



**APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING
CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND
WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS**

TENDER NUMBER: PW030/2023

PROCUREMENT DOCUMENT

NAME OF TENDERER:	
ADDRESS:	
OFFERED TOTAL: (15% VAT INCLUSIVE)	

CLOSING DATE: 8 JANUARY 2024 AT 12:00

CLIENT:	ENQUIRIES
Dihlabeng Local Municipality P O Box 551 BETHLEHEM 9700 TEL: 058 303 5732 FAX: 058 303 5732	Procurement Processes: Supply Chain Management Technical: Directorate: Public Works

(i)

**APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR
PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD
OF THREE (3) YEARS**

TENDER NUMBER: PW030/2023

SUMMARY FOR TENDER OPENING PURPOSES:

NAME OF TENDERER : _____

ADDRESS : _____

TELEPHONE NUMBER : _____

FAX NUMBER : _____

E-MAIL ADDRESS : _____

CLOSING DATE : 8 JANUARY 2024

Signed by authorised representative of the TENDERER: _____

DATE: _____

* Should any discrepancy occur between this figure and that stated in the Form of Offer and Acceptance, the latter shall take precedence and shall apply.

IMPORTANT INFORMATION

PLEASE READ CAREFULLY BEFORE COMPLETING THE DOCUMENT

1. Notice to all tenderers.
2. Standards applied in this document.
3. Scope of Works.

1. NOTICE TO ALL TENDERERS

This is an original document:

1. It may not be re-typed or altered in any way.
2. It must be completed in black ink (non-erasable) — in an eligible handwriting. Mistakes are to be corrected by crossing a line through and writing the correct information above the corrected item. Tenderer to sign next to the correction. The use of erasing fluid or strips is not allowed and may lead to disqualification.
3. It may not be taken apart.
4. It is not available in electronic format except PDF as published on official Municipal website.
5. Bidders are required to attach returnable documents to the relative pages (where requested) and encouraged to use file fasteners and binding tape or any other similar method to ensure there are no loose pages. **Any other form of presentation (loose pages or separate documents) will not be accepted.**

2. STANDARDS APPLICABLE TO THIS DOCUMENT

The following documents will form part of the contract and are available from the South African Federation of Civil Engineering Contractors (SAFCEC), the South African Institution of Civil Engineering (SAICE) and the South African Bureau of Standards (SABS), as applicable:

- | | | |
|----|----------------|--|
| 1. | CIDB | <i>CIDB Standard for uniformity in Construction Procurement, 10 July 2015, as amended.</i> |
| 2. | SANS 10845-1 | <i>Processes, methods and procedures.</i> |
| 3. | SANS 10845-2 | <i>Formatting and compilation of procurement documentation.</i> |
| 4. | SANS 10845-3 | <i>Standard conditions of tender.</i> |
| 5. | GCC | <i>General Conditions of Contract for Construction Works, Third Edition (2015) issued by the South African institution of Civil Engineering.</i> |
| 6. | COLTO | <i>Standard Specifications for Road and Bridge Works for State Road Authorities (1998)</i> |
| 7. | This Document, | as presented. |

CONTENTS

	PAGES
COVER PAGE	
Bid Summary for Tender Opening Purposes	i (Page 2)
Important Information	ii (Page 3)
Contents	iii (Page 4)

THE TENDER

SECTION	DESCRIPTION	PAGES
PART T1	TENDERING PROCEDURES	
T 1.1	Tender Notice and Invitation to Tender	7
T 1.2	Tender Data	8 - 18
PART T2	RETURNABLE DOCUMENTS	19 - 48
	(See List of Documents)	

THE CONTRACT

SECTION	DESCRIPTION	PAGE
PART C1	AGREEMENT and CONTRACT DATA	
C 1.1	Form of Offer	51
C 1.2	Form of Acceptance	52
C 1.3	Schedule of Deviations	53
C 1.4	Contract Data	55 - 73
PART C2	PRICING DATA	
C 2.1	Pricing Instructions	74
C 2.2	Schedule of Activities Fee Proposal	75 - 76
PART C3	SCOPE of WORK	
C 3.1	Description of Works	77 - 90

PART T1: TENDERING PROCEDURES

SECTION	DESCRIPTION	PAGE
T 1.1	Tender Notice and Invitation to Tender	7
T 1.2	Tender Data	8

