qualification requirements will be invited to participate in the Request for Proposals (RFP) stage for the appointment of a Performance Based Management Contractor

A EOI Submission may be "conditionally successful," that is, successful subject to the Bidder submitting or correcting certain specified nonmaterial documents or deficiencies to the satisfaction of the Employer.

Bidders whose EOI Submissions are conditionally successful will be so informed along with the statement of the condition(s) which must be met to the satisfaction of the Employer before the invitation date for participation in the second stage Request for Proposals (RFP).

### **7.21 Notification of Expression of Interest outcome**

The Employer shall notify all EOI Bidders in writing of the names of those Bidders whose submissions have been successful or conditionally successful. In addition, those EOI Bidders who have been disqualified will be informed separately.

EOI Bidders whose submissions have not been successful may write to the Employer to request, in writing, the grounds on which they were disqualified.

### **7.22 Invitation of requests for Proposal Bids**

After the notification of the results of the Expression of Interest, the Employer shall invite RFP Bids from all the EOI Bidders whose submissions were successful, in addition to those EOI Bidders whose submissions were deemed conditionally successful, and who have fully and timeously addressed the conditions identified in the EOI evaluation process.

Bidders may be required to provide a Bid Security or a Bid-Securing Declaration acceptable to the Employer in the form and an amount to be specified in the bidding document.

The successful Bidder shall be required to provide a Performance Security as specified in the bidding document.

### **7.23 Changes in Structure and/or Qualifications of Bidders**

Any change in the structure or formation of a Bidder after being notified of the outcome of the EOI process in accordance with ITB 7.21 and invited to submit a Request for Proposal (RFP) bid in accordance with ITB 7.23 (including, in the case of a JV, any change in the structure or formation of any member and also including any change in any specialized subcontractor whose qualifications were considered in the EOI evaluation process) shall be subject to the written approval of the Employer prior to the deadline for submission of RFP Bids. Such approval shall be denied if (i) a successful EOI Bidder proposes to associate with a disqualified Bidder or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the EOI Bidder no longer substantially meets the qualification criteria set forth in Part III – Evaluation Criteria and Requirements; or (iii) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the invitation for Request for Proposal Bids.

### **7.24 Virtual Data Room (VDR)**

A Virtual Data Room (VDR) containing the following information relevant to the Performance Based Management Contract will be made available to Bidders. Access will be controlled as detailed in ANNEXURE VDR.1 – VDR UNDERTAKING.

Addition information will be added to this list as the EOI and RFP processes evolve.

### **EXISTING STRATEGY INFORMATION**

- Turnaround Strategy (TAS) 2023
- TAS Implementation Progress Monitoring Tool

### **RELEVANT REPORTS**

- Risk Report 2022/23
- Waste Water Treatment Works (WWTW) Audit Report 2022/23

### **ORGANISATIONAL INFORMATION**

- EWS Organogram – high level and detailed
- Proposed new structures
- High Level EWS Organogram with decentralised approach
- Asset Management and Non-Revenue Water (NRW) Branches

### **FINANCIAL INFORMATION**

- Annual Financial Statements – 2020/21 2021/22 2022/23
- Financial Indicators
- 5-year Capital – Budget vs Actual
- 5-year Operating – Budget vs Actual
- 5-year uMngeni-uThukela Water (UUW) tariff
- uMngeni-uThukela Water (UUW) Tariff for 2024/25
- Water and Sanitation Consumer Tariff
- Grants and Equitable Share
- Infrastructure Surcharge
- 3-Year Capital and Operational Budget
- 5-Year Water Purchases and Water Sales
- Unfunded Mandates 2022/23 and 2023/24 to date

### **TECHNICAL INFORMATION**

- Security of Water Supply – 2017-2027
- Asset Management Policy and Plans
- NRW Reports Q4 2022/23 and Q1,2,3 of 2023/24
- 2019 Water and Sanitation Masterplan
- Summarised water and sanitation asset register with current replacement costs and remaining useful life
- 10 Year Water Conservation/Water Demand Management (WC/WDM) Plan

- Water and Sanitation Social Infrastructure backlogs
- GIS Information
- Key Performance Information
- PPP project summary

#### **LEGAL INFORMATION**

- Municipal By-Laws
- Water Supply Standards
- Customer Service Charter
- National Norms and Standards
- Tariff Policy
- Disconnection Policy
- Indigent Policy
- Credit Control and Debt Collection Policy
- MOU with uMngeni-uThukela Water (UUW) for 10 Waste Water Treatment Works (WWTW)

#### **MUNICIPAL INFORMATION**

- Integrated Development Plans (IDP)
- Annual Report 2022/23
- Service Delivery and Budget Delivery Plan (SDBIP) 2022/23
- Strategic Goals

## 8 Part II – Expression of Interest Data Sheet (EOIDS)

<b>A. General</b>	
ITB 7.10	<p>The identification of the invitation for Expression of Interest is:</p> <p><b>EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED PERFORMANCE BASED MANAGEMENT CONTRACT FOR ETHEKWINI WATER AND SANITATION</b></p> <p>The Employer is: eThekwini Municipality            Attn: City Manager            Street Address: City Hall, 263 Dr Pixley Ka Seme Street, Durban            P.O. Box: 1014, Durban, 4000            Tel: +27 313111111            City: Durban            E-mail address: metroceo@durban.gov.za            Country: South Africa</p> <p><b>EOI Number: EOI 30379 5W</b></p>
	<p>The name of the Project is:</p> <p><b>EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT</b></p>
ITB 7.2.2	Maximum number of members in the JV shall be: <b>(Unlimited)</b>
ITB 7.2.6	A list of debarred firms and individuals is available on the eThekwini Municipality's external website: <a href="http://www.durban.gov.za">www.durban.gov.za</a>
<b>B. Contents of the Expression of Interest Document</b>	
	For <b>clarification purposes</b> , the Employer's address is: <b>eThekwini Water and Sanitation, 3 Prior Rd, Durban, 4001</b> <b>Email: Simon.scruton@durban.gov.za</b>
	Web page: <a href="http://www.durban.gov.za">www.durban.gov.za</a>
	Pre-Submission Clarification Meeting will be held: YES
<b>C. Preparation of EOI Submissions</b>	

ITB 7.4	This Expression of Interest document has been issued in the <b>English language</b> . All correspondence exchange shall be in the <b>English language</b> . The Submission as well as all correspondence shall be submitted in <b>English language</b> .
ITB 7.5	The Bidder shall submit with its EOI Submission, the following additional documents: MBD documents
ITB 7.8	The source for determining exchange rates is the South African Reserve Bank.
ITB 7.9	In addition to the original, the number of copies to be submitted with the Submission is: <b>four (4)</b>
<b>D. EOI Submissions</b>	
ITB 7.11	The deadline for EOI Submission is: 11 October 2024 @ 11H00  For EOI Submission purposes only, the location of the Tender Box for delivery of submissions is at 166 KE Masinga Road, Durban 4000  Bidders will also have the option of submitting their submissions electronically. The electronic EOI submission procedures shall be: XXXXXXXXXXXX
ITB 7.12	Late submissions will <b>not</b> be accepted under any circumstances.
ITB 7.13	The opening of the Submissions shall be at 11H00 local time on Date: 11 October 2024
ITB 6.3	A Compulsory Pre-submission Clarification Meeting will be held at 10h00 on 10 September 2024.
<b>E. Procedures for Evaluation of Submissions</b>	
ITB 7.17	A margin of domestic preference <b>shall not</b> apply to this EOI.
ITB 7.18	At this time, the Employer does not intend to execute certain specific parts of the Indicative Scope of the Performance Based Management Contract by sub-contractors selected in advance.

## 9 Part III – Evaluation Criteria and Requirements

EOI Submissions will be evaluated and scored on the following qualification criteria.

In respect of criteria **1. Eligibility** and criteria **2. Financial Situation and Performance** the submission must meet the requirement.

In respect of Criteria **3. Experience** and criteria **4. Methodology and Resourcing**, A **total threshold score of 60%** will apply across **Criteria 3 and Criteria 4**.

