



TENDER FOR PROVISION CIVIL/PROCESS ENGINEER CONSULTANT IN RICHTERSVELD MUNICIPALITY

TENDER NO. EC/PN/NC061/09/2021

VOLUME 1: PROJECT DOCUMENT

SEPTEMBER 2021

<i>Payment reference number</i>	
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ISSUED BY:

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RICHTERSVELD

MUNICIPALITYTENDER

NO.

EC/PN/NC061/09/2021

**TENDER FOR PROVISION OF ENGINEERING SERVICES TO RICHTERSVELD
MUNICIPALITY FOR MUNICIPAL INFRASTRUCTURE PROJECTS FOR 36 MONTHS**

THE TENDER

PART T1: TENDERING PROCEDURES

PART T2: RETURNABLE DOCUMENTS

PART T1: TENDERING PROCEDURES

PART T1: TENDERING PROCEDURES

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T1.1.1 TENDER NOTICE AND INVITATION TO TENDER

T1.1.1 The RICHTERSVELD MUNICIPALITY, Northern Cape Province, invites tenders for consulting engineering services for Municipal Infrastructure Projects except for those registered under MIG.

The services includes the investigation, design, tender documentation and project management for the implementation of registered municipal infrastructure projects to be implemented, conducting feasibility studies of identified projects and, compiling technical reports for future infrastructure projects.

T1.1.2 The projects are located in the Richtersveld Municipal area which includes the following towns: Port Nolloth, Alexander Bay, Eksteenfontein, Sanddrift, Lekkersing and Kuboes.

T1.1.3 Only tenderers who are registered as a Consulting Engineering Firm are eligible to submit tenders.

T1.1.4 Preferences

Preferences are offered to tenderers who comply with the criteria stated in the Tender Data.

T1.1.5 Evaluation Criteria

Tenders submitted will be evaluated according to method 2: Functionality, Price and Preference as stated in the Tender Data.

T1.1.6 Tender Documents

- The physical address for collection of tender documents is:
Richtersveld Municipality
169 Main Road
Port Nolloth
8280
- Tender documents are obtainable during the following times: 08:00 to 14:00 (Monday to Friday), from Monday 10 September 2021.
- A non-refundable tender deposit of R 560.00 payable in cash/ via EFT at Richtersveld Municipality, 169 Main Road, Port Nolloth is required on collection of the tender documents.
- Tender documents will be made available at the compulsory clarification meeting but must be pre-booked.

T1.1.7 No compulsory meeting

T1.1.8 The closing time and date for receipt of tenders is 12:00 on 01 October 2021.

T1.1.9 Telegraphic, telephonic, telex, e-mail, facsimile and late tenders will not be accepted. Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

T1.1.10 Queries relating to issues arising from these documents may be addressed to:

- Infrastructure Manager: Mr.I Cloete, Tel: No. 027 851 1125,
- Email: ivan@richtersveld.gov.za
- SCM Officer: Ms.ME Karsten, Tel: No. 027 851 1138,
- Email: marenecia@richtersveld.gov.za

T.1.2 STANDARD CONDITIONS OF TENDER

Notes to tenderer

1. The legislated Standard Conditions of Tender (as published and amended from time to time by the Construction Industry Development Board) are included in their entirety. The Department's special conditions of Tender are shown in italics as amending, deleting or adding to parts of or entire clauses of the Standard Conditions.
2. The Standard conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.
3. Tender Data and Tender Schedules are included separately after the tender conditions.

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STANDARD CONDITIONS OF TENDER

(These Standard Conditions of Tender have been reproduced, without any changes, from Annexure F of the CIDB Standard for Uniformity in Construction Procurement, July 2015)

F.1 GENERAL

F.1.1 Actions

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

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

Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.

2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

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

F.1.2 Tender Documents

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

F.1.3 Interpretation

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

F.1.3.2 These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

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

- a) **conflict of interest** means any situation in which:
 - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially;
 - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
 - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;
- e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body;

- f) **functionality** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs.

F.1.4 Communication and employer's agent

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

F.1.5 Cancellation and Re-Invitation of Tenders

F1.5.1 An organ of state may, prior to the award of the tender, cancel a tender if-

- a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable tenders are received.

F1.5.2 The decision to cancel a tender must be published in the cidb website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

F.1.6 Procurement procedures

F.1.6.1 General

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

F.1.6.2 Competitive negotiation procedure

F.1.6.2.1 Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

F.1.6.2.2 All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

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

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

F.1.6.3 Proposal procedure using the two stage-system

F.1.6.3.1 Option 1

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

F.1.6.3.2 Option 2

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

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

F.2 TENDERER'S OBLIGATIONS

F.2.1 Eligibility

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

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

F.2.2 Cost of tendering

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

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

F.2.3 Check documents

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

F.2.4 Confidentiality and copyright of documents

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

F.2.5 Reference documents

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

F.2.6 Acknowledge addenda

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

F.2.7 Clarification meeting

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

F.2.8 Seek clarification

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

F.2.9 Insurance

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

F.2.10 Pricing the tender offer

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

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

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

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

F.2.11 Alterations to documents

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

F.2.12 Alternative tender offers

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

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

F.2.12.3 An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

F.2.13 Submitting a tender offer

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

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

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

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

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

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

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

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

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

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

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

F.2.15 Closing time

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

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

F.2.16 Tender offer validity

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

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

F.2.16.3 Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

F.2.16.4 Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as —SUBSTITUTE.

F.2.17 Clarification of tender offer after submission

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

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

F.2.18 Provide other material

F.2.18.1 Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

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

F.2.19 Inspections, tests and analysis

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

F.2.20 Submit securities, bonds and policies

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

F.2.21 Check final draft

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

F.2.22 Return of other tender documents

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

F.2.23 Certificates

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

F.3 THE EMPLOYER'S UNDERTAKINGS

F.3.1 Respond to requests from the tenderer

F.3.1.1 Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

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

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

F.3.2 Issue Addenda

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

F.3.3 Return late tender offers

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

F.3.4 Opening of tender submissions

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

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

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

F.3.5 Two-envelope system

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

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

F.3.6 Non-disclosure

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

F.3.7 Grounds for rejection and disqualification

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

F.3.8 Test for responsiveness

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

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

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

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

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

F.3.9 Arithmetical errors, omissions and discrepancies

F.3.9.1 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

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

F3.9.2 The employer must correct the arithmetical errors in the following manner:

- a) Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
- b) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- c) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

F.3.10 Clarification of a tender offer

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

F.3.11 Evaluation of tender offers

F.3.11.1 General

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

F.3.11.2 Method 1: Price and Preference

In the case of a price and preference:

- 1) Score tender evaluation points for price
- 2) Score points for BBBEE contribution
- 3) Add the points scored for price and BBBEE.

F.3.11.3 Method 2: Functionality, Price and Preference

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

The 80/20 preference point system for acquisition of services, works or goods up to Rand value of R50 million.

- 4) (a)(i) The following formula must be used to calculate the points for price in respect of tenders (including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R 50 000 000 (all applicable taxes included):

$$Ps = 80 \left[1 - \frac{Pt - Pmin}{Pmin} \right]$$

Where

Ps = Points scored for comparative price of tender or offer under consideration;

Pt = Comparative price of tender or offer under consideration; and

Pmin = Comparative price of lowest acceptable tender or offer.

- (a)(ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate:

- (b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

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

- (c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)

- (d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).

(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

The 90/ 10 preference points system for acquisition of services, works or goods with a **Rand value above R 50 million**

- 5) (a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R50 000 000 (all applicable taxes included):

$$Ps = 90 \left[1 - \frac{Pt - Pmin}{Pmin} \right]$$

Where

Ps = Points scored for comparative price of tender or offer under consideration;

Pt = Comparative price of tender or offer under consideration; and

Pmin = Comparative price of lowest acceptable tender or offer.

- (b) Subject to subparagraph(5)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (c) A maximum of 10 points may be allocated in accordance with subparagraph (5)(b).

(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (5) (b) must be added to the points scored for price as calculated in accordance with subparagraph (5)(a).

(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

F.3.11.6 Decimal places

Score price, preference and functionality, as relevant, to two decimal places.

F.3.11.7 Scoring Price

Score price of remaining responsive tender offers using the following formula:

$$NFO = W1 \times A$$

where: NFO is the number of tender evaluation points awarded for the financial offer.

W1 is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the Tender Data.

A is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

Table F.1: Formulae for calculating the value of A

Formula	Comparison aimed at achieving	Option 1 ^a	Option 2 ^a
1	Highest price or discount	$A = \left(1 + \frac{(P - P_m)}{P_m} \right)$	$A = P/P_m$
2	Lowest price or percentage commission/fee	$A = \left(1 - \frac{(P - P_m)}{P_m} \right)$	$A = P_m/P$

P_m is the comparative offer of the most favourable comparative offer
 P is the comparative offer of tender offer under consideration.

F.3.11.8 Scoring preferences

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

Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

F.3.11.9 Scoring functionality

Score each of the criteria and sub criteria for quality in accordance with the provisions of the Tender Data.

Calculate the total number of tender evaluation points for quality using the following formula:

$$NQ = W2 \times SO / MS$$

where: SO is the score for quality allocated to the submission under consideration;
 MS is the maximum possible score for quality in respect of a submission; and
 $W2$ is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

F.3.12 Insurance provided by the employer

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

F.3.13 Acceptance of tender offer

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

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

F.3.14 Prepare contract documents

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

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

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

F.3.15 Complete adjudicator's contract

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

F.3.16 Notice to unsuccessful tenderers

F.3.16.1 Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

F.3.16.2 After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

F.3.17 Provide copies of the contracts

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

F.3.18 Provide written reasons for actions taken

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

F.3.19 Transparency in the procurement process

F3.19.1 The cidb prescripts require that tenders must be advertised and be registered on the cidb i.Tender system.

F3.19.2 The employer must adopt a transparency model that incorporates the disclosure and accountability as transparency requirements in the procurement process.

F3.19.3 The transparency model must identify the criteria for selection of projects, project information template and the threshold value of the projects to be disclosed in the public domain at various intervals of delivery of infrastructure projects.

F3.19.4 The client must publish the information on a quarterly basis which contains the following information:

- Procurement planning process
- Procurement method and evaluation process
- Contract type
- Contract status
- Number of firms tendering
- Cost estimate
- Contract title
- Contract firm(s)
- Contract price
- Contract scope of work
- Contract start date and duration
- Contract evaluation reports

F3.19.5 The employer must establish a Consultative Forum which will conduct a random audit in the implementation of the transparency requirements in the procurement process.

F3.19.6 Consultative Forum must be an independent structure from the bid committees.

F3.19.7 The information must be published on the employer's website.

F 3.19.8 Records of such disclosed information must be retained for audit purposes.

T.1.3 TENDER DATA

1. GENERAL

The Conditions of Tender in Section T1.2. are the Standard Conditions of Tender as contained in Annex F of SANS 294 – *Construction Procurement Processes, Methods and Procedures* which contain references to the Tender Data for details that apply specifically to this tender.

The Tender Data in this Section T1.3 shall be read with the Standard Conditions of Tender in order to expand on the Tenderer's obligations and the employer's undertakings in administering the tender process in respect of the project under consideration.

The Tender Data hereafter shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

.....Each item of Tender Data given below is cross-referenced to the relevant clause in the Standard Conditions of Tender.

2. TENDER DATA APPLICABLE TO THIS TENDER

<u>Clause number</u>	<u>Wording</u>
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F1.	GENERAL
------------	----------------

F.1.2	Tender Documents
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The tender documents issued by the Employer comprise:

a) TENDER DOCUMENT containing the following:

THE TENDER

PART T1: TENDERING PROCEDURES

- T1.1 TENDER NOTICE AND INVITATION TO TENDER
- T1.2 CONDITIONS OF TENDER
- T1.3 TENDER DATA

PART T2: RETURNABLE DOCUMENTS

- T2.1 LIST OF RETURNABLE DOCUMENTS
- T2.2 RETURNABLE SCHEDULES

THE CONTRACT

PART C1: AGREEMENTS AND CONTRACT DATA

- C1.1 FORM OF OFFER AND ACCEPTANCE
- C1.2 CONTRACT DATA

PART C2: PRICING DATA

- C2.1 PRICING INSTRUCTIONS
- C2.2 PRICING SCHEDULE

PART C3: SCOPE OF WORK

- C3.1 PROJECT SPECIFICATIONS
- C3.2 PARTICULAR SPECIFICATIONS

PART C4 : SITE INFORMATION

F.1.4 Communication and Employer's Agent

The Employer's representative is: Mr. I Cloete

Address: Richtersveld Municipality, 169 Main Road, Port Nolloth,
8280. Tel No: (027) 851 1125
Fax No: (027) 851 1101

F.2.1 Eligibility

F2.1.1 Only tenderers who are registered as a Consulting Engineering Firm are eligible to submit tenders.

F.2.2 Compensation

The Employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of attending the site visit and clarification meeting(s) and any testing necessary to demonstrate that aspects of the offer complies with requirements.

F.2.7 Site visit and clarification meeting:

The arrangements for a compulsory clarification meeting are as stated in the Tender Notice and Invitation to Tender.

The onus rests with the tenderer to ensure that the person attending the clarification meeting on its behalf is an ECSA registered professional and appropriately qualified to understand all directives and clarification given at that meeting.

The clarification meeting shall start strictly at the time advertised. Only then will the Employer's Representative circulate the attendance register for completion by those present. During this time latecomers may enter and complete the register. On completion by all present the Employer's Representative will:

- (a) read out from the collected lists calling for confirmation that all have signed; and
- (b) close the door and not allow any latecomers to enter.