PART T2: RETURNABLE DOCUMENTS

SECTION	DESCRIPTION	PAGE
T 2	Returnable Documents	19

PART T1

TENDERING PROCEDURES

T1.1	TENDER NOTICE AND INVITATION TO TENDER	T1.1
T1.2	TENDER DATA.....	T1.2

INVITATION TO BID
ADVERTISEMENT

DIHLABENG LOCAL MUNICIPALITY

Suitable offers are hereby invited for the following bids:

Bid Name	Bid No.	CIDB Grading	Compulsory briefing session	Evaluation and Adjudication Criteria and Preference Points	Closing Date	Enquiries
Appointment of a panel of six (6) professional engineering consultants for provision of professional services on an as and when required basis for a period of three (3) years	PW030/2023	N/A	N/A Refer to Page 9, Clause 4.7	Bids will be evaluated on: <ul style="list-style-type: none">• Stage 1: Responsiveness• Stage 2: Functionality• Stage 3: Financial Offer and Preference Evaluation (80/20 Scoring Points)• Stage 4: Risk Analysis	8 th January 2024	Mr S Thobejane Tel.: 058 303 5732 sefetset@dihlabeng.co.za or dilmroads@gmail.com

Bid documents will be available from **12:00** on **Tuesday 28 November 2023**, upon payment of a cash non-refundable document fee of R1 000,00 per set, at the Dihlabeng Local Municipality, 9 Muller Street, Bethlehem, 9700.

Please note that tender document can also be accessed/download for free on the Dihlabeng Local Municipality website <http://www.dihlabeng.gov.za/strategic-documents/bid-documents>. And on eTender Portal.

Bids are to be completed in accordance with the conditions and bid rules contained in the bid documents and must be sealed together with supporting documents and externally endorsed **WITH THE CONTRACT NUMBER AND DESCRIPTION** and placed in bid box, on the Ground Floor, Dihlabeng Local Municipality, 9 Muller Street, Bethlehem, 9700 not later than **12:00 on or before the date stipulated above.**

Bidders' attention is specifically drawn to the provisions of the bid rules and evaluation criteria (including Functionality) which are included in the bid documents. The highest or any bid will not necessarily be accepted and the Council reserves the right not to consider any bid not suitably endorsed or comprehensively completed. Bids completed in pencil will be regarded as invalid bids. Bids may only be submitted on the documentation provided by the Dihlabeng Local Municipality.

The compulsory documents stated in the document must be submitted together with the Bid Document
With effect from 1 July 2016, Dihlabeng Local Municipality must use and verify suppliers registered on the Central Supplier Database - <https://secured.csd.gov.za/>
Failure to register will result in Dihlabeng Local Municipality not being able to conduct business with your company/entity.

Bids will be opened in public as soon as possible after the closing time. The municipality reserves the right to reject any and all bids at any time.

Everyone, Every Household, Every Entity – A Testimonial of our Excellent Service!



M Ntheli
MUNICIPAL MANAGER

9 Muller Street East
P.O. Box 551
BETHLEHEM
9700
www.dihlabeng.gov.za

T1.2 TENDER DATA

The conditions of tender are the standard conditions of tender as contained in SANS 10845-3 Construction Procurement, Part 3: Standard Conditions of tender that apply specifically to this tender.

The Tender Data 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 construction.

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 data given below is cross-referenced to the clause in the standard conditions of tender to which it mainly applies.

Clause Number	Data
	<p>The conditions of tender are those contained in the latest edition of SANS 10845-3, Construction Procurement – Part 3: Standard conditions of tender.</p> <p>SANS 10845-3 makes 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 provisions of SANS 10845-3.</p> <p>Each item of data given below is cross-referenced to the clause in SANS 10845-3 to which it mainly applies.</p>
3.1	<p>The Employer is: Dihlabeng Local Municipality</p>
	<p>The tender documents issued by the Employer comprises of:</p> <p>THE TENDER</p> <p>Part T1 Tendering Procedures</p> <p>Part T1.1 Tender Notice and Invitation to Tender</p> <p>Part T1.2 Tender Data</p> <p>Part T1.3 Preferential Procurement Policy</p> <p>Part T2 Returnable Documents</p> <p>Part T2.1 List of Returnable Documents</p> <p>Part T2.2 Returnable Schedules to be completed by the Contractor</p> <p>Part T2.3 Returnable Schedules II</p> <p>THE CONTRACT</p> <p>Part C1 Agreement and Contract Data</p> <p>C1.1 Form of Offer and Acceptance</p> <p>C1.2 Contract Data</p> <p>Part C2 Pricing Data</p> <p>C2.1 Pricing Assumptions</p> <p>C2.2 Bill of Quantities and Information Sheets</p>