No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirement
				All Members Combined	Each Member	One Member	
<b>1. Eligibility</b>							
1.1	<b>Nationality</b>	Nationality in accordance with ITB <b>7.2.4</b>	Must meet requirement	N/A	Must meet Requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
1.2	<b>Conflict of Interest</b>	No conflicts of interest in accordance with ITB <b>7.2.5</b>	Must meet requirement	N/A	Must meet Requirement	N/A	EOI submission Letter
1.3	<b>State-owned Entity of South Africa</b>	Bidder required to meet conditions of ITB <b>7.2.7</b>	Must meet requirement	Must meet requirement	Must meet requirement	N / A	Forms ELI -1.1 and 1.2, with attachments
<b>2. Financial Situation and Performance</b>							
2.1	<b>Financial Capabilities</b>	The audited financial statements or, if not required by the laws of the Bidder's country, other financial statements acceptable to the Employer, for the last 3 years shall be submitted and must demonstrate the current soundness of the Bidder's financial position and indicate its prospective long-term	Must meet requirement	N/A	Must meet requirement	N/A	Form FIN – 2.1, with attachments

No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirement
				All Members Combined	Each Member	One Member	
		profitability.					

No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirement
				All Members Combined	Each Member	One Member	
<b>3. Experience (Scored in accordance with the Evaluation and Scoring criteria as detailed in the table below)</b>							
3.1	<b>General Experience</b>	Management Contract and Business Transformation experience using Corporate Turnaround and/or Business Re-engineering strategies in the last 10 (ten) years.	Submission to be evaluated and scored	N/A	N/A	Submission to be evaluated and scored	Form EXP 3.1
3.2	<b>Specific management and technical experience in the following focus areas</b>	Financial Management, Administration and Records, Water and Sanitation Operations and Maintenance, Project Management, Construction Management of rehabilitation of bulk supply and distribution networks, Geographic Information Systems, Human Resources, Information Technology, Asset Management, Research and Development, Customer Service	Submission to be evaluated and scored	Submission to be evaluated and scored	N/A	N/A	Form EXP 3.2
<b>A total threshold score of 60% will apply to Criteria 3 and 4.</b>							

No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirement
				All Members Combined	Each Member	One Member	
<b>4. Methodology and Resourcing (Scored in accordance with the Evaluation and Scoring criteria as detailed in the table below)</b>							
4.1	<b>Methodology</b>	High level performance methodology based on the interpretation of the Indicative Scope of the Management Contract.	Submission to be evaluated and scored				Form EXP 4.1
4.2	<b>Resourcing</b>	Resourcing structure of the Entity or JV, based on the interpretation of the Indicative Scope of the Management Contract.	Submission to be evaluated and scored	Submission to be evaluated and scored			Form EXP 4.2
<b>A total threshold score of 60%</b> will apply to Criteria 3 and 4.							

**Evaluation Criteria and Scoring for Item 3. Experience and Item 4. Methodology and Resourcing**

ITEM	Functional Criteria	Sub Criteria	Returnable schedules						Weight	Max Sub Score	Item Total	Remarks
			Level 0	level 1	level 2	level 3	level 4					
3.1.1	Management Contract and Business Transformation experience using Corporate Turnaround and/or Business Re-engineering strategies in the last 20 (twenty) years.	Number of similar assignments undertaken in a City of Population greater than 2 million people	No information provided; OR submission of no substance / irrelevant information provided	To have undertaken 1 assignment of a similar nature within the last 10 years.	To have undertaken 2 assignments of a similar nature within the last 10 years.	To have undertaken 3 assignments of a similar nature within the last 15 years.	To have undertaken 4 or more assignments of a similar nature within the last 20 years.	Report detailing scope of assignment; details and contacts of clients; Contract value; duration/period undertaken		30		The Bidder is to provide a list of <b>past and current assignments undertaken</b> by the entity or JV partners with reference letters from clients and any supporting independent publications such as case studies /reports by professional institutions
		<b>RATING POINTS</b>	0	40	70	90	100		30%			
3.1.2		Number of similar assignments successfully completed with positive outcomes	No information provided; OR submission of no substance / irrelevant information provided	To have successfully completed 1 assignment of a similar nature within the last 10 years.	To have successfully completed 2 assignments of a similar nature within the last 10 years.	To have successfully completed 3 assignments of a similar nature within the last 15 years.	To have successfully completed 4 or more assignments of a similar nature within the last 20 years.	Reference letters from clients; Assignments reports; Case study reports; Contact details of clients		20		The Bidder is to provide a list of past assignments <b>successfully completed</b> by the entity or JV partners with reference letters from clients and any supporting independent publications such as case studies /reports by professional institutions
		<b>RATING POINTS</b>	0	40	70	90	100		20%	50		

ITEM	Functional Criteria	Sub Criteria	Returnable schedules					Weight	Max Sub Score	Item Total	Remarks
			Level 0	level 1	level 2	level 3	level 4				
3.2	Specific leadership, management and technical experience in focus areas								25		The Bidder is to provide information including a list of <b>past and current projects undertaken by the specific focus area resource</b> with reference letters from clients and any supporting independent publications such as case studies /reports by professional institutions
	1	Financial Management	Experience in only 1 or 2 focus areas	Experience in 3 to 5 focus areas	Experience in 6 to 7 focus areas	Experience in 8 to 10 focus areas	Experience in all focus areas	5%			
	2	Administration and Records						2%			
	3	Water and Sanitation Operations and Maintenance						2%			
	4	Project Management						1%			
	5	Construction management of bulk supply and distribution networks						1%			
	6	Geographic Information Systems						1%			
	7	Human Resources						1%			
	8	Information Technology						2%			
	9	Asset Management						3%			
	10	Research and Development						2%			
	11	Customer Service						5%			
		<b>RATING POINTS</b>	0	40	70	90	100	25%			

**A total threshold score of 60% will apply to Criteria 3 and 4.**

ITEM	Functional Criteria	Sub Criteria	Returnable schedules						Weight	Max Sub Score	Item Total	Remarks
			Level 0	level 1	level 2	level 3	level 4					
4.1	Methodology	High level performance methodology based on the interpretation of the Indicative Scope of the Management Contract.	No info provided OR submission of no substance / irrelevant information	Poor - Unacceptable understanding of the requirements.	Adequate - Low level of understanding of the requirements.	Good - Satisfactory level of understanding of the requirements.	Excellent - Meets and exceeds the expected level of understanding of the requirements.	Proposed methodology for the Management Contract (high level).		20		The Bidder is to demonstrate. 1) Knowledge of the management and operation of a water and sanitation utility 2) Knowledge in financial management improvement plans 3) Ability to provide coaching and capacity building for the entity 5) Transformation capability to set up a municipal department into a fully-fledged business entity.
		<b>RATING POINTS</b>	0	40	70	90	100		20%			
4.2	Resourcing	Resourcing structure of the Entity or JV, based on the interpretation of the Indicative Scope of the Management Contract	No info provided OR submission of no substance / irrelevant information	Resourcing structure is sketchy, indicating a poor understanding of the Indicative Scope	Resourcing structure is complete and detailed, composition of the management level is adequate.	Resourcing structure is complete and detailed, composition of the management and technical levels are well balanced	Resourcing structure is complete and detailed, composition of the management and technical levels are well balanced and integrated	Documented resourcing structure and organogram.		5		The Bidder is to provide a Resourcing structure which demonstrates a clear interpretation of the Indicative Scope of the MC with indications of the number of full-time management resources and any specialist sub-contractors
		<b>RATING POINTS</b>	0	40	70	90	100		5%	25		
<b>A total threshold score of 60% will apply to Criteria 3 and 4.</b>												
								<b>TOTAL</b>			<b>100</b>	

ITEM	Functional Criteria	Sub Criteria	Returnable schedules						Weight	Max Sub Score	Item Total	Remarks
			Level 0	level 1	level 2	level 3	level 4					

## EOI Submission Form

Date:

**EOI No. 30379 5W**

### **EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT**

To: **eThekwini Municipality**

We, the undersigned, wish to participate in the procurement process to appoint a Performance-based Management Contractor and accordingly lodge this first stage EOI submission for consideration and evaluation.