The signature on the attendance register and duly completed and signed Form A1 shall be considered proof that the tenderer attended the whole meeting and was available to hear all directives and clarifications given at the meeting

F2.8. Variation or deviation

Any variation or deviation (i.e. qualification) that the tenderer considers necessary must follow the following process:

- Check with the Employer that the qualification is not a point for which clarity should be sent to other tenderers,
- If considered acceptable by the Employer as genuinely giving the tenderer a financial advantage the qualification must be recorded on the applicable returnable Schedule of Deviations or Qualification by Tenderer.

Failure to follow this process could render a tenderer's offer non-responsive in terms of Condition of Tender F.3.8.

F.2.12. Alternative tender offers

If a tenderer wishes to submit an alternative tender offer, the only criteria permitted for such alternative tender offer is that it demonstrably satisfies the employer's standards and requirements, the details of which may be obtained from the Employer's Agent.

Calculations, drawings and all other pertinent technical information and characteristics as well as modified or proposed Pricing Data must be submitted with the alternative tender offer to enable the Employer to evaluate the efficacy of the alternative and its principal elements, to take a view on the degree to which the alternative complies with the employer's standards and requirements and to evaluate the acceptability of the pricing proposals. Calculations must be set out in a clear and logical sequence and must clearly reflect all design assumptions. Pricing Data must reflect all assumptions in the development of the pricing proposal.

Acceptance of an alternative tender offer will mean acceptance in principle of the offer. It will be an obligation of the contract for the tenderer, in the event that the alternative is accepted, to accept full responsibility and liability that the alternative offer complies in all respects with the Employer's standards and requirements.

The modified Pricing Data must include an amount equal to 5% of the amount tendered for the alternative offer to cover the employer's costs of confirming the acceptability of the detailed design before it is constructed.

F.2.13 Submitting a tender offer

F2.13.3 Tender offers shall be submitted as an original only.

F2.13.5 The Employer's address:

Location of tender box:

Richtersveld Municipality,

169 Main Road, Port Nolloth, 8280.

Identification details:

Place the signed original tender offer in a package marked:

Tender No.: **EC/PN/NC061/09/2021**

Contract title: **TENDER FOR PROVISION OF CONSULTING**

**ENGINEERING SERVICES TO RICHTERSVELD
MUNICIPALITY FOR MUNICIPAL INFRASTRUCTURE
PROJECTS FOR 36 MONTHS**

F.2.15 Closing time

The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.

F.2.16 Tender offer validity

The tender offer validity period is 90 calendar days from the closing time for submission of tenders.

F.2.23 Certificates

The following certificates need to be included in the Tender:

- a) An original valid Tax Clearance Certificate or proof of Central Database Registration CSD registration for the tenderer or for each of the JV partners if tendered in joint venture, issued by the South African Revenue Services;

F.3.4 Opening of tender submissions

Tender submissions will be opened in the Town Hall,
Richtersveld Municipality
169 Main Road
Port Nolloth
8280

F.3.5 Two-envelope system

The two-envelope system will be followed for this contract.

F.3.11 Evaluation of tender offers

F3.11.1 General

Tender offers will be evaluated on Method 2: Functionality, Price and Preference. Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula, unless otherwise stated in the Tender Data:

$$TEV = NFO + NP + NQ$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;
NP is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.
NQ is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

F3.11.9 Scoring functionality

The functionality criteria and maximum score in respect of each of the criteria are as follows:

Description of quality criteria	Maximum number of Tender evaluation points
1. Financial Position	Max 20
2. Resources (see note 2) 2.1 Human Resources 2.2 Equipment 2.3 Local based office	Max 30
3. Previous experience (see note 1) 3.1 Municipal Infrastructure design experience (only projects completed within last 5 years) 3.2 Relevant project managent experience(only projects within the last 5 years)	Max 30
4. Quality systems (see note 3) 4.1 Submit proof of a current ISO, or similar quality system, certificate or brief summary of the in-house system used.	Max 20
Total points	100

Note 1 Bidders must submit a list of current contracts as well as contracts concluded over the past 5 (five) years detailing their experience in “road pavements, materials and the construction supervision thereof”. Details should include name of client/employer; value of contract; date of award and the start and completion dates. Bidders are expected to have a proven track record in similar projects/services.

Note 2 Bidders must submit CV’s of each of the five key staff members. As a minimum, such CV’s must detail (Max 5 Points per cv):

- (i) Name and Surname
- (ii) Qualification(s) – Name(s) of the institution(s) where the qualification(s) was/were obtained and the year(s) obtained. Minimum BSc or BEng or BTech as applicable (Max 1 point)
- (iii) Proof of professional registration. (max 2 points)
- (iv) Relevant experience (including role at previous or current clients) (max 2 points)
- (v) Dates during which the service(s) were rendered and/or duration of the projects.
Equipment:
 - (i) Own equipment relevant to projects (max 5 points)
 - (ii) Hired equipment relevant to projects (max 2 points)Local based office:
 - (i) Located within the jurisdiction of the Namaqua district municipality (max 5 points)
 - (ii) Located outside jurisdiction of the Northern Cape Namaqua district municipality (0 points)

Note 3 Bidders must submit proof of a current ISO, or similar system, certificate or brief summary of the in-house system used. Only ISO accreditation contemplated for the work specified shall score maximum points.

Note 4 The minimum number of evaluation points for quality is 80, but may be adjusted at the Municipality’s discretion in the event that all tenders fail to achieve the threshold.

**Quality shall be scored by not less than three evaluators in accordance with the following schedules:
Schedule: quality functionality assessment**

The minimum number of evaluation points for quality is 60 points, with a minimum average of 60% for each category. Bidders scoring less than this will be regarded as non-responsive

F.3.13 Acceptance of tender offer

F3.13.1 Tender offers will only be accepted if:

- a) the tenderer is registered as a Consulting Engineering Firm, and
- b) the tender offer is signed by a person authorized to sign on behalf of the tenderer;
- c) the tenderer has in his or her possession an original valid Tax Clearance Certificate or is registered on the CSD system of the South African Revenue Services, or has made arrangements to meet outstanding tax obligations.
- d) the tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector; and
- e) the tenderer has completed:
 - i) Declaration of Interest (MBD 4), MBD 6.1
 - ii) Declaration of past Bidder’s Supply Chain Management practices (MBD 8)
 - iii) Certificate of Independent Bid Determination (MBD 9)
- f) has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer’s ability to perform the contract in the best interests of the employer or

potentially compromise the tender process.

F.3.17 Provide copies of the contract

The Employer will provide the successful tenderer, now the contractor, with one copy of the complete, signed contract document.

PART C3: SCOPE OF WORK

PART C3: SCOPE OF WORK

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C3 *scope of works*

C3.1 general requirements

C3.1.1 Background

The services of a consulting engineering firms are required to render planning, design, project management and contract administration functions for managing of municipal infrastructure projects except for the MIG program of Richtersveld Municipality for a maximum period 36(months).

The appointment will be done in terms of the Engineering Council of South Africa (ECSA) Guideline Scope of Services for Persons Registered in terms of the Engineering Profession Act, 2000, (Act No. 46 of 2000) and Government Gazette. The appointed engineers will be required to coordinate the compilation of an Exceptional Scoping Report and EIA in compliance with the National Environmental Management Authority Act, 1998 (Act 107 of 1998) if required and the submission of the application to the Provincial Department of Environmental Affairs for approval.

C3.1.2 Scope of requirements

This section covers matters that relate to the Contract as a whole. Definitions, phrases or wording that would otherwise require repetition in other sections of this document are also covered in this section. Matters covered by the General and/or Particular Conditions of Contract are not repeated in this section, except to provide more detailed information.

C3.1.3 Location of the project

The project is located in Richtersveld Municipal area which includes towns such as Port Nolloth, Alexander Bay, Eksteenfontein, Sanddrift, Lekkersing and Kuboes.

C3.1.4 Description of the project

The services of a consulting engineering firms are required to render planning, design, project management and contract administration functions for managing of municipal infrastructure projects except for the MIG program of Richtersveld Municipality for a maximum period 36 (months).

C3.1.5 Project Cost Estimate

It is expected of tenderers to compile business plans for funding and then claim professional fees based on the approved tenders.

This is for all civil related projects excluding the MIG projects.

The information provided is only for information purposes and the tenderers prize needs determining taking the following aspects in consideration.

C3.1.6 Permits and authorisations

Any Environmental Impact Assessments, Management Plans/Programs (EMP's), or additional authorisations and permits that may be required, will be treated as a specialised additional service. Similarly, the compilation of any plans/reports necessary to comply with the relevant Minerals and Energy Act pertaining to quarries and borrow pits will be treated as an additional specialised service.

Procurement of sub-service providers in such instances shall be in accordance with the requirements of clause C3.1.12. As approvals of any EMP's etc. are essential prior to the commencement of the Works, the Service Provider shall be responsible to ensure that all submissions to the relevant approving authorities is completed by the milestone date tabled in clause C3.1.7.

C3.1.8 Penalties and delays

Penalties shall be applied for each calendar day by which the Service Provider fails to meet the prescribed dates for submission of the required reports e.g. Draft Detailed Assessment and Design Report, Draft and Final Tender Documentation for the Works, Tender Evaluation Report and Draft and Final Contract Reports and as-built data. The quantum of the penalty shall be as listed in the Contract Data. Draft reports and documents shall be submitted to the Employer at least five working days prior to any meetings scheduled for the discussion and finalisation thereof. The Service Provider shall thus take this period into account in compiling its program.

Any delays to the above program that are attributable to the Employer, or to other approved mitigating circumstances, will not be subject to penalties. In the event of such instances arising, any extensions of time granted shall be limited to the equivalent number of calendar days attributable to each instance.

C3.1.9 Key Personnel

The key personnel required for this project are listed in Form C1.2.2 Contract Data: Information provided by the Employer. The tenderer must list proposed candidates for the prescribed positions in the core team in Form C1.2.3 Contract Data: Information provided by the Tenderer, and each candidate must complete the relevant forms included in the Returnable Schedules. When a proposed candidate for any position is not in permanent employ of the tenderer, but a contracted person, a signed letter of consent from the candidate must be scanned in and submitted with the relevant forms. An individual, except for the site staff may be proposed to carry out a number of functions, in which instance, however, a separate form is to be completed for each separate function proposed. The threshold of the Technical Proposal indicates the importance of the quality and standard of engineering and administration expected of the Service Provider. Any changes to the key personnel, as proposed in this tender, after award will thus only be permitted in exceptional circumstances. In such circumstances the competence and experience of any replacement personnel shall also meet the threshold of the Technical Proposal. Re-evaluation by the Employer of any replacement personnel shall be paid for by the Service Provider as specified in Clause 3.7.3.

In the case of design work, the Design Specialist shall ensure that the Works are constructed according to the design. The Design Specialist would be actively involved in the investigations and compile a report on the interpretation of the investigations and test results.

The minimum qualification and experience for all Design Specialists shall be 10 years relevant experience and registered as a professional engineer or professional technologist with ECSA or any other international body recognised by the Employer.

C3.1.10 Progress/ Report meetings

The Service Provider shall meet with the Employer at least once a month or as and when instructed by the Employer to discuss and the progress of the Services. The Service Provider shall also submit **three** draft copies of all design and tender documents for review and discussion prior to their finalisation.

The Service Provider shall also submit any reports regarding training, empowerment, capacity building, small contractor development, labour and staff returns and any such aspects as may be required by the Employer.

C3.1.11 Safety

The Service Provider shall on award of the contract become the Employer's Agent in terms of Construction Regulation 4(5). The duties and responsibilities as the Client's Agent are as prescribed in construction regulation 4 in its entirety.

For purposes of clarity the Service Provider must be aware that typically the duties involve the following:

a) Design Phase

The Service Provider must identify elements of the design that are inherently dangerous or hazardous during the construction phase and design in such a manner as to mitigate or eliminate the risk where possible. This duty of identification continues into the construction phase of the project regardless that the designer may not be monitoring the construction phase. All identified dangers/hazards are to be listed and brought to the attention of potential contractors by way of notification on the tender and contract drawings, or separately listed in the tender/contract documents.

For example, staging for pipes, or sharing of unstable excavations is the designer's responsibility to identify and notify of the health and safety risk. It is also the designer's responsibility to undertake inspections at critical phases of construction to ensure that the identified risks are continuously and appropriately mitigated.

b) Construction phase

During the construction phase the supervising Service Provider must ensure that the Employer's duties are continuously fulfilled, meaning that the Service Provider has to include amongst its permanent monitoring staff at least one appropriately trained member. In addition the Service Provider must conduct monthly internal audits to ensure the site personnel are adhering to the statutory requirements. Costs for performing this duty are recoverable via the rate offered for this scheduled item of work.

The Employer may order external audits the costs of which are separately recoverable as a disbursement to the specialist sub-service provider selected to conduct the audits.

Furthermore, the Service Provider must, in compliance with Section 24 of the Occupational Health and Safety Act (Act 85 of 1993) report immediately to the Employer's Health and Safety Officer and the relevant project manager the details of a Section 24 incident, including confirmation that the Contractor has similarly reported the same incident directly to the Department of Labour.

Note: The above duties shall not be interpreted as being exhaustive and if any conflict between them and the legislated Construction Regulation arises, the latter shall rule.