3.2	<p>Part C3 Scope of Works C3.1 Scope of Works C3.2 Engineering C3.3 Procurement C3.4 Construction C3.5 Management</p> <p>Part C4 Site Information C4 Site Information</p>
3.4	None
3.5	The language for communications is English.
3.6	The competitive negotiation procedure shall not be applied.
4.6	<p>Bidders are encouraged to visit the Municipality's website regularly prior to the closing date particularly in relation to this tender to ensure that all addenda/ erratum that may be issued are adhered to.</p> <p>Failure to apply instructions contained in addenda may render a tenderer's offer non-responsive in terms of Condition of Tender 5.8.</p>
4.7	There will be no compulsory clarification meeting for this tender and tenderers are encouraged to provide their contact details including the name of tenderer, contact number and email address to the contact details provided under INVITATION TO BID – ADVERTISEMENT for any addenda / erratum that may be communicated or issued by the Client . It is the responsibility of the Tenderer to ensure that the contact details are provided to the Employer.
4.8	Request for clarifications must be forwarded to the Employer at least 4 days before the closing time.
4.10	Tenderers are required to state the rates and currencies in Rand.
4.12	<p>An alternative tender offer will only be considered if the main tender offer, strictly in accordance with all the requirements of the tender is also submitted.</p> <p>If the 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.</p> <p>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 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.</p> <p>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.</p> <p>The modified Tender 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.</p>
4.13.1	<p>Parts of each tender offer communicated on paper shall be submitted as an <u>original</u>, no copies are required.</p> <p>The signed print-out shall be taken as the valid submission.</p>

4.13 4.15	<p>The Employer's address for delivery of tender offers and identification details to be shown on each tender offer package are:</p> <p>Location of tender box: Dihlabeng Local Municipality</p> <p>Physical address: 9 Muller Street, BETHLEHEM 9700</p> <p>Identification details: APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS</p> <p>TENDER NUMBER: PW030/2023</p> <p>Tenders can be submitted 24 hours a day from Monday to Friday at the Employer's address.</p> <p>It is in the tenderer's responsibility to ensure that the delivery of the tender offer is deposited in the correct tender box located at the Employer's offices.</p>
4.13.4	The tenderer is required to submit all certificates as listed in the Schedule of Tender Compliance (Form T).
4.13.5	Place and seal the printed and completed tender document in an envelope clearly marked "TENDER" and bearing the Employer's name, the contract number and description, the tenderer's postal address and contact telephone numbers.
4.13.5	A two-envelope procedure will not be followed.
4.13.6	Telephonic, telegraphic, telex, facsimile or e-mailed tender offers will not be accepted.
4.15	The closing time for submission of tender offer is as stated in the Tender Notice and Invitation to Tender.
4.16.1	The tender offer validity period is 90 days.
4.16.2	<p>Where a tenderer, at any time after the opening of his tender offer but prior to entering into a contract based on his tender offer:</p> <ul style="list-style-type: none"> a) withdraws his tender; b) gives notice of his inability to execute the contract in terms of his tender; or c) fails to comply with a request made in terms of 4.17, 4.18 or 5.9, <p>such tenderer shall be barred from tendering on any of the Employer's future tenders for a period to be determined by the Employer, but not less than six (6) months, from the date of tender closure. The Employer may fully or partly exempt a tenderer from the provisions of this condition if he is of the opinion that the circumstances justify the exemption.</p>
4.18	Any additional information requested under this clause must be provided within 5 (five) working days of date of request.
4.20	The tenderer is required to submit with his tender a letter of intent from an approved insurer undertaking to provide the Performance Bond to the format included in Part C1.8 of this procurement document.
5.1	The employer shall respond to clarifications received up to 4 days before tender closing time.
5.2	The employer shall issue addenda until 3 working days before tender closing time.
5.4	All bid responses must be submitted before the Bid Closing date and time as stipulated on the tender invitation.
5.7	In the event of disqualification, the Employer may, at its sole discretion, impose a specified period during which tender offers will not be accepted from the offending tenderer and report same to CIDB and National Treasury.