We clearly understand that only the successful Bidders from the first stage EOI process will be eligible, by invitation, to participate in the separate second stage Request for Proposals (RFP) bid and declare that:

- (a) **No reservations:** We have examined and have no reservations to the Expression of Interest Document, including Addendum(s) No(s), issued in accordance with ITB 6.4: *[insert the number and issuing date of each addendum]*.
- (b) **No conflict of interest:** We have no conflict of interest in accordance with ITB 7.25.
- (c) **Eligibility:** We (and our subcontractors) meet the eligibility requirements as stated ITB 7.2, we have not been suspended by the Employer based on execution of a Bid/Proposal-Securing Declaration in accordance with ITB 7.2.8.
  - **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the eThekwini Municipality.
  - **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITB 7.2.7];*
- (f) **Subcontractors and Specialized Subcontractors:** We, in accordance with ITB 7.18, plan to subcontract the following key activities and/or parts of the works if appointed through the second stage RFP process:  

.....
- (g) **Commissions, gratuities, fees:** We declare that the following commissions, gratuities, or fees have been paid or are to be paid with respect to the Expression of Interest process.

<u>Name of Recipient</u> <i>[insert full name for each occurrence]</i>	<u>Address</u> <i>[insert street/ number/city/country]</i>	<u>Reason</u> <i>[indicate reason]</i>	<u>Amount</u> <i>[specify amount currency, value, exchange rate and ZAR equivalent]</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*[If no payments are made or promised, add the following statement: "No commissions or gratuities have been or are to be paid by us to agents or any third party relating to this Submission"]*

1. **Not bound to accept:** We understand that you may cancel the Expression of Interest process at any time and that you are neither bound to accept any Submission that you may receive nor to invite the prequalified Bidders to bid for the contract subject of this Expression of Interest process, without incurring any liability to the Bidders, in accordance with ITB 7.19.
2. **True and correct:** All information, statements and description contained in the Submission are in all respect true, correct and complete to the best of our knowledge and belief.

Signed *[insert signature(s) of an authorized representative(s) of the Bidder]*

Name *[insert full name of person signing the Submission]*

In the capacity of *[insert capacity of person signing the Submission]*

Duly authorized to sign the Submission for and on behalf of:

Bidder's Name *[insert full name of Bidder or the name of the JV]*

Address *[insert street number/town or city/country address]*

Dated on *[insert day number]* day of *[insert month]*, *[insert year]*

*[For a joint venture, either all members shall sign or only the authorized representative, in which case the power of attorney to sign on behalf of all members shall be attached]*

# Form ELI -1.1

## Bidder Information Form

Date: *[insert day, month, and year]*

EOI No. 30379 5W

### EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT

Page *[insert page number]* of *[insert total number]* pages

Bidder's name

*[insert full name]*

In case of Joint Venture (JV), name of each member:

*[insert full name of each member in JV]*

Bidder's actual or intended country of registration:

*[indicate country of Constitution]*

Bidder's actual or intended year of incorporation:

*[indicate year of Constitution]*

Bidder's legal address [in country of registration]:

*[insert street/ number/ town or city/ country]*

Bidder's authorized representative information

Name: *[insert full name]*

Address: *[insert street/ number/ town or city/ country]*

Telephone/Fax numbers: *[insert telephone/fax numbers, including country and city codes]*

E-mail address: *[indicate e-mail address]*

1. Attached are copies of original documents of

- Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 7.2.2 and 7.2.3.
- In the case of a JV, letter of intent to form JV or JV agreement, in accordance with ITB 7.2.2.
- In case of state-owned enterprise or institution, in accordance with ITB 7.2.7 documents establishing:

1. Legal and financial autonomy
2. Operation under commercial law
3. Establishing that the Bidder is not under supervision of the Employer
4. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

# Form ELI -1.0 Bidder's JV Information Form

*[The following form is additional to Form ELI – 1.1., and shall be completed to provide information relating to each JV member (in case the Bidder is a JV) as well as any Specialized Subcontractor proposed to be used by the Bidder for any part of the Contract resulting from this Expression of Interest]*

Date: *[insert day, month, and year]*

**EOI No. 30379 5W**

## **EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT**

Page *[insert page number]* of *[insert total number]* pages

Bidder name: <i>[insert full name]</i>
Bidder's JV Member's name: <i>[insert full name of Bidder's JV Member]</i>
Bidder's JV Member's country of registration: <i>[indicate country of registration]</i>
Bidder JV Member's year of constitution: <i>[indicate year of constitution]</i>
Bidder JV Member's legal address in country of constitution: <i>[insert street/ number/ town or city/ country]</i>
Bidder JV Member's authorized representative information Name: <i>[insert full name]</i> Address: <i>[insert street/ number/ town or city/ country]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers, including country and city codes]</i> E-mail address: <i>[indicate e-mail address]</i>
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 7.2.3. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and they are not under the supervision of the Employer, in accordance with ITB 7.2.7.
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## Form FIN – 2.1 Financial Situation and Performance

*[The following table shall be filled in for the Bidder and for each member of a Joint Venture]*

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

### EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT

#### 1. Financial data

Type of Financial information in (currency)	Historic information for previous 5 years, five years (amount in currency, currency, exchange rate*, ZAR equivalent)				
	Year 1	Year 2	Year 3	Year4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

\* Refer ITB 7.8 for the exchange rate

## 2. Sources of Finance

*[The following table shall be filled in for the Bidder and all parties combined in case of a Joint Venture]*

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (ZAR equivalent)
1		
2		
3		

## 3. Financial documents

The Bidder and its parties shall provide copies of financial statements for 5 years pursuant Section III – Evaluation Criteria and Requirements, Sub-factor 2.1. The financial statements shall:

- (a) reflect the financial situation of the Bidder or in case of JV member, and not an affiliated entity (such as parent company or group member).
  - (b) be independently audited or certified in accordance with local legislation.
  - (c) be complete, including all notes to the financial statements.
  - (d) correspond to accounting periods already completed and audited.
- Attached are copies of financial statements<sup>1</sup> for the 5 years required above; and complying with the requirements

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<sup>1</sup> If the most recent set of financial statements is for a period earlier than 12 months from the date of Submission, the reason for this should be justified.

## Form FIN – 2.2 Average Annual Turnover

*[The following table shall be filled in for the Bidder and for each member of a Joint Venture]*

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

### EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR ETHEKWINI WATER AND SANITATION

Page *[insert page number]* of *[insert total number]* pages

Annual turnover data (construction and/or consultancy)			
Year	Amount Currency	Exchange rate*	ZAR equivalent
<i>[indicate calendar year]</i>	<i>[insert amount and indicate currency]</i>		
		Average Annual Construction and/or Consultancy Turnover **	

\* Refer ITB 7.8 for date and source of exchange rate.

\*\* Total ZAR equivalent for all years divided by the total number of years. See Section III – Evaluation Criteria and Requirements.

## Form EXP – 3.1 General Experience

*[The following table shall be filled in for the Bidder and in the case of a JV Bidder, each Member]*

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

### EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT

Page *[insert page number]* of *[insert total number]* pages

*[Identify contracts that demonstrate experience in engineering services over the past ten years pursuant to Section III – Qualification Criteria and Requirements, Sub-Factor 3.1. List contracts chronologically, according to their commencement (starting) dates.]*

Starting Year	Ending Year	Contract Identification	Role of Bidder
<i>[indicate year]</i>	<i>[indicate year]</i>	Contract name: <i>[insert full name]</i> Brief Description of the Works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and ZAR equivalent*]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i>	<i>[insert "Prime Contractor" or "JV Member" or "Sub-contractor" or "Management Contractor"]</i>
		Contract name: <i>[insert full name]</i> Brief Description of the Works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and ZAR equivalent*]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i>	<i>[insert "Prime Contractor" or "JV Member" or "Sub-contractor" or "Management Contractor"]</i>
		Contract name: <i>[insert full name]</i> Brief Description of the Works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and ZAR equivalent*]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i>	<i>[insert "Prime Contractor" or "JV Member" or "Sub-contractor" or "Management Contractor"]</i>

\* Refer ITB 7.8 for the exchange rate

## Form EXP – 3.2

### Specific management and technical experience in focus areas

*[The following table shall be filled in for contracts performed by the Bidder, each member of a Joint Venture, and Specialized Sub-contractors in each Focus Area]*