C3.1.12 Procedure for procurement of sub-service providers

Provisional sums have been provided in the pricing schedule if work is required to be undertaken by external sub-service providers. Procurement of such services, or any other services that may be required (e.g. Environmental sub-service, Site laboratory sub-service etc.) shall be undertaken by means of a quotation/tender process. The Service Provider shall compile and issue relevant and approved terms of reference, together with the relevant work/pricing schedules, in accordance with the Employer's standard procurement policies to all potential sub-service providers who shall submit their quotations/tenders, in a sealed envelope, directly to the Employer's regional office by the date and time agreed. If deemed necessary, quotations/tenders will be opened in public. The Service Provider shall analyse all quotations/tenders received and submit recommendations to the Employer for approval prior to the appointment of any sub-service provider. Once approved, the Service Provider shall enter into an agreement with the sub-service provider with a copy of same submitted to the Employer. The handling fee tendered for any such Provisional Sums shall include all costs associated with compiling the procurement documentation, selecting the sub-service provider and managing the sub-service contract.

C3.2 Scope of services

This section covers the scope of services required for the project.

C3.2.1 Standards

Detailed assessments and any identified intrusive investigations shall be carried out in accordance with the following (as applicable):

- Guidelines for Human Settlement Planning and Design
- DFID (2000) A new approach for the design of water supply system in developing countries. (DFID Department for International Development)
- DWAF Guidelines for the selection of design criteria, White paper on water supply and sanitation policy, Minimum standards and guidelines for groundwater resource development for the community water supply and sanitation program, Water supply service levels, Guidelines for water services authorities,
- RSA Water services Act 1997 and regulations relating to compulsory national standards and measures to conserve water.
- Waterlines Household water treatment
- Test pumping standards for SA
- WRC reports regarding Package water treatment plant selection, Novel groundwater pump develop for rural areas, The location and siting of water boreholes, and
- Current industry good practice.

C3.2.2 Existing data

Existing information with respect to the relevant project is in given as annexure in PART C4: SITE INFORMATION.

C3.2.3 Normal Services

3.2.3.1 Stage 1 – Inception

These typical services relate to carrying out studies and investigations as well as the preparation and submission of reports embodying preliminary proposals or initial feasibility studies and will normally be remunerated on a time and cost basis. This stage is important to establish the clients requirements and preferences, refine user needs and options, appointment of necessary consultants, establish the project brief including project objectives, priorities, constraints, assumptions aspirations and strategies and include the following activities.

- a) Consultation with the client or client's authorized representative.
- b) Inspection of the site of the project.
- c) Developing a scope of work where required.
- d) Preliminary investigation, route location, planning and a level of design appropriate to allow decisions on feasibility and the selection of the most desirable project option.
- e) Assessments of existing water infrastructure with a view to investigate options and strategies, informing capital project options and related scope of work as well as how to refurbish and/or integrate new works with existing works.
- f) Consultation with authorities having rights or powers of sanction as well as consultation with the public and stakeholder groups.
- g) Inspect the site and advise on the necessary surveys, analyses, tests and site or other investigations where such information will be required for Stage 2 including the availability and location of infrastructure and services.
- h) Advise the client as to regulatory and statutory requirements, including environmental screening management and the need for surveys, analyses, tests and site or other investigations, as well as approvals, where such are required for the completion of the report, and arranging for these to be carried out at the client's expense.

- i) Searching for, obtaining, investigating and collating available data, drawings and plans relating to the works.
- j) Advise on criteria specific to own scope of work that could influence the project lifecycle cost significantly.
- k) Provide necessary information within the agreed scope of the project to other consultants involved.

Deliverables will typically include:

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

3.2.3.2 Stage 2 – concept and viability - Preliminary design

Provision has been made in the pricing schedule for the preliminary design of the project with the main purpose to review, prepare and finalise the project concept in accordance with the brief, including project scope, scale, character, form and function, plus preliminary program and viability of the project. The following activities are generally required:

- a) Establish the concept design criteria.
- b) Prepare initial concept design and related documentation.
- c) Advise the client regarding further surveys, analyses, tests and investigations which may be required.
- d) Establish regulatory authorities' requirements and incorporate into the design.
- e) Refine and assess the concept design to ensure conformance with all regulatory requirements and consents.
- f) Establish access, utilities, services and connections required for the design.
- g) Coordinate design interfaces with other advisors involved.
- h) Prepare preliminary designs, and related documentation for approval by authorities and client and suitable for costing.
- i) Provide cost estimates and life cycle costs as required.
- j) Liaise, co-operate and provide necessary information to the Employer, and other advisors involved.

Typical deliverables will include:

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

The preliminary design report shall include all preliminary design plans and proposed amendments, drawings, quantities and any other information necessary to enable the Employer to commence with the process of land acquisition and the environmental phase.

The service provider shall liaise with affected land owners and other Road Authorities and hold regular progress meetings with the Employer as appropriate.

The process of submission of the final Preliminary Design Report shall be as follows:

- Compilation and submission of 2 (two) copies of a draft report
- Discussion of draft report with Employer
- Amendment and submission of one hard copy and one electronic copy of the Preliminary Detailed Design Report

The service provider shall submit the draft reports to the Employer a minimum of 7 (seven) working

days prior to the agreed date for the discussion thereof.

3.2.3.3 Stage 3 – design development – detail design

During this stage it will be necessary to develop the approved concept to finalise the design, outline specifications, cost plan, financial viability and program for the project. Activities include:

- a) Review documentation program with principal consultant and other consultants involved.
- b) Attend design and consultants' meetings.
- c) Incorporate client's and authorities' detailed requirements into the design.
- d) Incorporate other consultants' designs and requirements into the design.
- e) Prepare design development drawings including draft technical details and specifications.
- f) Review and evaluate design and outline specification and exercise cost control.
- g) Prepare detailed estimates of construction cost.
- h) Liaise, co-operate and provide necessary information to the principal consultant and other consultants involved.
- i) Submit the necessary design documentation to local and other authorities for approval.

Typical deliverables will include:

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

3.2.3.4 Stage 4 – design development – procurement

This stage is the preparation of procurement and construction documentation, confirm and implement the procurement strategies and procedures for effective and timeous procurement of necessary resources for execution of the project. Activities in this stage include:

- a) Attend design and consultants' meetings.
- b) Prepare specifications and preambles for the works.
- c) Accommodate services design.
- d) Check cost estimates and adjust designs and documents if necessary to remain within budget.
- e) Formulate the procurement strategy for contractors or assist the principal consultant where relevant.
- f) Prepare documentation for contractor procurement.
- g) Review designs, drawings and schedules for compliance with approved budget.
- h) Call for tenders and/or negotiation of prices and/or assist the principal consultant where relevant.
- i) Technical evaluate tenders and compile technical evaluation report and present to technical evaluation committee.
- j) Prepare contract documentation for signature
- k) Assist in pricing, documentation and tender evaluation as required when the detailed services for these activities are provided by others.
- l) Assess samples and products for compliance and design intent.

Typical deliverables will include:

- Specifications.
- Services co-ordination.
- Working drawings.
- Budget construction cost.
- Tender documentation.
- Tender evaluation report.

- Tender recommendations.
- Priced contract documentation.

3.2.3.5 Stage 5 – Contract Administration and Inspection

During this stage the consultant have to manage, administer and monitor the construction contracts and processes including preparation and coordination of procedures and documentation to facilitate practical completion of the works by:

- Attend site handover.
- Issue construction documentation in accordance with the documentation schedule including, in the case of structural engineering, reinforcing bending schedules and detailing and specifications of structural steel sections and connections.
- Carry out contract administration procedures in terms of the contract.
- Prepare schedules of predicted cash flow.
- Prepare pro-active estimates of proposed variations for client decision making.
- Attend regular site, technical and progress meetings.
- Review the Contractor's quality control program and advise and agree a quality assurance plan.
- Inspect the works for quality and conformity to contract documentation, on average once every 2 weeks during the course of the works as described in more detail in 3.3.2 for Level 1: periodic construction monitoring.
- Review the outputs of quality assurance procedures and advise the contractor and client on the adequacy and need for additional controls, inspections and testing.
- Adjudicate and resolve financial claims by contractor(s).
- Assist in the resolution of contractual claims by the contractor.
- Establish and maintain a financial control system.
- Clarify details and descriptions during construction as required.
- Prepare valuations for payment certificates to be issued by the principal agent.
- Instruct witness and review all tests and mock ups carried out both on and off site.
- Check and approve contractor drawings for design intent.
- Update and issue drawings register.
- Issue contract instructions as and when required.
- Review and comment on operation and maintenance manuals, guarantee certificates and warranties.
- Inspect the works and issue practical completion and defects lists.
- Arrange for the delivery of all test certificates, statutory (regulatory) and other approvals, as built drawings and operating manuals

Typical deliverables will include:

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

3.2.3.6 Stage 6 – Close-Out

The final stage is to fulfil and complete the project close-out including necessary documentation to

facilitate effective completion, handover and operation of the project. Activities include:

- a) Inspect and verify the rectification of defects
- b) Receive, comment and approve relevant payment valuations and completion certificates
- c) Facilitate and/or procure final operations and maintenance manuals, guarantees and warranties.
- d) Prepare and/or procure as-built drawings and documentation.
- e) Conclude the final accounts where relevant.

Typical deliverables will include:

- Valuations for payment certificates
- Works and final completion lists
- Operations and maintenance manuals, guarantees and warranties
- Ass-built drawings and documentation (Ass-built drawings – 3 x hard copies, 1 x Softcopy in .pdf .dwg and .shp file formats)
- Final accounts

C3.2.4 Construction Monitoring

- a) Quality assurance (QA) during construction refers to the engineering activities that are implemented to assure the client that works are highly likely to meet the requirements. This is achieved through a combination of the quality control processes that are put in place by the contractor to control its outputs and the inspection and acceptance testing that is carried out by the consulting engineer to confirm conformance prior to certification. While the contractor takes the ultimate responsibility for quality and meeting the design requirements, the purpose of quality assurance plan and related construction monitoring is to inspect and satisfy the client and the consulting engineer that the risk of these requirements not being met is acceptable.
- b) This means that the client and consulting engineer should agree a satisfactory arrangement in respect of construction monitoring that suits the type of work, the project location and the duration of the critical aspects of the works. Disagreement regarding the required level of construction monitoring should not be taken lightly and the parties should carefully consider the consequences of non-compliances and related responsibilities, bearing in mind that the consulting engineer has a duty of care while the client should strive to ensure quality and minimise life-cycle costs.
- c) The level of construction monitoring and the frequency and duration of the site visits must be agreed with the client prior to commencement of the works and should be recorded in the agreement with the client. The level of construction monitoring and activities related to the quality assurance plan may change during the course of the works to reduce quality related risks and this will require an amendment of the agreement.
- d) The stage 5 construction monitoring services will normally suffice for simple projects where more regular inspections are not required other than during critical stages of the works with less frequent visits once the portion of the works in which the consulting engineer is involved has largely been completed. However, there are many other situations where more regular construction monitoring is required for quality assurance and certification.
- e) Aspects that need to be considered when determining the degree to which additional construction monitoring services are required are:
 - i) The type of work.
 - ii) The discipline of the work (civil, structural, mechanical, electrical etc.).
 - iii) The competency and reputation of the contractor and its related quality control system.

- iv) The speed with which critical elements of the work are covered.
 - v) The consequences of non-compliance.
 - vi) Timing and ease of subsequent detection and rectification of non-compliances.
- f) Arising from the above, three levels of construction monitoring may be defined and described, as follows:
- i) Level 1: Periodic Construction Monitoring (Normal Services ie no additional services). The consulting engineer's staff shall:
 - Visit the works at a frequency of once every two weeks on average over the duration of the works, with additional visits for works completion inspections and inspections for works defects lists.
 - Review random samples of material and work procedures, that will coincide with the normal frequency visits, for conformity to contract documentation, and review random samples of important completed work prior to covering up, or on completion, as appropriate.
 - ii) Level 2: Part-time Construction Monitoring (Normal Services for building structures and additional services involving part-time staff paid for by the client for other disciplines and projects) The consulting engineer's staff or part time construction monitoring staff shall:
 - Regularly visit the site at a frequency which may vary during the course of the project, and such visits may be daily or weekly, according to the demands of the project.
 - Regularly, review samples of materials and work procedures that may require more frequent visits than required for Level 1, for conformity to contract documentation, and review regular samples of important completed work prior to covering up, or on completion, as appropriate.
 - Where the consulting engineer is the sole professional service provider or principal agent, carry out such administration of the project as is necessary on behalf of the client.
 - iii) Level 3: Full-time Construction Monitoring (Full time staff seconded to the client for the duration of the works and paid for by the client) The full time construction monitoring staff shall:
 - Maintain a full time presence on site to constantly review samples of materials and work procedures, for conformity to contract documentation, and review completed work prior to covering up, or on completion, as appropriate.
 - Assist with the preparation of as-built records and drawings to the extent required in the agreement with the client
 - Where the consulting engineer is the sole professional service provider or principal agent, carry out such administration of the project as is necessary on behalf of the client.
- g) Most structural engineering work typically requires at least Level 2 monitoring and the costs associated with this level of monitoring are included in the guideline fee for building projects to facilitate agreements. For example, in structural concrete work the correct position of reinforcing steel may need to be witnessed for all elements of the structure prior to pouring concrete. The consulting engineer may also require acceptance testing of the concrete on a regular basis depending on the quality controls instituted by the contractor as part of the quality assurance plan.
- h) In the case of large civil works where all materials and elements are generally regarded as being critical and are covered on a daily basis, work is monitored on a continuous basis for the duration of the works and Level 3 monitoring usually applies. This level is also applied to the structural works that are included in such projects.