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

### EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT

Page *[insert page number]* of *[insert total number]* pages

<b>Similar Contract No.</b> <i>[insert number] of [insert number of similar contracts required]</i>	<b>Information</b>			
Contract Identification	<i>[insert contract name and number, if applicable]</i>			
Award date	<i>[insert day, month, year, e.g., 15 June, 2015]</i>			
Completion date	<i>[insert day, month, year, e.g., 03 October, 2017]</i>			
Role in Contract	Prime Contractor <input type="checkbox"/>	JV Member	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
<i>[check the appropriate box]</i>				
Total Contract Amount	<i>[insert total contract amount in local currency]</i>		ZAR <i>[insert Exchange rate and total contract amount in ZAR equivalent]*</i>	
If member in a JV or sub-contractor, specify share in value in total Contract amount and roles and responsibilities	<i>[insert a percentage amount]</i>	<i>[insert total contract amount in local currency]</i>	<i>[insert exchange rate and total contract amount in ZAR equivalent]*</i>	
	<b><i>[insert roles and responsibilities]</i></b>			
Employer's Name:	<i>[insert full name]</i>			
Address:	<i>[indicate street / number / town or city / country]</i>			
Telephone number/fax:	<i>[insert telephone/fax numbers, including country and city area codes]</i>			
E-mail:	<i>[insert e-mail address, if available]</i>			

\* Refer ITB 7.8 for date and source of exchange rate

All Sub-contractors leading Focus Areas must complete the information in this form as per ITB 7.18 and Section III – Evaluation Criteria and Requirements.

1. Key Activity No. One: *[insert brief description of the Activity, emphasizing its specificity]*

Total Quantity of Activity under the contract: \_\_\_\_\_

Information				
Contract Identification	<i>[insert contract name and number, if applicable]</i>			
Award date	<i>[insert day, month, year, e.g., 15 June, 2015]</i>			
Completion date	<i>[insert day, month, year, e.g., 03 October, 2017]</i>			
Role in Contract <i>[check the appropriate box]</i>	Prime Contractor <input type="checkbox"/>	JV Member <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	<i>[insert total contract amount in contract currency(ies)]</i>		ZAR <i>[insert exchange rate and total contract amount in ZAR equivalent]</i>	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year <i>[Insert extent of participation indicating actual quantity of key activity successfully completed in the role performed]</i>	Total quantity in the contract (i)	Percentage participation (ii)	Actual Quantity Performed (i) x (ii)	
Year 1				
Year 2				
Year 3				
Year 4				

Employer's Name:	<i>[insert full name]</i>
Address:	<i>[indicate street / number / town or city / country]</i>
Telephone/fax number	<i>[insert telephone/fax numbers, including country and city area codes]</i>
E-mail:	<i>[insert e-mail address, if available]</i>

2. Activity No. Two

3. ....

	<b>Information</b>
Description of the key activities in accordance with Sub-Factor 7.6 of Section III:	<i>[insert response to inquiry indicated in left column]</i>

## **Form EXP - 4.1 Methodology**

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

### **EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT**

Page *[insert page number]* of *[insert total number]*pages

High level performance methodology based on the interpretation of the Indicative Scope of the Management Contract.

**(Bidders to Insert as an Annexure headed – Form EXP – 4.1)**

**Form EXP - 4.2  
Resourcing**

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

**EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT  
CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT**

Page *[insert page number]* of *[insert total number]* pages

Resourcing structure based on the interpretation of the Indicative Scope of the Management Contract. (Insert as Annexure)

**(Bidders to Insert as an Annexure headed – Form EXP – 4.2)**

**Form RFP – 1.0**  
**Request for Proposals (RFP) Inputs**

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

**EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT  
CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT**

Page *[insert page number]* of *[insert total number]*pages

**EOI Bidders are** requested to provide input into the proposed second stage Request for Proposals (RFP) document. Input made by bidders in respect of this request will not be used to evaluate or score bidders in either the first stage EOI process, or the second stage RFP process.

- Bidders are encouraged to outline any specific aspects, clauses, terms or requirements that they would like to see included in the second stage RFP document.
- Bidders should also provide a rationale or explanation for their suggested inclusions.

## Form COMPL – 1.0 Municipal Compliance Requirements

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member Name: *[insert full name]*

**EOI No. 30379 5W**

### EXPRESSION OF INTEREST FOR A 5 YEAR PERFORMANCE-BASED MANAGEMENT CONTRACT FOR THE ETHEKWINI WATER AND SANITATION UNIT

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**EOI Bidders are to complete the following Municipal Compliance documents; Forms ELI 1.1, ELI 1.2, FIN 2.1 and FIN 2.2, in addition to completing Municipal Compliance documents from Section 14 Part VIII – Annexures, and as highlighted in the Table below.**

Annexure	Description	Stage 1 - Expression of Interest	Stage 2 - Request for Proposals	Comments/Submission Document
1D1	PROOF OF ATTENDANCE AT THE COMPULSORY BRIEFING / BID CLARIFICATION MEETING	Yes	Yes	<i>Annexure 1D1</i>
1D2	COMPULSORY TENDER OPTIONS COMPLIANCE BID DECLARATION AFFIDAVIT	Yes	Yes	<i>Annexure 1D2</i>  <i>N/A for International Companies</i>
1D3	DECLARATION OF CORRECTNESS OF BID AND UNDERSTANDING OF THE BID SPECIFICATION	Yes	Yes	<i>Annexure 1D3</i>  <i>N/A for International Companies</i>
1D4	CIPC COMPANY REGISTRATION CERTIFICATE	Yes	Yes	<i>Annexure 1D4</i>  <i>N/A for International Companies</i>
1D5	LETTER OF GOOD STANDING IN TERMS OF COID ACT (COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT)	Yes	Yes	<i>Annexure 1D5</i>  <i>N/A for International Companies</i>

1D6	BIDDERS FINANCIAL STANDING	Yes	Yes	<i>Forms FIN2.1 and 2.2</i>
1D7	RECORD OF ADDENDA / BRIEFING NOTES	Yes	Yes	<i>Annexure 1D7</i>
1D8	CERTIFICATE OF AUTHORITY	Yes	Yes	<i>Forms ELI 1.1 and ELI 1.0</i>
1D9	DECLARATION OF MUNICIPAL FEES	Yes	Yes	<i>Annexure 1D9</i> <i>N/A for International Companies</i>
1D10	COMPULSORY ENTERPRISE QUESTIONNAIRE	Yes	Yes	<i>Forms ELI 1.1 and ELI</i>
1D11	CSD REGISTRATION REPORT	Yes	Yes	<i>Annexure 1D11</i>
1D12	CERTIFICATE OF COMPLIANCE / LETTER OF GOOD STANDING FROM THE DEPARTMENT OF EMPLOYMENT AND LABOUR FOR UIF (UNEMPLOYMENT INSURANCE FUND)	Yes	Yes	<i>Annexure 1D12</i> <i>N/A for International Companies</i>
1D13	MBD 2: TAX CLEARANCE CERTIFICATE REQUIREMENTS	Yes	Yes	<i>Annexure 1D13</i> <i>N/A for International Companies</i>
1D14	MBD 4: DECLARATION OF INTEREST	Yes	Yes	<i>Annexure 1D14</i>
1D15	MBD 5: DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)	Yes	Yes	<i>Annexure 1D15</i> <i>N/A for International Companies</i>
1D17	MBD8: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES	Yes	Yes	<i>Annexure 1D17</i>
1D18	MBD9: CERTIFICATE OF INDEPENDENT BID DETERMINATION	Yes	Yes	<i>Annexure 1D18</i>

## 11 Part V – Eligible Countries

### Eligibility for the Provision of Goods, Works and Services in Municipal Procurement

In reference to ITB 7.2.4, for the information of the Bidders, at the present time firms and individuals, supply of goods, or contracting of works or services, from the following countries are excluded from this Expression of Interest process: **None**

## 12 Part VI –Debarment

### 1. Purpose

(This Part VI shall not be modified)

Clause 56 Blacklisting; of the eThekweni Municipality's Supply Chain Management (SCM) Policy, and this annex apply.

### 2. Requirements

The eThekweni Municipality requires that; Bidders (Bidders/proposers), consultants, contractors and suppliers; and any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of contracts, and refrain from corrupt, fraudulent and collusive practices.

To this end, the eThekweni Municipality:

- Defines, for the purposes of this provision, the terms set forth below as follows:

“corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

“fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

“collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

“coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

“obstructive practice” is:

deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a eThekweni Municipality investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the eThekweni Municipality's inspection and audit rights provided for below.

- Rejects a proposal for award if the eThekweni Municipality that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub- contractors, service providers, suppliers and/ or their

employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

- In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring mis procurement, if the eThekwini determines at any time that representatives of the Bidder engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Bidder having taken timely and appropriate action satisfactory to the eThekwini Municipality to address such practices when they occur, including by failing to inform the eThekwini Municipality in a timely manner at the time they knew of the practices;
- Pursuant to the eThekwini Municipality's Supply Chain Management (SCM) Policy, (V8.6/13/12/2022) and in accordance with its prevailing sanctions policies and procedures, Bidders shall be ineligible to be prequalified for, initially selected for, bid for, propose for, or be awarded an eThekwini Municipality contractor benefit from an eThekwini Municipality contract, financially or otherwise, during such period of time as eThekwini Municipality shall have determined. The list of debarred firms and individuals is available at the electronic address specified **in the EOIDS**.
- Requires that a clause be included in bidding/request for proposals documents and in contracts financed by the eThekwini Municipality, requiring (i) eThekwini Municipality's (Bidders/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the eThekwini Municipality to inspect all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the eThekwini Municipality.

## 13 Part VII - Indicative Scope of the Management Contract

### 13.1 Outcomes

The desired outcome of the Management Contract is to transform the Water and Sanitation Service Unit in eThekweni Municipality into a financially sustainable, efficient, and reliable provider of high-quality water and sanitation services.

- The specific outcomes applicable to this first stage Expression of Interest document as are listed in **Section 3: Objectives of the eThekweni Water and Sanitation Turnaround Strategy** and form the basis of the Indicative Scope of the Management Contract included in this EOI document.
- **The second stage Request for Proposals (RFP) will seek to finalise the Scope of the Management Contract which will be included in that document.**

### 13.2 Basic Concept

The indicative scope of the Management Contract encompasses enhancing revenue collections, minimizing Non-Revenue Water, optimizing asset management and operations, establishing robust data management and business intelligence systems, elevating customer care standards, refining project implementation methodologies, and conducting comprehensive long-term system planning and investment strategies. Additionally, the scope includes providing training and capacity building initiatives for EWS staff as part of establishing the corporatised water utility.

No investment of funds of a Capital nature will be required to be invested by the successful bidder. It is envisaged that the support staff provided by the Management Contractor will be reduced over the 5-year period as the various objectives of this contract are achieved.

### 13.3 Functional Areas

The functional areas which are included in the Indicative scope of the Management Contract shall include but not be limited to the following:

#### **Institutional Capability**

- Review and support EWS towards full establishment of a corporatised Water Utility as envisaged in the Turnaround Strategy document (TAS) adopted by Council and National Treasury (NT) guideline notes of 1 April 2024
- Review and streamline the organisational structure for the EWS Utility
- Revise and strengthen information management systems to improve NRW reduction and overall business performance. Utilize business intelligence tools to support the development of a forward-looking Water Utility aligned with the vision outlined in the eThekweni Municipality's TAS document
- Provide management support and leadership to manage and operate the Water Utility as a ring-fenced water entity. Develop existing staff and also support the City in talent identification for management and operating the Utility after 5 years. (Leadership programs - e.g. mentorship and coaching)

- Provide management resources to manage the EWS Water Utility for 5 years
- Re-Branding of EWS Water Utility
- Improve efficiencies and performance of the established entity to lessen the need for interventions and directives issued to EWS
- Review and implement the EWS 5-year Business plan

### **Organizational Structure and Human Capital Optimization**

- Review and streamline the organisational structure for the EWS Utility
- Undertake a human resource optimization diagnostic to identify the necessary competencies, skills and personnel complement required for EWS to become a high-performance organization.
- Prepare a transition and change management plan to adjust the organizational structure and optimize the human capital to transform EWS to a high-performance utility

### **Technical Capacity**

- Design performance indicators for the rapid reduction of water losses through management and enhancement of the NRW programs and initiatives of EWS. Ensure the attainment of DWS No drop standard. A reduction of 5% NRW per annum is envisaged year-on-year.
- Restore 24 hr water supply to selected water supply systems
- Manage the operation of water treatment plants and develop systems to ensure attainment of the Blue drop standards
- Review existing agreements and provide management support for the City to contract with implementing agents of water treatment plants being managed by other agents, for attainment of the Blue drop standard and financial sustainability
- Manage the operation of wastewater treatment plants and develop systems for attainment of the Green drop standard as per regulations and other parameters as required for all plant
- Review existing agreements and provide management support for the City to contract with implementing agents of water treatment plants being managed by other agents, for attainment of the Green drop standard and financial sustainability
- Review and prepare operation and maintenance plans of water and sewer reticulation and improve current models
- Design and implement performance and productivity indicators for each of the staff grades and levels within EWS.
- Improve expenditure performance on refurbishment and capital investment projects through review and development of project management planning and execution.
- Establish a water and operations excellence and high-performance model for the new Water Utility over the 5 years of operation.
- Establish and implement measures and systems to reduce water demand in line with targets set out by the regulator
- Ensure Fleet availability and utilisation to meet international standards

### **Financial Viability**

- Review and strengthen billing administration and revenue collection. Set performance targets for revenue collection
- Review and enhance financial management systems for the EWS water utility
- Set up financial management reporting systems for EWS in line with financial reporting standards required for a water utility business
- Manage and implement the financial ring-fencing of the new water utility
- Review and prepare improved financial plans with key financial performance indicators and budgeting plans aligned to the focus areas of the EWS, TAS and City's Integrated Development Plan (IDP)

### **Supply Chain Management (SCM)**

- Review SCM process and re-establish a more performance orientated and customer focused unit including development of SOP's with templates and training of staff to align with NT guidelines and policies.

### **Capital Investment**

- Prepare a capital investment plan to ensure that the capital investment gap within EWS is addressed.
- The Management Contractor (MC) is to create an investment portfolio of “bankable projects” to seek funding from the Government and other sources to ensure implementation of the capital investment programs and modernisation of assets.

### **Commercial Requirements**

- Review and undertake tariff modelling for water and sanitation services
- Develop and implement systems and plans to increase revenues, connections and water sales
- Identify, secure and increase (where possible) various Grants available Nationally and Internationally
- Increase the number of connections to Ingonyama Trust Board (ITB) areas and link to billing system (see service area map above for Ingonyama Trust Board areas)
- Review and develop debt collection strategies with performance targets to increase the collection ratio for the utility

### **Customer Care**

- Enhance call centre systems to optimize performance
- Develop and manage implementation of a multi-faceted communication strategy
- Develop and manage implementation of an App for outbound push notification to consumers regarding reported faults and water and sanitation issues
- Manage and resolve the backlog in consumer complaints. Set performance targets for backlog reduction

### **Asset Management**

- Review and prepare asset management plans for water and sanitation aligned to CIDMS and best practice standards
- Review, develop and implement total quality management systems (TQMS) for the Water Utility
- Review and prepare a water resilience strategy and implement identified programs