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

C3.2.5 Additional Services

The following services are additional to the normal services provided by the consulting engineer, unless specifically agreed otherwise between the consulting engineer and the client.

The agreement on the services and remuneration shall be in writing and should, if at all possible, be concluded before such services are rendered. All services related to defining the scope of work that are normally paid for on a time and cost basis.

- a) Enquiries not directly concerned with the works and its subsequent utilisation.
- b) Making arrangements for way leaves, servitudes or expropriations.
- c) Additional work in obtaining the formal approval of the appropriate Government Departments or Public Authorities and Utilities, including the making of such revisions as may be required as a result of decisions of such Departments or Authorities arising out of changes in policy, undue delay, or other causes beyond the consulting engineer's control.
- d) Additional work related to monitoring as required by any Government Departments or Authorities in order to facilitate regulatory approvals and certification.
- e) Topographical and environmental surveys, analyses, tests and site or foundation or other investigations, model tests, laboratory tests and analyses carried out on behalf of the client.
- f) Detailed inspection, reviewing and checking of designs and drawings not prepared by the consulting engineer and submitted by any contractor or potential contractor as alternative to those embodied in tender or similar documents prepared by the consulting engineer.
- g) Travel/ accommodation and travel time costs related to offsite inspection and testing of materials and plant during manufacture and/or prior to delivery to site.
- h) Abnormal additional services by, or costs incurred by the consulting engineer due to the failure of a contractor or others to perform their required duties adequately and on time. For example:
 - i) When the works Contract is extended beyond the awarded contract period due to poor contractor performance or any other unforeseen circumstances beyond the control of the consulting engineer, attendance at meetings and

related inspections are considered as additional services. Alternatively, the portion of the fee due for the Contract Administration and Inspection Stage is adjusted pro-rata to the extended duration versus the originally expected duration.

- ii) Where more frequent inspections are required due to poor contractor performance or other extraneous factors beyond the control of the consulting engineer, these are normally considered to be additional services.
 - iii) Dealing with excessive, unreasonable and spurious claims by the Contractor.
- i) Executing or arranging for the periodic monitoring and adjustment of the works, after final handover and completion of construction and commissioning, in order to optimise or maintain proper functioning of any process or system.
 - j) Investigating or reporting on tariffs or charges leviable by or to the client.
 - k) Advance ordering or reservation of materials and obtaining licenses and permits.
 - l) Preparing detailed operating, operation and maintenance manuals.
 - m) Additional services, duties and/or work resulting from project scope changes, alterations and/or instructions by the client, or his duly authorized agents, requiring the consulting engineer to advise upon, review, adapt and/or alter his completed designs and/or any other documentation and/or change the services and/or duties. Such additional services are subject to agreement in writing between the consulting engineer and the client prior to the execution thereof.
 - n) The frequency and extent of site administration and inspections that are required relative to the norm: The frequency and duration of works inspections will depend on many factors, such as the nature, complexity and duration of the project, site location, project program, contractor competence, important elements of the works being enclosed or covered etc. The norm is that meetings and inspections should occur at an average frequency of once every 2 weeks with more frequent occurrences during critical stages of the works as described for Level 1 Construction Monitoring in C3.2.10. When the frequency of meetings and inspections exceeds this norm then such additional attendance at meetings and related inspections are considered as additional services.
 - o) Preparing record drawings on designs done by others or related to alterations to existing works.
 - p) Work and or services related to targeted procurement that could entail, but is not necessarily limited to any or all of the following:
 - i) incorporation of any targeted participation goals and training outcomes,
 - ii) the measuring of key participation indicators,
 - iii) the selection, appointment and administration of participation and;
 - iv) auditing compliance with the above by any contractors and/or professional consultant.
 - q) Exceptional arrangements, communication, facilitation and agreements with any stakeholders other than the client and contractors appointed for the works on which the consulting engineer provides services.
 - r) Any other additional services, of whatever nature, specifically agreed to in writing between the consulting engineer and the client.
 - s) Arranging forward cover for imported goods, materials or services.

3.2.5.1 Occupational Health and Safety Act, 1993 (Act No.85 of 1993).

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

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

For duties under the Occupational Health and Safety Act, the consulting engineer will normally, if so appointed by the client, be remunerated on a time and cost basis as agreed with the client.

3.2.5.2 Survey Services Procurement

The Service Provider shall identify all survey requirements during the detailed assessment and design phase. Provision is made in the pricing schedule for engagement of Survey Service Provider for the procurement of any survey required for the project.

While interaction between the Survey Service Provider and the PSP will be necessary, the survey tender documents, advertising, evaluation, appointment of surveyor, payment of the surveyor, the survey project management and quality control will be undertaken by the PSP. The PSP shall agree to a program with the Survey Service Provider that will be binding on the PSP and they will be liable for any delays, defects and liabilities.

3.2.5.3 Environmental services

It is believed that no EIA will be needed, but the Service Provider shall identify all environmental issues relating to the envisaged scope of the Works during the detailed assessment and design phase, including potential borrow pits and/or quarries. It is to be noted that **NO** Environmental Approval (EA) has been obtained for this project.

3.2.5.4 Additional Services

If needed the service provider will be requested to assist with planning studies, investigations and or assessments of infrastructure for future developments in the municipality as identified by council.

These typical services relate to carrying out studies and investigations as well as the preparation and submission of reports embodying preliminary proposals or initial feasibility studies and will normally be remunerated on a time and cost basis. Activities related to this include:

- a) Consultation with the client or client's authorized representative.
- b) Inspection of the site of the project.
- c) Developing a scope of work where required.
- d) Preliminary investigation, route location, planning and a level of design appropriate to allow decisions on feasibility and the selection of the most desirable project option.
- e) Assessments of existing built environment elements with a view to developing operations and maintenance options and strategies, informing capital project options and related scope of work as well as how to refurbish and/or integrate new works with existing works.
- f) Consultation with authorities having rights or powers of sanction as well as consultation with the public and stakeholder groups.
- g) Advise the client as to regulatory and statutory requirements, including environmental screening management and the need for surveys, analyses, tests and

site or other investigations, as well as approvals, where such are required for the completion of the report, and arranging for these to be carried out at the client's expense.

- h) Searching for, obtaining, investigating and collating available data, drawings and plans relating to the works.
- i) Investigating financial and economic implications relating to the proposals or feasibility studies.
- j) Compilation of technical report and MIG registration forms.

Deliverables will typically include:

- Collation of information.
- Reports on options and technical and financial feasibility and related implications.
- List of consents and approvals.
- Schedule of required surveys, tests, analyses, site and other investigations.

C3.3 FEE PROPOSAL GUIDELINES

Please take note of the following extracted guidelines and use this guideline to gauge your Tender price for professional services offered. Based on Engineering Council of South Africa (ECSA) Guidelines Scope of Services and Tariff of fees, Government Gazette No. 39480, 04 December 2015; Board Notice 1538 of 2015.

The following fees may be claimed after each stage of services or monthly or as agreed between the consulting engineer and the client:

- a) Time based fees applicable when the services were rendered. C3.3.2
- b) Percentage fees determined on the basis of the cost of the works prevailing at the time of the fee calculation and pro-rata to the completed services, or a portion of the total fee based on completion of the stages along the lines indicated in C3.3.1

C3.3.1 Fees Based on Cost of the Works

Fees based on cost of the works are appropriate when the nature, form and function of the project has been defined through previous studies and engineering work primarily involves finalising the size and form of the project through the various stages of Normal Services as indicated above (Stages 1-6)

3.3.1.1 Project Types

Table 4.1 in Government Gazette No. 39480, indicates the typical range of fees that are appropriate for Civil, Agricultural and Structural Engineering Services.

The fee category for the registered project is:

PROJECT TYPE	FEE CATEGORY	Fee Range for a R11,5 million works value	
		Lower Limit	Upper Limit
Pipelines – Water	A	6%	8%
Pumping and pipeline systems	D	9%	11%

It should be noted that the above fee includes normal services in respect of construction administration and site inspections. The actual percentage fee that is appropriate will depend on many factors, including general factors applicable to all project types, as outlined below, as well as specific factors applicable to particular project types. Tenderers should take the general factors influencing fees in consideration when submitting the offer as indicated in Tables 4.6, 4.7, 4.8 and 4.9 of Government Gazette No. 39480.

As the cost of works decreases or increases the percentage fee should be adjusted up or down, generally in accordance with the guideline provided below in Figure 4-1 of Government Gazette No. 39480.

3.3.1.2 Stage Fees for Engineering Services

The following table is used to determine the proportion of the basic fee payable over the various stage of the engineering management services.

STAGE OF SERVICES	PERCENTAGE PAYABLE AT END OF EACH STAGE
Inception, Concept and Viability - Stage 1 and 2	25
Design Development, Documentation and procurement – Stage 3	35
Construction Administration – Stage 4	35
Close out and Completion of management services – Stage 5	5

C3.3.2 Time based fees

Appointments for time based fees are normally made where the scope of work is not clearly defined at the time of appointment of the consulting engineer. This provides an opportunity for both the client and consulting engineer to modify the scope as work proceeds in order to develop confidence in the study and design outputs and to investigate issues that are uncovered as the work progresses. Time based fees are also appropriate on small projects, and for certain types of specialist appointment.

- a) Time based fees are all-inclusive fees, including allowances for overhead charges incurred by the consulting engineer as part of normal business operations, including the cost of management, as well as payments to administrative, clerical and secretarial staff used to support professional and technical staff in general and not on a specific project only.
 - i) Time based fees are calculated by multiplying the agreed hourly rate which is applicable to the consulting engineer or any other technical staff employed by the consulting engineer, with the actual time spent by such technical staff in rendering the services required by the client.
 - ii) Technical staff include all staff performing work directly related to the execution of the services the consulting engineer is engaged for by the client and excludes all administrative, clerical and secretarial staff used to support professional and technical staff in general and not on a specific project only, but includes the typing of letters, minutes, reports and documents for projects.
- b) To determine the time based fee rates the persons concerned are divided into:-

- i) Category A, in respect of a private consulting practice in engineering, shall mean a top practitioner with over 20 years of experience whose expertise and relevant experience is nationally or internationally recognized and who provides advice at a level of specialization where such advice is recognized as that of an expert.
- ii) Category B, in respect of a private consulting practice in engineering, shall mean a person with over 10 years of experience who acts as partner, a sole proprietor, a director, or a member who, jointly or severally with other partners, co-directors or co-members, bears the risks of the business, or a person that takes responsibility for the projects and related liabilities of such practice and where his/her level of expertise and relevant experience is commensurate with the position, performs work of a conceptual nature in engineering design and development, provides strategic guidance in planning and executing a project and/or carries responsibility for quality management pertaining to a project.
- iii) Category C, in respect of a private consulting practice in engineering, shall mean all salaried professional staff who are registered as such in terms of applicable Acts and with adequate expertise (in the range of 3 to 15 years) and relevant experience performing work of an engineering nature and who carry the direct technical responsibility for one or more specific activities related to a project. A person referred to in Category B may also fall in this category if such person performs work of an engineering nature at this level.
- iv) Category D, in respect of a private consulting practice in engineering, shall mean all other salaried technical staff with adequate expertise and relevant experience performing work of an engineering nature with direction and control provided by any person contemplated in categories A, B or C.

C3.4 Measurement and payment

Item	Unit
10.01 Normal Services	
1) Normal services in respect of construction administration and site inspections, Level 1 Construction Monitoring	Percentage

The actual percentage fee that is appropriate will depend on many factors, including general factors applicable to all project types, as outlined in Government Gazette No. 39480. Tenderers should take the general factors influencing fees in consideration when submitting the offer. The rate to cover the direct costs plus overheads and to include his profit and all costs and expenses that he requires for the item specified and for all general risks, liabilities and obligation set forth or implied in the documents on which the tender is based.

Item	Unit
10.02 Disbursements	
1) Travelling (Stages 1,2,3,4 and 6)	
a) Travelling expenses	Sum
b) Travelling time.....	Sum
c) Accommodation and subsistence expenses.....	Sum
d) Administration costs in producing construction documentation.....	Sum
e) Construction drawings.....	Sum
2) Travelling (Stage 5)	
a) Travelling expenses (Level 1 and 2 Construction Monitoring).....	Month
b) Travelling time (Level 1 and 2 Construction Monitoring)	Month
c) Accommodation and subsistence expenses.....	Month
d) Administration costs in for construction monitoring	Month

Rates for the above items shall include all expenses actually incurred by the consulting engineer and members of the consulting engineer's staff in rendering their services.

- a) Travelling expenses for the conveyance of the consulting engineer or a member of the consulting engineer's staff by means of: private motor transport, including any parking charges, toll fees and related expenses; a scheduled airline or a train, bus, taxi or hired car; or non-scheduled or privately owned air transport.
- b) Travelling time on the basis of the rate shall for all time spent in travelling by the consulting engineer or members of his staff envisage for the different stages and period as stated.
- c) Accommodation and subsistence expenses incurred by the consulting engineer or a member of his staff;
- d) The rate for administration costs shall be the rate for all expenses related to typing, production, copying and binding of contract documents, pre-qualification documents, feasibility reports, preliminary design reports, final reports and manuals,

- excluding general correspondence, minor reports, contractual reports, progress reports, etc.
- e) Agreed costs of drawing reproduction shall include all expenses on special reproductions, copying, printing, artwork, binding and photography, ass-build drawings, etc. requested by the client.