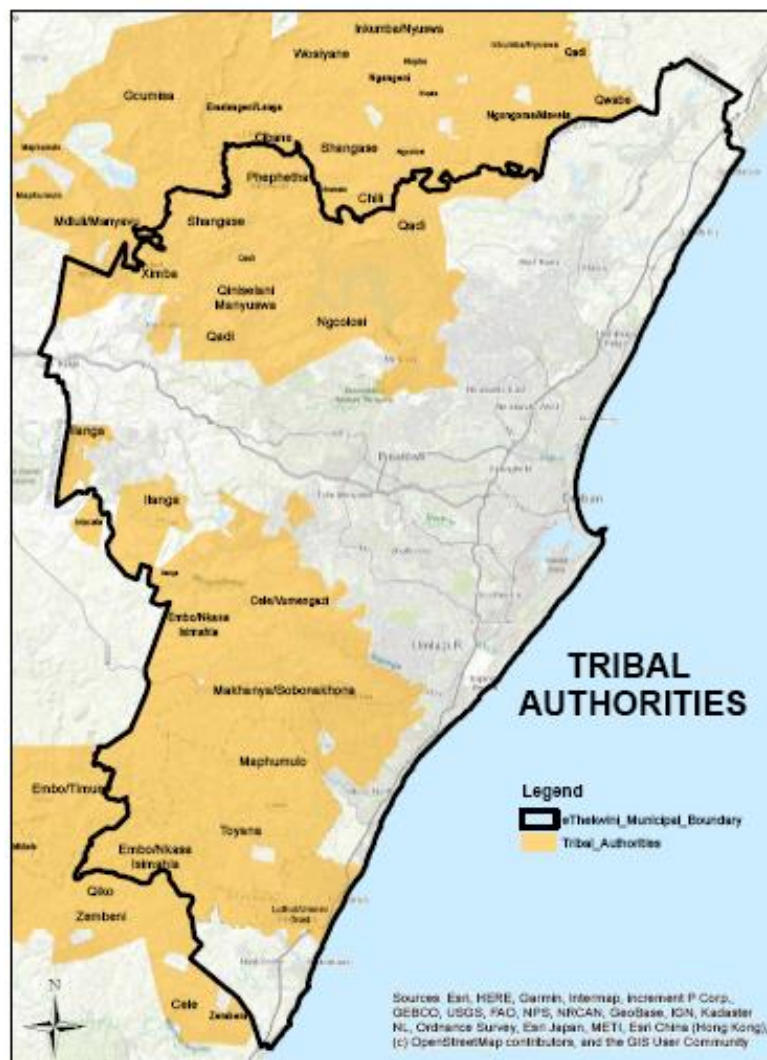
### **Administrative Reporting**

- Prepare and provide financial and technical reports on the implementation of the Performance Based Management Contract. (PBMC)
- Develop reporting systems (internal and external) as required for the Water Utility
- Update and enhance the Records and Information Management Systems for the Water Utility

### 13.4 Indicative Performance Areas for the Performance Based Management Contract

The following Performance Areas are provided as an indication of Performance Measurement for the successful Bidder of the second stage RFP Performance Based Management Contract.

- Overall Leadership and Change Management
- Financial Management
- Human Resources and Productivity Management
- Information Technology and Business Intelligence
- Technical Management
- Customer Relations



**14 Part VIII – Annexures**

**Municipal Compliance Documents**

**ANNEXURE 1D1 - PROOF OF ATTENDANCE AT THE COMPULSORY BRIEFING / BID CLARIFICATION MEETING**

This is to certify that:

(Bidder's name) .....

of (address) .....

.....

was represented by the person(s) named below at the Clarification Meeting held for all interested parties, the details of which are stated in the EOIDS.

I/We acknowledge that the purpose of the meeting was to acquaint myself / ourselves with the Indicative Scope and / or matters incidental to The EOI Submission in order for me / us to take account of everything necessary when compiling our submission.

Particulars of person(s) attending the meeting:

Name: .....

Name: .....

Signature: .....

Signature: .....

Capacity: .....

Capacity: .....

Attendance of the above person(s) at the meeting is confirmed by the Municipality Representative, namely:

Name: .....

Signature: .....

Date: .....

**ANNEXURE 1D2 - COMPULSORY TENDER OPTIONS COMPLIANCE BID DECLARATION  
AFFIDAVIT**

The undersigned declares the following:

- a) We, including our representatives and agents have read and understood the Request for Proposal Documents and fully understand the content of the documents.
- b) We have submitted bona fide offer for the Bid.
- c) We acknowledge and accept the Condition of Bid, that it is mandatory/compulsory for a Bidder to submit bona fide offers all bid options in order for a bid to be considered as a responsive bid.
- d) We acknowledge and accept that by submitting a bid, that the municipality at its sole and absolute discretion has the right to disqualify any bidder, should a Bidder fail to submit bona fide bid offers for all Bid Options.

Signed by the undersigned,

- Who warrants that he is duly authorized to do so on behalf of the Bidder, and
- Who confirms that the contents of the declarations made herein are within his/her personal knowledge and are to the best of his/her belief both true and correct, and
- Who understands the conditions under which such declarations are made and confirms that the Bidder satisfies the Conditions of Bid in respect of bid options.

Signature of Bidder's Representative:	
Name of Bidder's Representative:	
Name of Bidder:	
Telephone No. of Bidder:	
Email Address of Bidder:	
Date:	

**ANNEXURE 1D3 - DECLARATION OF CORRECTNESS OF BID AND UNDERSTANDING OF THE BID SPECIFICATION**

I, \_\_\_\_\_ (Full Name) the Authorised

Signatory of \_\_\_\_\_ (Bidder) hereby declare that the information furnished in this bid is entirely true and correct; and the bid is submitted on condition that the Bidder; its facilities, etc., shall at any stage be subject to inspection.

In addition, I confirm that our bid management team (all individuals that participate in any manner whatsoever in the preparation of the bid) has read and understood the contents of the Request for Proposal document including all Annexures and Schedules and are fully aware of all the terms and conditions, punitive measures, conditions of contract, pricing instructions, disqualifying criteria, bid evaluation criteria, output specification, etc.

Further, I acknowledge that our bid management team confirms that they are aware that the set of procurement documents, which may be amended from time to time during the tender period via tender addenda, briefing notes, etc. comprises the following:

- Volume 1 of 2: Instructions to Bidders; and
- Volume 2 of 2: Draft Concession Agreement with its schedules and annexes

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
(of person authorised to sign on behalf of the Bidder)

## **ANNEXURE 1D4 - CIPC COMPANY REGISTRATION CERTIFICATE**

Important note to the Bidder: The relevant supporting documents to the organisation submitting a bid i.e. Registration Certificates for Sole Proprietors, Companies, Close Corporations, Joint Ventures, Consortia and Partnerships, all as referred to in the Response Forms, must be inserted here.

***[CIPC Registration documents to be inserted here]***

**ANNEXURE 1D5 - LETTER OF GOOD STANDING IN TERMS OF COID ACT  
(COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT)**

[Letter/s of Good Standing to be inserted here]

In Bids where Bidders, Consortium (if relevant) and Key Contractors are involved; each party must submit a separate valid Letter of Good Standing Certificate, or any an equivalent of valid proof of good standing in respect of an international member, for their respective organisation.

NOTE: Upon submission of its Proposal, should the Bidder/s Letter of Good Standing Status printed from the online portal, not be in order, this will lead to the invalidation of the Bid.

## **ANNEXURE 1D6 - BIDDERS FINANCIAL STANDING**

The Bidder shall provide information about its commercial position, which includes information necessary for the Employer to evaluate the Bidders financial standing.

To that end the Bidder must ensure that the bank report below is completed by the Bidder's bank and/or banker, confirming the minimum bank rating of Code: C (Good for normal business engagements) for South African members or an equivalent bank rating code for an international member, to the effect that the Bidder will be able to successfully complete the contract at the offered amount within the specified time for completion.

The Municipality undertakes to treat the information thus obtained as confidential, strictly for the use of evaluation of the bid submitted by the Bidder.

***[Bank Rating Letter to be inserted here]***



**ANNEXURE 1D8 - CERTIFICATE OF AUTHORITY**

Indicate the status of the Bidder by ticking the appropriate box hereunder.

<b>COMPANY</b>	<b>CLOSE CORPORATION</b>	<b>PARTNERSHIP</b>	<b>JOINT VENTURE</b>	<b>SOLE PROPRIETOR</b>
Refer to Notes at the bottom of the page				

I/We, the undersigned, being the Chairperson (Company), Member(s) (Close Corporation), Partners (Partnership), Sole Owner (Sole Proprietor), Lead Partner (JV), in the company / business trading as:

.....

hereby authorise Mr/Mrs/Ms .....

acting in the capacity of .....

to sign all documents in connection with this bid for RFP No. WS-7795 and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

**Notes**

The following documents must be attached to the back inside cover to this procurement document:

- If a Company: a "Resolution of the Board" in this regard.
- If a Joint Venture: a "Power of Attorney" signed by the legally authorised signatories of all the partners to the Joint venture.