Item		Unit
20.01	Time Based Fees	
	1) Occupational Health and Safety	
	a) OHS services	Provisional
	Sum	
	b) Handling costs	Percentage
	2) Survey Services	
	a) Survey	Provisional
	Sum	
	b) Handling costs	Percentage
	3) Environmental services	
	a) EIA Assessment	Provisional
	Sum	
	b) Handling costs	Percentage

1,2) The Provisional Sum is an estimate of the costs associated with performing all duties as needed.

- 3) Provision for the costs of compiling Environmental Impact Assessment report and submission thereof, Environmental Management Plans or Scoping Reports, application for licences or permits, public participation, engagement of affected landowners, etc. by a specialist sub-service provider has been made in the Pricing Schedule under a Provisional Sum item. The percentage handling fee tendered in the Pricing Schedule for work carried out under a Provisional Sum shall include for all costs associated in:
- compiling a schedule of all envisaged environmental requirements
 - production of a document for procurement purposes (including printing etc)
 - evaluation of tenders received and recommendations to the Employer
 - handling fees
 - profit
 - managing and monitoring of sub-service contract

The percentage tendered for handling costs shall only be applicable where such service is carried out under the Provisional Sum shall include all costs associated with the planning, scheduling, compilation of quotation/tender documentation, issuing of 3 (three) quotations/tenders in electronic and/or paper format and evaluation for the procurement of the sub-service, as well as handling fees and profit.

Procurement of such services shall be in accordance with clause C3.1.12.

The Provisional Sum item shall be paid in accordance with Clause C2.1.8

Item		Unit
20.02	Infrastructure Assessment	

Detailed Assessment and Investigation

a)Category A	hr
b)Category B	hr
c)Category C	hr
d)Category D	hr

The unit of measurement for pay item 20.02 shall be the hour. Rates have been provided for the different categories. The hours tendered shall include full compensation for personnel, materials, printing and all other costs associated with the investigation as indicated in 3.2.5.4

PART C4: SITE INFORMATION

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PART C4 : SITE INFORMATION

LOCATION OF THE PROJECT

The project is located in residential areas located in Port Nolloth, Alexander Bay, Eksteenfontein, Sanddrift, Lekkersing and Kuboes.

AVAILABLE INFORMATION

Disclaimer

This document sets out the results and/or conclusions derived from various research and investigations done.

The results of these investigations are given in good faith and there is no guarantee that these results are entirely representative of the actual conditions that may be encountered, the intention being to give an indication of the conditions most likely to be encountered.

Project INFORMATION

General

The project entails the provision Civil/Process engineer consulting services to Richtersveld Municipality over 36 months. Annexure B contains the technical information relating to the project.

Environmental requirements

No Environmental Impact Assessment was done, should this be a requirement it should be included under this appointment.

Appendices

- Appendix A: Locality Plan
- Appendix B: Project Technical Report
- Appendix C: Health and Safety Specification

APPENDIX A

LOCALITY PLAN



APPENDIX B

PROJECT INFORMATION

APPENDIX C

**OCCUPATIONAL HEALTH AND SAFETY
SPECIFICATION**

PART C2: PRICING DATA

PART C2: PRICING DATA

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C2.1 PRICING INSTRUCTIONS

C2.1.1 For the purposes of this Pricing Schedule, the following words shall have the meanings hereby assigned to them.

Unit: The unit of measurement for each item of work as defined in the standard specifications or the Scope of Works.

Quantity: The number of units of work for each item as provided by the Employer or as tendered by the Service Provider.

Rate: The payment per unit of work for which a rate has been provided by the Employer or for which the Service Provider tenders to do the work.

Amount: The product of the quantity and the rate tendered for an item.

Lump Sum: An amount tendered for an item, the extent of which is described in the Pricing Schedule, the Scope of Work or elsewhere, but of which the quantity of work is not measured in units.

Provisional Sum: An amount allowed for an item and its extent of which is alluded to in the Pricing Schedule, the Scope of Work or elsewhere, but of which the quantity of work is not known.

Non-standard abbreviations which may appear in the Pricing Schedule are as follows:

No.	=	number
%	=	percent
L Sum	=	Lump sum
PC sum	=	Prime cost sum
Prov sum	=	Provisional sum

C2.1.2 The quantities provided by the Employer in the Pricing Schedule are only approximate quantities. The quantities of work finally accepted and certified for payment, and not the quantities given in the Pricing Schedule, will be used to determine payments to the Service Provider.

The quantities tendered by the Service Provider will be certified for payment as final quantities.

The validity of the Contract shall in no way be affected by differences between the quantities in the Pricing Schedule and the quantities finally certified for payment. Work is valued at the rates or lump sums tendered.

C2.1.3 Rates and lump sums shall include full compensation for overheads, profits, incidentals, tax (other than VAT), etc, and for the completed items of work as specified in the standard specifications and Project Data and for all the risks, obligations and responsibilities specified in the General Conditions of Contract, Particular or Special Conditions of Contract, except in so far as the quantities given in the Pricing Schedule are only approximate.

C2.1.4 The tenderer shall fill in a quantity or a rate or a lump sum for each item where provision is made. Items against which no rate or lump sum has been entered in the tender will not be paid for when the work is executed, as payment for such work will be regarded as being covered by other rates or lump sums in the pricing schedule.

The tenderer shall fill in a rate against all items where the words "rate only" appears in the amount column. Although no work is foreseen under such item and no quantities are consequently given in the quantity column, the tendered rate shall apply should work under this item actually be required. Tenders should note the provisions of clause C2.1.10 of this preamble.

If the tenderer should group a number of items together and tender one lump sum for each group of items, this single tendered lump sum shall apply to that group of items and not to each individual

item, or should he indicate that full compensation for any item has been included in the rate for another item, the rate for the item included in another item shall be deemed to be nil.

The tendered lump sums and rates shall be valid irrespective of any change in the quantities during the execution of the contract.

C2.1.5 The short descriptions of the payment items in the Pricing Schedule are only given to identify the items and to provide specific details. Reference shall, *inter alia*, be made to the Contract Data, General Conditions of Contract and Particular / Special Conditions of Contract for more detailed information regarding the extent of work entailed under each item.

C2.1.6 Prices or rates will be subject to adjustment for escalation as provided for below:

- The prices or rates shall be fixed for the first 12-month period determined from the tender base date and no change during this period will be allowed for escalation.
- On the 12-month anniversary date of the Contract base date the rates or sums shall be adjusted by the twelve-month year on year CPI index (as published in the monthly bulletin PO141. of Statistics South Africa under table B) and fixed at this value for the following 12-month period. Subsequent 12-month periods shall be dealt with on the same basis.
- Adjustment of lump sum prices for escalation shall only be applicable to that portion of the relevant Service which is incomplete at the end of the 12-month anniversary date and shall not be applicable to any progress payments already claimed.

Adjustment for escalation shall only be applicable for services or portions thereof, that are still within the prescribed program and any approved extensions of time.

C2.1.7 Interim payments for lump sum payment items may be permitted. Such interim payments shall however be limited to proven progress achieved for that particular service deliverable. The sum of any progress payments made under a particular lump sum payment item shall be deducted prior to calculating any adjustments for escalation as described in clause C2.1.6 above.

C2.1.8 Provisional Sums: Each Provisional Sum shall only be used, in whole or in part, in accordance with the Employer's instructions and the Contract Price shall be adjusted accordingly. The total sum paid to the Service Provider shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Employer shall have instructed.

For each Provisional Sum, the Employer may instruct plant, materials or services to be procured by the Service Provider in accordance with the Employer's policies, and for which there shall be included in the Contract Price:

- The actual amounts paid (or due to be paid) by the Service Provider, and
- A sum for compilation and printing of procurement documentation, quotation/tender process and evaluation, and all overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate tendered in the Pricing Schedule.

The Service Provider shall produce all quotations, invoices, vouchers and accounts or receipts in substantiation of any claim under a Provisional Sum.

C2.1.9 Subject to the conditions stated clause C2.1.10 below, the rates and lump sums filled in by the tenderer in the pricing schedule shall be final and binding with regard to submitting the tender, and may not be adjusted should there be any mistakes in the extensions thereof and in the total sums appearing in the tender. Should there be any discrepancies between the tender sum and the correctly extended and totalled pricing schedule, the rates will be regarded as being correct, and the Employer shall have the right to make adjustments to the tender sum to reconcile the tender sum with the total of the pricing schedule. In such an event the tenderer will be consulted but, failing agreement between the parties, the decision of the Employer shall be final and binding. Adjustment of the tender sum will take place prior to the signing of the contract. In their own interest tenderers must make doubly sure of the correctness of their tendered rates, the extensions and the tender sum.

C2.1.10 A tender may be deemed unresponsive if the unit rates or lump sums for some of the items in the Pricing Schedule are, in the opinion of the Employer, unreasonable or out of proportion, and if the tenderer fails, within a period of seven (7) days of having been notified in writing by the Employer to adjust the unit rates or lump sums for such items, to make such adjustments.

C2.1.11 All rates and sums of money quoted in the Pricing Schedule shall be in South African Rand and whole cents

C2.1.12 The item numbers appearing in the Pricing Schedule refer to the corresponding item numbers in the Scope of Work.

C2.2 PRICING SCHEDULE

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SCHEDULE A

CALCULATION OF TENDER SUM

CALCULATION OF TENDER SUM

Normal Services R

Time Based Fees R

Sub Total R

• **VALUE ADDED TAX**

Add 15 % of Subtotal B R

(Provisional sum based on current rate of VAT)

TOTAL CARRIED TO FORM OF OFFER (C1.1.1)..... R

SIGNED ON BEHALF OF TENDERER:

TENDER NO. TD EC/PN/NC061/09/2021 TENDER FOR PROVISION OF CONSULTING ENGINEERING SERVICES TO RICHTERSVELD MUNICIPALITY FOR MUNICIPAL

					SECTION 1000
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
					R
10,00	NORMAL SERVICES				
10,01	Normal Services				
	1) Normal services in respect of construction administration and site inspections and Construction Monitoring	%	6 000 000		
10,02	Disbursements				
	1) Travelling (Stages 1,2,3,4 and 6)				
	a) Travelling expenses	Sum	1		
	b) Travelling time	Sum	1		
	c) Accommodation and subsistence expenses	Sum	1		
	d) Administration costs in producing construction documentation	Sum	1		
	e) Construction drawings	Sum	1		
	2) Travelling (Stage 5) (Level 1 - Construction Monitoring)				
	a) Travelling expenses	Month	6		
	b) Travelling time	Month	6		
	c) Accommodation and subsistence expenses	Month	6		
	d) Administration costs in producing construction documentation	Month	6		
	3) Travelling (Stage 5) (Level 2 - Construction Monitoring)				
	a) Travelling expenses	Month	1		
	b) Travelling time	Month	1		
	c) Accommodation and subsistence expenses	Month	1		
	d) Administration costs in producing construction documentation	Month	1		
TOTAL CARRIED FORWARD TO SUMMARY					

RICHTERSVELD

MUNICIPALITYTENDER

NO.

EC/PN/NC061/09/2021

**TENDER FOR PROVISION OF CONSULTING ENGINEERING SERVICES TO
RICHTERSVELD MUNICIPALITY
PROJECTS.**

ITEM	DESCRIPTION	UNIT	Q
20,00	TIME BASED FEES		
20,01	Other Services		
	1) Occupational Health and Safety		
	a) OHS Services	Prov/Sum	
	b) Handling costs	%	
	2) Survey Services		
	a) Survey	Prov/Sum	
	b) Handling costs	%	
	3) Environmental Services		
	a) EIA Assessment	Prov/Sum	
	b) Handling costs	%	
20,02	Infrastructure Assessment		
	1) Detailed Assessment and Investigation		
	a) Category A	hr	
	b) Category B	hr	
	c) Category C	hr	

d) Category D

hr

TOTAL CARRIED FORWARD TO SUMMARY

SUMMARY SCHEDULE		
SECTION	Description	Amount
1000	NORMAL SERVICES	
2000	TIME BASED FEES	
TOTAL OF SCHEDULE		
PROVISION FOR VAT ON ITEMS	15%	
TOTAL TENDER SUM (including VAT) (CARRIED FORWARD TO FORM OF OFFER (C1.1.1))		

RICHTERSVELD

MUNICIPALITYTENDER

NO.

EC/PN/NC061/09/2021

**TENDER FOR PROVISION OF CIVIL/PROCESS ENGINEERING CONSULTANT FOR
RICHTERSVELD MUNICIPALITY**

THE CONTRACT

PART C1: AGREEMENTS AND CONTRACT DATA

PART C2: PRICING DATA

PART C3: SCOPE OF WORK

PART C4: SITE INFORMATION

PART C1: AGREEMENTS AND CONTRACT DATA

PART C1: AGREEMENTS AND CONTRACT DATA

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C1.1 FORM OF OFFER AND ACCEPTANCE

OFFER

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract in respect of the following works:

Tender EC/PN/NC061/09/2021 for **TENDER FOR PROVISION OF CIVIL/PROCESS ENGINEERINGCONSULTANTS IN RICHTERSVELD MUNICIPALITY.**

The Tenderer, identified in the Offer signature block below, has examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this Form of Offer and Acceptance, the Tenderer offers to perform all of the obligations and liabilities of the Contractor under the Contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the Conditions of Contract identified in the Contract Data.

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

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

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document to the Tenderer before the end of the period of validity stated in the Tender Data, whereupon the Tenderer becomes the party named as the Contractor in the Conditions of Contract identified in the Contract Data.

For the Tenderer:

Signature: *(of person authorized to sign the tender):*

Name: *(of signatory in capitals):*

Capacity: *(of Signatory):*

Name of Tenderer: *(organization):*

Main Place of Business Address:.....

.....

.....

Registered Place of Business Address:

.....

.....

Telephone number: **Fax number:**

Signature and name of witness

Signature:

Name: *(in capitals):*.....

Date:

ACCEPTANCE

By signing this part of the Form of Offer and Acceptance, the Employer identified below accepts the Tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the Conditions of Contract identified in the Contract Data. Acceptance of the Tenderer's Offer shall form an agreement between the Employer and the Tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

The terms of the contract are contained in

- Part 1 Agreement, and Contract Data, (which include this Agreement)
- Part 2 Pricing Data, including the Pricing Schedule
- Part 3 Scope of Work
- Part 4 Site Information

and drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the Tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Agreement. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be duly signed by the authorized representative(s) of both parties.

The Tenderer shall within one week after receiving the completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any other bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data at, or just after, the date this Agreement comes into effect. Failure to fulfill any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this agreement comes into effect when the Tenderer receives a letter of acceptance of offer, if delivered by hand on the day of delivery, or if delivered by courier within two working days after submission by the Employer to the counter service for a door-to-door delivery to the Tenderer, provided that the Employer notifies the Tenderer of the tracking number within 24 hours of such submission, or if delivered by telefax, one working day after transmission, or if delivered by e-mail, one working day after transmission.

For the Employer:

Signature:

Name: *(in capitals)*

Capacity:

Name of Employer *(organisation)*.....

Address:

.....

Signature and name of witness:

Signature:

Name:

Date:

SCHEDULE OF DEVIATIONS

Notes:

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

1. **Subject:**
Details:
.....
2. **Subject:**
Details:
.....
3. **Subject:**
Details:
.....
4. **Subject:**
Details:
.....
5. **Subject:**
Details:
.....
6. **Subject:**
Details:

By the duly authorised representatives signing this Schedule of Deviations, the Employer and the Tenderer agree to and accept the foregoing Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, as well as any confirmation, clarification or change to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance.

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

FOR THE TENDERER:

Signature:

Name:

Capacity:

Tenderer: *(Name and address of organisation)*

.....

Witness :

Signature:

Name:

Date:

FOR THE EMPLOYER

Signature:

Name:

Capacity:

Employer: *(Name and address of organisation)*

.....

Witness :

Signature:

Name:

Date:

CONFIRMATION OF RECEIPT

The Tenderer, (now Service Provider), identified in the Offer part of this Agreement hereby confirms receipt from the Employer, identified in the Acceptance part of this Agreement, of one fully completed original copy of this Agreement, including Schedule of Deviations (if any) today:

The.....(day) of (month) 20 (year),
at (place)

For the Contractor:

Signature:

Name:

Capacity:

Signature and name of witness:

Signature:

Name:

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C1.2.1 CONDITIONS OF CONTRACT

Note to tenderer:

1. The legislated Standard Conditions of Contract for Professional Services (as published and amended from time to time by the Construction Industry Development Board) are included together with special conditions of contract where the former is shown in standard format and amendments (i.e. special conditions) shown in italics. The Municipality's special conditions of contract are shown in italics as amending clauses of the Standard Conditions.

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CONDITIONS OF CONTRACT

1 DEFINITIONS

In the Contract, the following words and expressions shall have the meanings indicated, except where the context otherwise requires. Defined terms and words are signified in the text of the Contract by the use of capital initial letters.

Agent

The Service Provider appointed in terms of the Occupational Health and Safety Act No. 85 of 1993, including the relevant Regulations.

Construction monitoring/supervision

The process of managing and co-ordinating the Works Contract and over-seeing and/or inspecting the Works in accordance with the Employer's requirements.

Contract

The Contract signed by the Parties and of which these General Conditions of Contract form part.

Contract Data

Specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the contract.

Contract Price

The price to be paid for the performance of the Services in accordance with the Pricing Data.

Day

A calendar day.

Defect

A part of the Services, as performed, which does not comply with the requirements of the Contract.

Deliverable

Any measurable, tangible, verifiable outcome, result or item that must be produced or completed.

RVM

RICHTERSVELD Municipality

Engineer

The natural or juristic person, partnership, Incorporated Company, Propriety Limited Company or Close Corporation appointed in writing by the Employer for the construction monitoring and management of the engineering Works undertaken by the Contractor.

Employer

The contracting party named in the Contract who employs the Service Provider.

Force Majeure

"For the purpose of this Contract the expression „Force Majeure“ shall mean an event or circumstance described in clause 8.3.1.

Key Persons

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

New Entrants

A registered Consulting Engineering Firm (or consortium in Joint Venture) contracted by the Service Provider to perform a specified percentage of the work under his guidance and who complies to the following:

(a) is at least 50,1% owned by black people as defined in Act No 53 of 2003: Broad-Based Black Economic Empowerment Act and where there is substantial management control by black people; and

(b) a total annual turnover of between R30m and R85m

Others

Persons or organizations who are not the Employer, the Service Provider or any employee, Subcontractor, or supplier of the Service Provider.

Parties

The Employer and the Service Provider.

Period of Performance

The period within which the Services are to be performed and completed.

Personnel

Persons hired by the Service Provider as employees and assigned to the performance of the Services or any part thereof.

Personnel Schedule

A schedule naming all personnel and key persons.

Pricing Data

Data that establishes the criteria and assumptions that were taken into account when developing the Contract Price and the record of the components that make up of the Contract Price.

Project

The project named in the Contract Data for which the Services are to be provided.

Scope of Work

The document which defines the Employer's objectives and requirements and specifies the Services which must, or may, be provided under the Contract.

Service Provider

The contracting party named in the Contract Data who is employed by the Employer to perform the Services described in the Contract, and legal successors to the Service Provider and legally permitted assignees.

Services

The work to be performed by the Service Provider pursuant to the Contract as described in the Scope of Work.

Subcontractor

A person or body corporate who enters into a subcontract with the Service Provider to perform part of the Services.

Technical Proposal

The Key Persons proposed by the Service Provider to undertake the respective functions/duties as defined under the Contract.

Works or Works Contract

That project or part of a project that the employer wishes to have delivered and for which the service provider has been appointed for the performance of the services specified in this contract.

2 *INTERPRETATION*

2.1 Unless inconsistent with the context, an expression which denotes:

- a) any gender includes the other genders;
- b) a natural person includes a juristic person and vice versa;
- c) the singular includes the plural and vice versa.

2.2 If there is any conflict between the provisions of these General Conditions of Contract and the Contract Data, the provisions of the Contract Data shall prevail.

2.3 The clause headings shall not limit, alter or affect the meaning of the Contract.

3 GENERAL

3.1 Governing laws

“Law” means all national (or other spheres of Government) legislation, statutes, ordinances and other laws including the South African Common Law, and regulations and by-laws of any legally constituted public authority.

3.2 Change in legislation

If after the commencement of the Contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract Price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14 days of first having become aware of the change, the Service Provider furnished the Employer with detailed justification for the adjustment to the Contract Price.

3.3 Language

3.3.1 The language of the Contract and of all communications between the Parties shall be English.

3.3.2 All reports, recommendations and reports prepared by the Service Provider under the Contract shall be in English.

3.4 Notices

3.4.1 Any notice, request, consent, or other communication made between the Parties pursuant to the Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when *delivered* to such Party at the address *stated* in the Contract *Data*, or one week after having been sent by registered post.

3.4.2 If the sender requires evidence of receipt, he shall state such requirement in his communication and, wherever there is deadline for the receipt of the communication, he may demand evidence of receipt of his communication. In any event, the sender shall take all the necessary measures to ensure receipt of communications.

3.4.3 A Party may change its address for receipt of communications by giving the other Party 30 days advance notice of such change.

3.5 Location

The Services shall be performed at such locations as are specified in the Contract *Data*, and where the location of a particular task is not so specified, at such locations as the Employer may approve.

3.6 Publicity and publication

Unless otherwise agreed, the Service Provider shall not release public or media statements or publish material related to the Services or Project within two (2) years of completion of the Services without the written approval of the Employer, which approval shall not be unreasonably withheld.

3.7 Confidentiality

Both Parties shall keep all commercially sensitive information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other Party except to the *extent strictly necessary to carry out obligations under this Contract or to comply with applicable laws*.

3.8 Variations

3.8.1 The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services or may request the Service Provider to submit proposals, including the

time and cost implications, for variations to the Services. *No variation shall have any force or effect unless reduced to writing and signed by both Parties.*

3.8.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by the Employer, including any change in the Contract Price, shall be agreed in writing between the Service Provider and the Employer, *prior to the change being implemented.*

3.8.3 Where a variation is necessitated by default or breach of Contract by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

3.9 Sole agreement

The Contract constitutes the sole agreement between the Parties for the performance of the Services and no representation not contained therein shall be of any force or effect. No amendments will be of any force or effect unless reduced to writing and signed by both Parties.

3.10 Indemnification

The Service Provider shall, at his own expense, indemnify, protect and defend the Employer, its agents and employees, from and against all actions, claims, losses and damage arising from any *wilful or negligent act or omission by the Service Provider or his subcontractors* in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

3.11 Penalty

3.11.1 In the event that due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract, be entitled to levy a penalty for every Day or part thereof, which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.

3.11.2 If the Employer has become entitled to the maximum penalty amount referred to in 3.11.1, he may after giving notice to the Service Provider:

- a) terminate the Contract
- b) complete the Services at the Service Provider's cost.

3.11.3 In the event that due to his negligence or for reasons within his control, the Service Provider does not sublet the specified target of Normalised Hours Tendered (NHT) to the New Entrant the Employer shall be entitled to levy a penalty as stated in the Contract Data.

3.12 Equipment and materials furnished by the Employer

3.12.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.

3.12.2 *Unless otherwise stated in the Contract Data*, the Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.12.1 for their full replacement value.

3.13 Illegal and impossible requirements

The Service Provider shall notify the Employer immediately, should he become aware that the Contract requires him to undertake anything which is illegal or impossible.

3.14 Program

3.14.1 The Service Provider shall, within the time period set out in the Contract Data, submit to the Employer a program for the performance of the Services which shall, *inter alia*, include:

- a) the order and timing of operations by the Service Provider and any actions required of the Employer and Others;
- b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them; and
- c) other information as required in terms of the Scope of Work or Contract Data.

3.14.2 The Employer may, during the course of the Contract, request the Service Provider to amend the program. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.

3.14.3 The Service Provider shall regularly update the program to reflect actual progress to date and expected future progress.

3.15 Severability

If a court of competent jurisdiction holds that any provision of this Contract is severable by reason of it being invalid, illegal, unlawful or unenforceable and as a consequence of which prevents the accomplishment of the purpose of this Contract, the Employer and the Service Provider shall meet and review the matter to adopt means to fulfil the purpose of the Contract.

3.16 Waiver

No defence of a waiver of any of the provisions of this contract shall be effective unless it is expressly stated in writing, by the Party against whom such defence is raised, to be a waiver of such provisions and is communicated to the other Party in writing in accordance with the provisions of Clause 3.4.

4 EMPLOYER'S OBLIGATIONS

4.1 Information

4.1.1 The Employer shall timeously provide to the Service Provider, free of cost, all available information and data in the Employer's possession which may be required for the performance of the Services.

4.1.2 The Employer shall provide the Service Provider with any assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

4.1.3 The Service Provider shall be entitled to rely on the accuracy and completeness of all information furnished by or on behalf of the Employer.

4.2 Decisions

The Employer shall, within a reasonable time, give his decision on any matter properly referred to him in writing by the Service Provider so as not to delay the performance of Services.

4.3 Assistance

The Employer shall co-operate with the Service Provider and shall not interfere with or obstruct the proper performance of the Services. The Employer shall as soon as practicable:

4.3.1 authorise the Service Provider to act as his agent insofar as may be necessary for the performance of the Services;

4.3.2 provide all relevant data, information, reports, correspondence and the like, which become available;

4.3.3 procure the Service Provider's ready access to premises, or sites, necessary for the performance of the Services;

4.3.4 assist in the seeking of all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data;

4.3.5 designate in writing a person to act with his complete authority in giving instructions and receiving communications on his behalf and interpreting and defining his policies and requirements in regard to the Services.

4.4 Services of Others

4.4.1 The Employer shall, at his own cost, engage such Others as may be necessary for the execution of work necessary for the completion of the Project, but not included in the Services.

4.4.2 The Employer shall not enter into an agreement or contract with Others which describes any of the duties and responsibilities of the Service Provider in terms of the Contract or which imposes obligations on him, without first obtaining the Service Provider's written agreement thereto.

4.5 Notice of change by Employer

On becoming aware of any matter which will materially change, or has changed, the scope, cost or timing of the Services, or on becoming aware of any defect or deficiency in the Services, the Employer shall immediately advise the Service Provider thereof.

4.6 Issue of instructions

Where the Service Provider is required to administer the work or services of Others, or any contract or agreement, on behalf of the Employer, then the Employer shall issue instructions related to such work, services, contract or agreement only through the Service Provider.

4.7 Payment of Service Provider

The Employer shall pay the Service Provider the Contract Price in accordance with the provisions of the Contract.

5 SERVICE PROVIDER'S OBLIGATIONS

5.1 General

5.1.1 The Service Provider shall perform the Services in accordance with the Scope of Work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards and shall be responsible for breach of professional duty by reason of any error, omission or neglect in connection with delivering the services

5.1.2 Where the Services include the exercise of powers to certify, decide or otherwise exercise discretion in regard to a contract or agreement between the Employer and Others, then the Service Provider shall act in respect of that contract or agreement as an independent professional

5.1.3 If the Service Provider is a joint venture or consortium of two or more persons, the Service Provider shall designate one person to act as leader with authority to bind the joint venture or consortium. Neither the composition nor the constitution of the joint venture or consortium shall be altered without the prior consent in writing of the Employer, which shall not be unreasonably withheld.