## ANNEXURE 1D9 - DECLARATION OF MUNICIPAL FEES

I, the undersigned, do hereby declare that the Municipal fees of

.....  
 (full name of Company / Close Corporation / partnership / sole proprietary/Joint Venture)

(hereinafter referred to as the TENDERER) are, as at the date hereunder, fully paid or an Acknowledgement of Debt has been concluded with the Municipality to pay the said charges in instalments.

The following account details relate to property of the said TENDERER:

<u>Account</u>	<u>Account Number</u> : to be completed by tenderer.
Consolidated Account No.	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Electricity	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Water	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Rates	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
JSB Levies	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<u>Other</u>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<u>Other</u>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

I acknowledge that should the aforesaid Municipal charges fall into arrears, the Municipality may take such remedial action as is required, including termination of any contract, and any payments due to the Contractor by the Municipality shall be first set off against such arrears. ATTACHED, to the back inside cover of this document, please find copies of the above account's and or agreements signed with the municipality.

- Where the TENDERER'S place of business or business interests are outside the jurisdiction of eThekweni municipality, a copy of the accounts/agreements from the relevant municipality must be attached (to the back inside cover of this document).
- Where the tenderer's Municipal Accounts are part of their lease agreement, then a copy of the agreement, or official letter to that effect is to be attached (to the back inside cover of this document).

NAME : ..... (Block Capitals)

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

## ANNEXURE 1D10 - COMPULSORY ENTERPRISE QUESTIONNAIRE

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

- 1) **Name of enterprise:** .....
- 2) **VAT registration number, if any:** .....
- 3) **CIDB registration number, if any:** .....
- 4) **Particulars of sole proprietors and partners in partnerships**

Full Name	Identity number*	Personal income tax number *

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

### 5) **Particulars of companies and close corporations**

Company registration number, if applicable:

.....

Close corporation number, if applicable:

.....

Tax Reference number, if any:

.....

### 6) **Record in the service of the state**

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

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

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

Insert separate page if necessary.

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

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

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

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

Insert separate page if necessary

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

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my/our tax matters are in order;
- ii) confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercise, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;

- iii) confirms that no partner, member, director or other person, who wholly or partly exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I/we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the bidders or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed ..... Date .....

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

Enterprise Name .....

# ANNEXURE 1D11 - CSD REGISTRATION REPORT

Bidders are required to be registered at the time of tender closing on the National Treasury Central Supplier Database (CSD) as a service provider.

Bidders are to attach to this page a printout of their CSD Registration Report, as obtained from the National Treasury's CSD website <https://secure.csd.gov.za/Account/Login>. The date of obtaining the printout is to be indicated on the printout.

The following is an example of the beginning of the printout obtained from the above website.

**CENTRAL SUPPLIER DATABASE FOR GOVERNMENT**

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

Report Ran By: \_\_\_\_\_

**CSD REGISTRATION REPORT**

SUPPLIER IDENTIFICATION			
Supplier number	_____	Have Bank Account	_____
Is supplier active?	_____	Total annual turnover	_____
Supplier type	_____	Financial year start date	_____
Supplier sub-type	_____	Registration date	_____
Legal name	_____	Created by	_____
Trading name	_____	Created date	_____
Identification type	_____	Edit by	_____
Government breakdown	_____	Edit date	_____
Business status	_____	Restricted Supplier	_____
Country of origin	_____	Restriction Last Verification Date	_____
South African company/CC registration number	_____		

NAME : .....  
 SIGNATURE : .....  
 (of person authorised to sign on behalf of the Bidder)

(Block Capitals)  
 DATE: .....

## ANNEXURE 1D13 - MBD 2: TAX CLEARANCE CERTIFICATE REQUIREMENTS

Reference is to be made to Clauses F.2.23 and F.3.13(a) of the Tender Data.

SARS has introduced a new Tax Compliance Status System. Tenderers can submit a Tax Compliance Status PIN (TCS PIN) instead of an original Tax Clearance Certificate. This TCS PIN can be used by third parties to certify the taxpayer's real-time compliance status.

Separate Tax Clearance Certificates / TCS PINs are required for each entity in a Joint Venture.

The TCS PIN(s) are to be entered under item 3.4 on form **T2.1.2.1: Compulsory Enterprise Questionnaire**.

**Tenderers are to include, at the back of their tender submission document, a printout of their Tax Compliance Status PIN (TCS PIN) OR an original Tax Clearance Certificate.**

**Failure to include the required document will make the tender submission non-responsive.**

*I, the undersigned, who warrants that they are authorised to sign on behalf of the Tenderer, confirms that the information contained in this form is within my personal knowledge and is to the best of my belief both true and correct, **and that the requested documentation has been included in the tender submission.***

NAME (Block Capitals):

Date

SIGNATURE:

**ANNEXURE 1D14 - MBD 4: DECLARATION OF INTEREST**

**No bid will be accepted from persons “in the service of the state”<sup>1</sup>.**

Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

1.0	Are you presently in the service of the state?  If yes, furnish particulars: .....	YES	NO
2.0	Have you been in the service of the state for the past twelve months?  If yes, furnish particulars: .....	YES	NO
3.0	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?  If yes, furnish particulars: .....	YES	NO
4.0	Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?  If yes, furnish particulars: .....	YES	NO
5.0	Are any of the company’s directors, trustees, managers, principal shareholders or stakeholders in service of the state?  If yes, furnish particulars: .....	YES	NO
6.0	Are any spouse, child or parent of the company’s directors, trustees, managers, principal shareholders or stakeholders in service of the state?  If yes, furnish particulars: .....	YES	NO
7.0	Do you or any of the directors, trustees, managers, principal 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?  If yes, furnish particulars: .....	YES	NO
8.0	The names of all directors / trustees / shareholders / members / sole proprietors / partners in partnerships, their individual identity numbers and state employee numbers are indicated in <b>SECTION A of these Consolidated Municipal Bidding documents.</b>		

Full Name	Identity No.	State Employee No.	Personal income tax No. *
Use additional pages if necessary			

**ANNEXURE 1D15 - MBD 5: DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)**

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

<p>1.0 Are you by law required to prepare annual financial statements for auditing? If YES, you will be required to submit audited annual financial statements (on request during the tender evaluation period) for the past three years or since the date of establishment if established during the past three years.</p>	<p>YES</p>	<p>NO</p>
<p>2.0 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?  If NO, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.  If YES, provide particulars on a letterhead. (Attach this letter to the back inside cover of this procurement document).</p>	<p>YES</p>	<p>NO</p>
<p>3.0 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?  If YES, provide particulars on a letterhead. (Attach this letter to the back inside cover of this procurement document).</p>	<p>YES</p>	<p>NO</p>
<p>4.0 Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?  If YES, provide particulars on a letterhead. (Attach this letter to the back inside cover of this procurement document).</p>	<p>YES</p>	<p>NO</p>

**ANNEXURE 1D17 - MBD8: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

*This Municipal Bidding Document must form part of all bids invited. It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.*

*The bid of any bidder may be rejected if that bidder, or any of its directors have:*

- a) *abused the municipal entity's supply chain management system or committed any improper conduct in relation to such system;*
- b) *been convicted for fraud or corruption during the past five years;*
- c) *wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or*
- d) *been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).*

*In order to give effect to the above, the following questions must be answered.*

<p>1.0 Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer / Authority of the institution that imposed the restriction after the audi alteram partem rule was applied. The Database of Restricted Suppliers now resides on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page. If yes, furnish particulars: .....</p>	YES	NO
<p>2.0 Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page. If yes, furnish particulars: .....</p>	YES	NO
<p>3.0 Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years? If yes, furnish particulars: .....</p>	YES	NO
<p>4.0 Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months? If yes, furnish particulars: .....</p>	YES	NO
<p>5.0 Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract? If yes, furnish particulars: .....</p>	YES	NO

## ANNEXURE 1D18 - MBD9: CERTIFICATE OF INDEPENDENT BID DETERMINATION

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.

Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:

- (a) take all reasonable steps to prevent such abuse;
- (b) reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
- (c) cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

The following 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.