5.1.4 Unless specifically instructed differently, the Service Provider is delegated as the Employer's "Mandatar" in terms of the Occupational Health and Safety Act (Act no. 85 of 1993), and as the Employer's Agent as defined in Construction Regulations 4(2), (5) and (6) of the said Act.

5.1.5 *The Service Provider, if requested by the Employer, shall provide any plans and calculations for checking by Others.*

5.1.6 *All design calculations shall be kept and safeguarded for the duration of the insurance(s) required in terms of clause 5.4.1.*

5.2 Exercise of authority

5.2.1 The Service Provider shall have no authority to relieve Others appointed by the Employer to undertake work on the Project of any of their duties, obligations, or responsibilities under their respective agreements or contracts, unless expressly authorised by the Employer in response to an application by the Service Provider in writing to do so.

5.2.2 *Whenever necessary to enter upon land for the performance of the Contract the service Provider shall do so in accordance with the provisions of the PKSDM AND shall indemnify the Employer from all costs arising from any transgression committed by the Service Provider.*

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5.3 Designated representative

The Service Provider shall designate in writing a person to act as his representative and such person shall have complete authority to receive instructions from and give information to the Employer on behalf of the Service Provider.

5.4 Insurances to be taken out by the Service Provider

5.4.1 The Service Provider shall, at his own cost, unless otherwise agreed, take out and maintain in force such insurance policies in respect of their own risks in performing the Services as are stipulated in the Contract Data, subject to the approval of the Employer, which approved shall not be unreasonably withheld.

5.4.2 The Service Provider shall, at the Employer's request, provide evidence to the Employer showing that the insurance required in terms of Clause 5.4.1 has been taken out *with an insurance company registered in the Republic of South Africa, or as otherwise approved by the Employer* and maintained in force.

5.5 Service Provider' actions requiring Employer' prior approval

The Service Provider shall obtain the Employer's prior approval in writing before taking, inter alia, any of the following actions:

- **appointing Subcontractors for the performance of any part of the Services,**
- **appointing Key Persons not listed by name in the Contract Data.**
- **any other action that may be specified in the Contract Data.**

5.6 Co-operation with Others

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

5.7 Notice of change by Service Provider

On becoming aware of any matter which will materially change or has changed the scope, cost or timing of the Services, the Service Provider shall give notice thereof to the Employer, save that the

Service Provider is empowered to make minor changes or variations within the overall program or budget and within such parameters as are defined by the Employer, provided that such changes are reported timeously to the Employer.

5.8 Safeguarding the Employer' data

5.8.1 *The Parties shall take reasonable precautions (each having regard to the nature of the others respective obligations under the Contract) to preserve the integrity of the Employer's data including appropriate back-up procedures*

5.8.2 *In the event that the Employer's data is corrupted or lost as a result of any default by the Service Provider, the Employer shall at the Service Provider's expense, have the option to:*

- *require the Service Provider to restore or procure the restoration of such data; or;*
- *itself restore or procure restoration of such data.*

5.9 Performance Security

Where required, the Service Provider shall obtain (at his cost) a Performance Security for proper performance in the amount and currencies stated in the Contract Data. If an amount is not stated in the Contract Data, this sub-clause shall not apply.

The Service Provider shall deliver the Performance Security to the Employer within 14 days of the date of issue of the Letter of Acceptance. The Performance Security shall be issued by an insurance company or bank registered or licensed as an insurance company or bank to do business in the Republic of South Africa and approved by the Employer and having an office or banking facility in the Republic of South Africa. The Performance Security shall be subject to approval by the Employer and shall be in the form prescribed in the tender documents.

6 CONFLICTS OF INTEREST, CORRUPTION AND FRAUD

6.1 Service Provider not to benefit from commissions, discounts, etc.

The remuneration of the Service Provider under the Contract shall constitute the Service Provider's sole remuneration in connection with the Contract, or the Services, and the Service Provider shall not accept for his own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the Contract, or in the discharge of his obligations under the Contract, and shall use his best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them shall, similarly, not receive any additional remuneration.

6.2 Royalties and the like

The Service Provider shall not have the benefit, whether directly or indirectly, of any royalty or of any gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the Contract, or Project, unless so agreed by the Employer in writing.

6.3 Independence

The Service Provider shall refrain from entering into any relationship which could be perceived as compromising his independence of judgment, or that of Subcontractors or Personnel.

6.4 Corruption and Fraud

6.4.1 The Service Provider shall neither:

- **Offer or give or agree to give any person of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forebore to do any act in relation to the obtaining or performance of this contract or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this contract; nor**

6.4.1.1 Enter into this contract if in connection with it commission or a reward of any type has been paid, offered or agreed to be paid to any person of the Employer by the Service Provider or on his behalf or knowledge.

6.4.2 *In the event that the Employer, in good faith and on reasonable grounds, comes to the opinion, that a breach of any of the provisions of Clause 6.4.1 has been perpetrated by the Service Provider or anyone employed by him or acting on his behalf in relation to this contract or any other agreement with the Employer, the Employer may:*

- summarily suspend the operation of this Contract by notice in writing to the Service Provider, informing him of the Employer's opinion and the grounds and reasons upon which it is based, and calling upon the Service Provider to show cause, in writing, within fourteen (14) days of receipt of the written notice why the Employer should not terminate this Contract on the grounds of the alleged breach(es) of Clause 6.4.1 of this Contract;
- withhold all payments due;
- terminate this Contract by notice in writing to the Service Provider, if the Service Provider fails to respond to the Employer's written response, to satisfy the Employer that his opinion is unfounded. Provided always that such termination shall not prejudice or affect any right of action or remedy, which shall have accrued or shall accrue thereafter to the Employer and provided also that the Employer may recover from the Service Provider such sum as the Employer deems equivalent to the amount or value of any such gift, consideration or commission.

6.4.3 *In the event that the Employer, in good faith and on reasonable grounds, comes to the opinion that any contract with a Government or public sector body has been or was obtained by the Service Provider through actions that mutatis mutandis are similar in nature to those barred in terms of Clause 6.4.2 by the Service Provider or by anyone employed by the Service Provider or acting on the Service Provider's behalf in relation to such Contract, the Employer may:*

- summarily suspend the operation of this Contract by notice in writing to the Service Provider, informing him of the Employer's opinion and the grounds and reasons upon which it is based, and calling upon the Service Provider to show cause, in writing within fourteen (14) days of receipt of the written notice why the Employer should not terminate this Contract on the grounds of the alleged breach(es) of Clause 6.4.1 of this contract;
- withholds all payments due
- terminate this Contract by notice in writing to the Service Provider, if the Service Provider fails to respond to the Employer's written notice within the prescribed time, or fails, in his written response, to satisfy the Employer that this opinion is unfounded. Provided always that such termination shall not prejudice or affect any right of action or remedy, which shall have accrued or shall accrue thereafter to the Employer.

7 SERVICE PROVIDER'S PERSONNEL

7.1 Provision of Personnel

7.1.1 The Service Provider shall provide appropriate Personnel for such time periods as required in terms of the Contract and shall enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.

7.1.2 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.1.1 above as may be appropriate to ensure the efficient performance of the

Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.

7.1.3 The Service Provider shall:

- forward to the Employer for approval, within 15 days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
- inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
- submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

7.2 Staff and equipment

7.2.1 The Service Provider shall employ and provide all qualified and experienced Personnel required to perform the Services.

7.2.2 Where required in terms of the Contract, the Service Provider shall provide Key Persons as listed in the Contract Data to perform specific duties. If at any time, a particular Key Person cannot be made available, the Service Provider may engage a replacement who is equally or better qualified to perform the stated duty, subject to the Employer's approval, which approval shall not be unreasonably withheld.

7.2.3 Where the Service Provider proposes to utilise a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval. Should the Employer not object in writing within 10 days of receipt of such notification, the replacement shall be deemed to have been approved by the Employer.

7.2.4 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement shall not exceed that which would have been payable to the person replaced.

7.2.5 Except in the case of replacement resulting from death or where the Employer requests a replacement not provided for by the Contract, the Service Provider shall bear all additional costs arising out of or incidental to such replacement.

7.2.6 The Service Provider shall take all measures necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

7.3 Working hours, overtime and leave

Where the fee for the Services are time-based, working hours, leave entitlement and holidays for Personnel provided in terms of Clause 7 are to be as stated in the Contract Data, or, if not stated, to be determined by the Service Provider. The Employer will not be responsible for overtime payments to Personnel *unless so specifically provided for in the Pricing Schedule.*

8 COMMENCEMENT, COMPLETION, MODIFICATION SUSPENSION AND TERMINATION OF THE CONTRACT

8.1 Commencement

The Contract shall come into effect on the date that it is signed by both Parties or such later date as may be stated in the Contract Data. The Service Provider shall commence the performance of the Services within thirty (30) days after the date that the Contract becomes effective, or such date as may be specified in the Contract Data.

8.2 Completion

8.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when the Service Provider has completed all Deliverables in accordance with the Scope of Work.

8.2.2 The Service Provider, may request an extension to the Period of Performance if he is or will be delayed in completing the Contract by any of the following causes:

- *variations to Services* ordered by the Employer.
- failure of the Employer to fulfil his obligations under the Contract.
- any delay in the performance of the Services which is not due to the Service Provider's default.
- Force Majeure

8.2.3 The Service Provider shall within 14 days of becoming aware that a delay may occur, notify the Employer of his intention to make a request for the extension of the Period of Performance to which he considers himself entitled and shall within 30 days thereafter deliver to the Employer full and detailed particulars of the request, in order that it may be investigated at the time.

8.2.4 The Employer shall, within 30 days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the services and the matter shall be dealt with as a dispute in terms of Clause 12.

8.3 Force Majeure

8.3.1 *In this clause "Force Majeure" means an exceptional event or circumstance:*

- *which is beyond party's control,*
 - *which such a party could not reasonably have provided against before entering into the Contract,*
 - *which, having arisen, such Party could not reasonably have avoided or overcome, and*
 - *which is not substantially attributable to the other Party*
- *Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below;*
- *natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity*
 - *war, hostilities (whether war to be declared or not), invasion, act of foreign enemies,*
 - *rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,*
 - *riot, commotion, disorder, strike or lockout by persons other than the Service Provider's Personnel or other employees of the Service Provider and Sub-contractors,*

An event or circumstance which is attributable to a wilful act, neglect or failure to take reasonable precautions by the affected party, his employees agents, subcontractors or others shall, under no circumstances, be considered Force Majeure.

8.3.2 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of *Force Majeure*, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Contract, and has *notified* the other Party within 10 days of its occurrence and within a reasonable time of *its estimated duration and consequences. Failure to so notify shall terminate that Party's right to release from his obligations.*

8.3.3 In the event that the performance of the Services has to be suspended on the grounds of *Force Majeure*, the time for completion shall be extended by the extent of the delay plus a reasonable period for the resumption of work or, if the speed of performing certain Services has to be reduced, the time for their completion shall be extended as may be necessary in the circumstances.

8.3.4 During the period of his inability to perform the Services as a result of an event of *Force Majeure*, the Service Provider shall be entitled to continue to be paid under the terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by him in suspending, delaying and re-activating the performance of the Services.

8.3.5 *If the Force Majeure event continues for more than 90 (ninety) days, either Party shall have the right to terminate this Contract with immediate effect.*

8.4 Termination

8.4.1 The Employer may in addition to his rights under sub-clauses 6.4.2, 6.4.3 and 10.5 terminate the Contract by giving not less than thirty (30) days written notice thereof to the Service Provider after the occurrence of any of the following events:

- if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;
- if the Service Provider becomes insolvent or bankrupt; or
- if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- *commission of an offence in terms of clauses 6.1 and 6.4.*

Upon delivery of such notice by the Service Provider he shall immediately vacate the site and deliver to the Employer all drawings, documents and papers relating to the Services and shall within fourteen (14) days after the date of termination submit an account for the Services satisfactorily performed prior to the date of notice. The Employer shall not be liable to the Service Provider for any loss of profit or damages suffered as a result of cancellation of the contract as contemplated in this clause.

8.4.2 The Service Provider may terminate the Contract, by giving not less than thirty (30) days written notice to the Employer after the occurrence of any of the following events:

- if the Employer fails to pay any monies due to the Service Provider in terms of the Contract and not subject to dispute pursuant to Clause 12 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- when the Services have been suspended under Clause 8.5 and the period of suspension exceeds 6 months, or it is clear to the Service Provider that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded 6 months; or
- if the Employer is in material breach of a term of the Contract and fails to rectify such breach within 30 days of the receipt of written notice requiring him to do so.

8.4.3 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.2, the Employer shall make the following payments to the Service Provider:

- remuneration in terms of the Contract for Services satisfactorily performed prior to the effective date of termination *less any costs arising from termination*.
- except in the case of termination pursuant to events (a) and (b) of Clause 8.4.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract.

8.4.4 Should the Service Provider, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond his control from performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights or either Party against the other.

8.4.5 *Where required in terms of the contract data the surety delivered by the Service Provider in terms of this Contract shall remain in force until the completion of the project.*

8.5 Suspension

8.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the performance of the Services and minimise further expenditure.

8.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties

Completion, suspension or termination of the Contract shall not prejudice or affect the accrued rights or liabilities of the Parties.

9 OWNERSHIP OF DOCUMENTS AND COPYRIGHT

9.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

9.2 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.

9.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

10 SUCCESSION AND ASSIGNMENT

10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.

10.2 An assignment shall be valid only if it is a written agreement, by which the Parties transfer *their rights* and obligations under the Contract, or part thereof, to others.

10.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract

or any part thereof, or any benefit or interest there under, except in the following cases:

- (a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or
- (b) by assignment to the Service Provider's insurers of the Service Provider's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider's loss or liability.

10.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned.

10.5 If the Service Provider has assigned his Contract or part thereof without authorization, the Employer may forthwith terminate the Contract.

11 SUB-CONTRACTING

11.1 A sub-contract shall be valid only if it is a written agreement by which the Service Provider entrusts performance of a part of the Services to others.

11.2 The Service Provider shall not sub-contract to nor engage a Sub-contractor to perform any part of the Services without the prior written authorization of the Employer. The services to be sub-contracted and the identity of the Sub-contractor shall be notified to the Employer. The Employer shall, within 14 days of receipt of the notification and a full motivation why such services are to be sub-contracted, notify the Service Provider of his decision, stating reasons, should he withhold such authorization, failing which the Sub-contractor shall be deemed to be approved by the Employer. If the Service Provider enters into a sub-contract with a Sub-contractor without prior approval, the Employer may forthwith terminate the Contract.

11.3 The Employer shall have no contractual relationships with Sub-contractors. However, if a Sub-contractor is found by the Employer to be incompetent, the Employer may request the Service Provider either to provide a Sub-contractor with qualifications and experience acceptable to the Employer as a replacement, or to resume the performance of the relevant part of the Services himself.

11.4 The Service Provider shall advise the Employer without delay of the variation or termination of any sub-contract for performance of all or part of the Services.

11.5 The Service Provider shall be responsible for the acts, defaults and negligence of Sub-contractors and their agents or employees in the performance of the Services, as if they were the acts, defaults or negligence of the Service Provider, his agents or employees. Approval by the Employer of the sub-contracting of any part of the Contract or of the engagement by the Service Provider of Sub-contractors to perform any part of the Services shall not relieve the Service Provider of any of his obligations under the Contract.

12 RESOLUTION OF DISPUTES

12.1 Settlement

12.1.1 Any dispute between the Parties shall arise by either party presenting to the other in writing the nature of the dispute and the facts to be dealt with. The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed.

12.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be settled between the Parties shall in the first instance be referred by the Parties to either mediation or adjudication as provided for in the Contract Data.

12.2 Mediation

- 12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than ten working days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.
- 12.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.
- 12.2.3 The mediator is authorised to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Parties and shall do so, if after a period of ninety days from entering into the mediation process, no resolution has been achieved.
- 12.2.4 If either Party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such Party may require that the dispute be referred to arbitration or litigation in a competent civil court, as provided for in the Contract Data; *provided that the dissatisfied Party notifies the other in writing within 28 Days* of mediator's decision being issued or the mediator declaring the mediation to have ended, as provided for in the Contract Data. Claims not brought within the time periods set out herein will be deemed to be waived.

12.3 Adjudication

- 12.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.
- 12.3.2 The adjudicator shall be appointed in terms of the Adjudicator's Agreement bound in the Construction Industry Development Board's Adjudication Procedure.
- 12.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data. The Adjudicator shall be appointed in accordance with the Adjudicator's Agreement contained in the CIDB Adjudication Procedure.
- 12.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party *written* notice of dissatisfaction within 28 days of the receipt of that decision and refer the dispute to arbitration or litigation in a competent civil court as provided for in the Contract Data. If notice of dissatisfaction is *not* given within the specified time, the decision shall be final and binding on the Parties.

12.4 Arbitration

- 12.4.1 Arbitration, where provided for in the Contract Data, shall be by a single arbitrator in accordance with the provisions of the Arbitration Act of 1965 as amended and shall be conducted in accordance with such procedure as may be agreed between the Parties or, failing such agreement, in accordance with the Rules for the Conduct of Arbitrations, current at the date of the contract, published by the Association or Arbitrators.

12.4.2 The arbitrator shall be mutually agreed upon or, failing agreement, to be nominated by the person named in the Contract Data.

13 LIABILITY

13.1 Liability of the Service Provider

13.1.1 The Service Provider shall be liable to the Employer arising out of or in connection with the Contract if a breach of Clause 5.1 is established against him.

13.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time and the Defect arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.

13.2 Liability of the Employer

The Employer shall be liable to the Service Provider arising out of or in connection with the Contract if a breach of an obligation of his in terms of the Contract is established. The Service Provider shall have no separate delicta right of action against the Employer.

13.3 Compensation

If it is established that either Party is liable to the other, compensation shall be payable only on the following terms:

- **Compensation shall be limited to the amount of reasonably foreseeable loss and damage suffered as a result of the breach.**
- **The compensation payable by either Party shall be reduced by the arbitrator/mediator/adjudicator to such extent as is deemed just and equitable having regard to the degree in which the other Party or any third party was at fault in relation to the loss or damage. The liability of the Parties is not joint and each Party shall only be liable for that proportion of the compensation which is attributable to his fault.**
- **In any event, the amount of compensation will be limited to the amount specified in Clause 13.5.**

13.4 Duration of Liability

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within the period stated in the Contract Data or, where no such period is stated, within a period of three years from the date of termination or completion of the Contract.

13.5 Limit of Compensation

13.5.1 The maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to:

- a) the sum insured in terms of 5.4. in respect of insurable event; and
- b) the sum stated in the Contract Data or, where no such amount is stated, to an amount *equal to twice the Contract Price (inclusive of VAT) payable to the Service Provider under the Contract.*

13.5.2 Each Party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

13.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for his reasonable costs

incurred as a result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.

13.6 Indemnity by the Employer

The Employer shall indemnify the Service Provider against all claims by third parties which arise out of or in connection with the performance of the Services save to the extent that such claims do not in the aggregate exceed the limit of compensation in Clause 13.5 or are covered by the insurances arranged under the terms of Clause 5.4.

13.7 Exceptions

13.7.1 Clauses 13.5 and 13.6 shall not apply to claims arising from deliberate misconduct.

13.7.2 The Service Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

- a) the Employer omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Service Provider, or requiring the Service Provider to implement a decision or recommendation with which the Service Provider disagrees or on which he expresses a serious reservation; or
- b) the improper execution of the Service Provider's instructions by agents, employees or independent contractors of the Employer.

14 REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

The Employer shall remunerate and reimburse the Service Provider for the performance of the Services as set out in the Pricing Data *and Scope of Works*. If not otherwise stated in the Pricing Data, the following shall apply:

- 14.1 The Service Provider shall be entitled to render interim monthly accounts for fees and reimbursements throughout the duration of the Contract. Interim amounts of lump sum fees due *(or any specified fixed-progressed payments due that have been delayed by the acts of the Employer)* shall be based on progress.
- 14.2 Amounts due to the Service Provider shall be paid by the Employer within thirty (30) days of receipt by him of the relevant invoices. If the Service Provider does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Employer, at the overdraft rate charged him by his bank plus 2% per annum, compounded monthly and calculated from the due date of payment.
- 14.3 If any item or part of an item in an invoice submitted by the Service Provider is disputed by the Employer, the latter shall, before the due date of payment, give notice thereof with reasons to the Service Provider, but shall not delay payment of the balance of the invoice. Clause 14.2 shall apply to disputed amounts which are finally determined to be payable to the Service Provider.
- 14.4 In respect of Services charged for on a time basis and all other reimbursable expenses the Service Provider shall maintain records in support of such charges and expenses for a period of six months after the completion or termination of the Contract. Within this period the Employer may, on not less than 14 days notice, require that a reputable and independent firm of accountants, nominated by him at his expense, audit any claims made by the Service Provider for time charges and expenses by attending during normal working hours at the office where the records are maintained.
- 14.5 *All accounts presented for payment shall be according to the Employers prescribed format.*
- 14.6 *Payments due shall be subject to the deduction of retention monies as stated in the Contract Data. The retention monies so deducted shall be released in accordance with the phases and conditions stated in the Contract Data.*
- 14.7 *If applicable, Contract Price Adjustment will be paid according to the method stated in the Contract Data.*

C1.2.2 CONTRACT DATA: INFORMATION PROVIDED BY THE EMPLOYER SPECIFIC DATA

Clause No	Contract Data
1	<p>The employer is the RICHTERSVELD Municipality</p> <p>The Employer's domicilium citandi et executandi (permanent physical business address) is: 169 MAIN ROAD PORT NOLLOTH 8280</p> <p>The authorised and designated representative of the Employer is: Name: Mr I Cloete Telephone: 027 851 1125 Facsimile: 027 851 1101</p>
	<p>Email: ivan@richtersveld.gov.za</p> <p>Address: 169 Main Road, Port Nolloth 8280: Private Bag X113</p>
3.5	<p>The project is for provision of services with regards to all grant funded Infrastructure Projects implemented in Richtersveld Municipality except for MIG in the first two financial years. The location for the performance of the Project is in the Richtersveld Municipal area.</p>
3.6	<p>The Service Provider may only release public or media statements or publish material related to the Services or Project subject to the approval of the Project Manager of the municipality.</p>
3.11.1 3.11.3	<p>The penalty payable is R1000.00 per day subject to a maximum amount of R 100 000.00</p> <p>The penalty payable is 50% of the value by which the cumulative value of the payments to the New Entrant fails to meet the target of 20% to be sublet to the New Entrant .</p>
3.14	<p>The program shall be submitted within 14 days of the award of the Contract.</p>
5.4	<p>The Service Provider is required to provide the Service with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standard</p> <p>The Service Provider is required to provided the following insurances:</p> <p>1. Insurance against Professional indemnity Cover is: R10,000,000.00 Period of cover: Structures – 25 years: all other instances – 10 years</p> <p>2. Insurance against general public liability Cover is: R10,000,000.00 Period of cover: Structures – 25 years: all other instances – 10 years</p> <p>3. Third Party Liability Cover is: R10,000,000.00 Period of cover: Duration of contract only.</p>
Clause No	Contract Data

5.5	<p>The Service Provider is required to obtain the Employer's prior approval in writing before taking any of the following actions:</p> <ul style="list-style-type: none"> i. Appointing Key Personnel not listed by name in the Contract Data. ii. Appointing sub-contractors for the performance of any part of the Service. iii. Expending any Provisional Sum in the Contract or Works Contract. iv. Authorising any work under a Variation Order for the Works Contract. v. Over-expenditure on the Works Contract. vi. Changing the scope of work for the Works Contract. vii. Acceptance of sub-standard work under the Works Contract. viii. All aspects requiring the Employers approval in terms of the Contract. ix. Making statements to the media regarding the project. x. Making Determinations on Extension of Time, issuing Taking-over certificates and Approving Claims
5.9	The provision of a Performance Guarantee will not be required under this Contract.
7.2	<p>The Key Persons required for this project are:</p> <ul style="list-style-type: none"> • Project Leader - Pr.Eng or Pr.Tech with greater than 10 years relevant experience • Design Specialist (Engineer) - Pr.Eng or Pr.Tech with greater than 10 years relevant experience • Contracts Manager (Engineer) - Pr.Eng or Pr.Tech with greater than 10 years relevant experience • Resident Engineer - Pr.Eng or Pr.Tech with greater than 5 years relevant experience
7.3	<p>The working hours and holiday for site staff are:</p> <ul style="list-style-type: none"> • Site working hours. • Annual leave shall be taken during the recognized construction industry shutdown period.
8.1	The time to commence the performance of the Services is within 30 days after the date that the Contract becomes effective.
8.2	The Contract is concluded on the date when the Service Provider has completed all deliverables in accordance with the Scope of Work.
9.1	Copyright of documents prepared for the Project shall be vested with the Employer.
12.	<p>Interim settlement of disputes is to be by mediation. Final settlement is by litigation. In the event that the parties fail to agree on a mediator, the mediator is to be nominated by the President of the South African Institution of Civil Engineering.</p>
13.4	Neither the Employer nor the Service Provider is liable for any loss or damage resulting from any occurrence unless a claim is formally made within 36 months from the date of termination or completion of the Contract.
13.5	The maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to R10,000,000.00
14.6	<p>Retention monies shall be 10% of the value of completed works up to a maximum of R300000.00 (excluding VAT). Such retention monies shall be released by the Employer as follows:</p> <ul style="list-style-type: none"> • 50% on receipt of Tender Document and design drawings. • 50% on receipt of Close Out Report and Ass Built drawings
14.7	Contract Price Adjustment: refer to pricing instructions in clause C2.1.6 of the pricing schedule. Base date shall be the date 28 days prior to the latest date for submission of tenders.

C1.2.3 CONTRACT DATA: INFORMATION PROVIDED BY THE TENDERER

The Service Provider is

Physical Address:

.....

Telephone:

Facsimile:

Email:

The authorised and designated representative of the Service Provider is:

Name:

Postal address for receipt of communications is:

.....

Telephone:

Facsimile:

Physical Address:

Email:

Key Persons	Name
Project Leader	
Design Specialist (Water Engineer)	
Design Specialist (Electrical Engineer)	
Design Specialist (Roads Engineer)	

**RICHTERSVELD
MUNICIPALITYTENDER**

NO.

EC/PN/NC061/09/2021

**TENDER FOR PROVISION OF CONSULTING ENGINEERING SERVICES TO
RICHTERSVELD MUNICIPALITY FOR MUNICIPAL INFRASTRUCTURE
PROJECTS.**

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