In order to give effect to the above, the following Certificate of Bid Determination must be completed and submitted with the bid.

The undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

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

- 1.0 I have read and I understand the contents of this Certificate;
- 2.0 I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
- 3.0 I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
- 4.0 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;
- 5.0 For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - a) has been requested to submit a bid in response to this bid invitation;
  - b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.
- 6.0 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. (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.
- 7.0 In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where product or service will be rendered (market allocation);
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a bid;
  - e) the submission of a bid which does not meet the specifications and conditions of the bid;
  - f) bidding with the intention not to win the bid.

- 8.0 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.
- 9.0 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.
- 10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No. 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## ANNEXURE VDR.1 – VDR UNDERTAKING

### 1. GENERAL

- 1.1 This Virtual Data Room undertaking document (the "**VDR Undertaking**"), is issued as contemplated in section ITB 7.24 of the Expression of Interest (EOI) documents request for proposals dated **XX, 2024** issued by the eThekweni Municipality (the "Municipality"), ("the EOI") in connection with the project to procure a Performance Based Management Contract for eThekweni Water and Sanitation (the "**Project**").
- 1.2 Capitalised terms used but not otherwise defined in this VDR Undertaking shall have the meaning given to them in the EOI and RFP documents.
- 1.3 The VDR Undertaking sets out the undertakings, rules and procedures governing the use of a website data room (the "**Virtual Data Room**") made available to Bidders and, where the Bidder is a Consortium, to its Members and to its and their respective directors, officers, employees, agents, financial and/or any other professional adviser(s) involved in the Project procurement process (each a "**Permitted Person**").
- 1.4 The signing of this VDR Undertaking by an authorized representative of the Bidder shall be deemed to be on behalf of all parties comprising or representing the Bidder who are subsequently given access to the Virtual Data Room. Any direct obligation imposed on the Bidder under this VDR Undertaking shall, in addition to the direct obligation itself, be construed as an obligation to ensure that each Permitted Person complies with such obligation as if such Permitted Person were itself a party to this VDR Undertaking (*mutatis mutandis*). The Bidder shall be liable for the non-performance by each Permitted Person of such indirect / constructive obligation.

### 2. CONFIDENTIALITY

The Bidder acknowledges and agrees that information contained in the Virtual Data Room (the "**Information**") that may be made available by the Municipality or their advisors or representatives in connection with the Project constitutes Confidential Information as contemplated in ITB 7.24 of the EOI document.

### 3. VIRTUAL DATA ROOM

- 3.1 No representation or warranty (whether express or implied) is given and no responsibility or liability is accepted by the Municipality or its advisers or representatives as to the accuracy or completeness of the Information or otherwise.
- 3.2 The Information, or any part thereof, does not constitute an offer or proposal by or on behalf of the Municipality.
- 3.3 Additional documents may be added to, and documents may be removed from, the Virtual Data Room from time to time by or on behalf of the Municipality. Any change in the Virtual Data Room shall be promptly notified to Bidders. Upon receipt of such notification, Bidders should check the Virtual Data Room regularly as the inclusion of new documents will be apparent from doing so. However, no obligation is undertaken or accepted by the Municipality or its advisers or representatives to provide any additional or updated Information or to correct any inaccuracies or discrepancies in the Information.

### 4. ACCESS TO THE VIRTUAL DATA ROOM

- 4.1 Only those Permitted Persons identified to and approved by the Municipality from time to time will be allowed access to the Virtual Data Room.
- 4.2 The Bidder shall ensure at all times that:
- a) only Permitted Persons shall seek access to the Virtual Data Room; and
  - b) the number of Permitted Persons who shall seek access is limited only to those for whom it is strictly necessary.

- 4.3 Access to the Virtual Data Room by any Permitted Persons is subject to:
- (a) the consent of the Project Officer; and
  - (b) the authorized representative of the Bidder having submitted (i) a signed copy of the VDR Undertaking, together with (ii) a complete list of those Persons requiring access to the Virtual Data Room in the form of **9** (*Schedule 1 Permitted Persons Requiring Access to the Virtual Data Room*) to this VDR Undertaking to the email address: **Nombulelo.cele2@durban.gov.za** with a copy to the Transaction Advisor Coordinator (To be advised)
- 4.4 Each Permitted Person granted access to the Virtual Data Room will be allocated and sent a unique username and temporary password to enable such person to access the Virtual Data Room. Permitted Persons will be prompted to use their name and password each time that they seek access to the Virtual Data Room.
- 4.5 Having entered a correct username and password, Permitted Persons will be requested to confirm that they:
- (a) understand and agree to comply with the terms of this VDR Undertaking and any Confidentiality undertakings in the EOI and RFP;
  - (b) are the authorized user of the Virtual Data Room to whom the password was issued and have not received the password by unauthorized means; and
  - (c) acknowledge and accept that neither the Project Officer, the Municipality, its representative or advisers nor any of their respective officers, employees or agents accepts responsibility for or makes any representations, express or implied, or gives any warranty with respect to the accuracy or completeness of the Information.
- 4.6 Permitted Persons will not be able to access the Virtual Data Room unless and until they have confirmed the above.
- 4.7 The Municipality reserves the right to refuse, terminate or withdraw access to the Virtual Data Room (either in general or by any Permitted Person) at any time without giving any reason. In particular, if the Bidder withdraws or is disqualified from the Bid Process, access to the Virtual Data Room will be withdrawn.
- 4.8 The Virtual Data Room will be open twenty-four hours per day, seven days a week until the Proposal Submission Date or such other date as notified by the Municipality to the Bidder, provided that neither the Municipality, the Project Officer, their representative or advisers nor any of their respective officers, employees or agents accepts responsibility for down time, either scheduled or unscheduled of the Virtual Data Room.
5. **USE OF THE INFORMATION**
- 5.1 The Information may not be forwarded or shared other than in accordance with this VDR Undertaking.
- 5.2 If any Information is printed or downloaded, it shall be deemed to have been printed and/or downloaded on and shall remain subject to, the terms of this VDR Undertaking (including, for the avoidance of doubt, the obligation to return or destroy the Information).
- 5.3 No attempt may be made to circumvent any of the security features of the Virtual Data Room.
6. **SECURITY**
- 6.1 Permitted Persons must not reveal their **username and password** to anyone for any reason whatsoever. New individuals can be added to the list of Permitted Persons and granted their own user names and passwords under the procedure described in Section 4 (*ACCESS TO THE VIRTUAL DATA ROOM*) above.
- 6.2 When accessing the Virtual Data Room, Permitted Persons must:

- (a) take all necessary steps to ensure that none of the Information contained therein is visible to, or capable of being viewed by, other persons;
- (b) not leave their computer (or other communications device through which they have logged on to the Virtual Data Room) unattended whilst they are logged on to the Virtual Data Room; and
- (c) ensure that they log-out of the Virtual Data Room when they have finished using it, by closing down their Internet browser program.

6.3 It should be noted that the system keeps a record of which usernames have been used and at what time, to access particular documents.

**7. TECHNICAL SUPPORT**

Permitted Persons who experience technical difficulties in accessing or using the Virtual Data Room should be addressed directly to following email address: **Nombulelo.cele2@durban.gov.za** .

**8. DISCLAIMER**

No liability is accepted by the Municipality, the Project Officer or their employees, officers, advisers or representatives for any damage of any sort which may be caused to any computer, computer system or other communications device through which the Virtual Data Room has been accessed, or any information stored on any such computer, computer system or other communications device, in any way resulting from the use of or the downloading of any Information from the Virtual Data Room. Use of the Virtual Data Room is entirely at the user's own risk.

**9. GOVERNING LAW**

This VDR Undertaking shall be governed by and construed in accordance with the laws of South Africa.

**10. ACCEPTANCE**

In consideration of the Municipality agreeing to grant us access to the Virtual Data Room, we hereby agree to comply with this VDR Undertaking.

***ACKNOWLEDGED, CONFIRMED AND AGREED BY BIDDER.***

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: *Authorized Representative*

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

***Schedule 1 Permitted Persons Requiring Access to the Virtual Data Room***

First Name	Surname	Company	Company Address	Email	Phone