5.9	<p>Arithmetical errors, omissions, discrepancies and imbalanced unit rates</p> <p>Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount appearing in the summary to the Pricing Schedule shall govern.</p> <p>Check responsive tender offers for:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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. d) imbalanced unit rates. <p>Notify shortlisted tenderers of all errors, omissions or imbalanced rates that are identified in their tender offers.</p> <p>Where the tenderer elects to confirm the errors, omissions or re-balancing of imbalanced rates the tender offer shall be corrected as follows:</p> <ul style="list-style-type: none"> a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the unit rate shall govern, and the line item total shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted and the unit rate shall be corrected. b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall be corrected. c) Where the unit rates are imbalanced adjust such rates by increasing or decreasing them and selected others while retaining the total of the prices derived after any other corrections made under (a) and (b) above. <p>Where there is an omission of a line item, no correction is possible, and the offer may be declared non-responsive.</p> <p>Declare as non-responsive and reject any offer from a tenderer who elects not to accept the corrections proposed and subject the tenderer to the sanction under 4.16.2.</p> <p>The tenderer is required to submit balanced unit rates for rate only items in the pricing schedule. The rates submitted for these items will be taken into account in the evaluation of tenders.</p>
5.17	The number of paper copies of the signed contract to be provided by the employer is One.
5.19	All communications shall be in writing.

**APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION
OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3)
YEARS**

TENDER NUMBER: PW030/2023

BID EVALUATION CRITERIA

The procedure for the evaluation of responsive bids is as per Preferential Procurement Policy Framework Act, Act 50 of 2000 and Regulations of 2022.

Acceptable bids will be evaluated in Four (4) stages, namely:

- a) Stage 1 – Responsiveness
- b) Stage 2 – Functionality
- c) Stage 3 – Price and Preference
- d) Stage 4 – Risk Analysis

Stage 1: Tender Responsiveness

The following submissions are the requirements for evaluating each bid for responsiveness. The Bidder who fails to submit the following will be disqualified immediately:

1. Joint Venture Agreement and Power of Attorney, in case of Joint Venture.
2. Proof of payment (municipal account/statement) of Municipal Services, which is not more than three (3) months old and not more than ninety (90) days in arrears. If Municipal Services are paid by the Lessee, a copy of municipal account/statement and a valid Lease Agreement (**indicating the municipal account payer and the validity period of the contract**) must be attached, should the municipal services be paid by the Landlord/owner, a valid Lease Agreement (**indicating the municipal account payer and the validity period of the contract**) must be attached.
3. Proof of CSD Registration Report which is Valid/Compliant from the date of availability of tender document.
4. The bidder must provide a Valid Letter of Good Standing (COIDA).
5. The document must be completely filled in **Black Ink** & corrections are countersigned.
6. Bill of Quantities must be completely filled with black ink not erasable fluid.
7. A rate/amount is to be entered against all items in the schedule of fees/Bill of Quantities, an item against which no rate/amount is entered will lead to immediate disqualification due to unfair price advantage.
8. The bidder must complete and sign all the prescribed and compulsory bid forms including Compulsory Briefing Session attendance certificate.
9. The bidder must provide a valid Professional Indemnity Cover of at least R 5 000 000.00 or a letter of intent from an approved service provider.
10. The bidder must provide a valid and certified copy of Quality Management System Certificate issued by South African Bureau of Standards (SABS ISO 9001).
11. The bidder must provide a valid and certified copy of proof of registration with Consulting Engineers of South Africa and/or South African Black Technical and Allied Careers Organisation.
12. The bidder must provide the recent 3 Audited Years Financial Statements, preferably (2021 / 2022 / 2023). In a situation where the bidder does not qualify for Audited Financial Statements, a proof must be attached.
13. Tender documents must be submitted as one (1) original, and one (1) scanned copy (PDF) of the original completed in a flash drive with all exhibits and forms required included in the returnable schedule.

Stage 2: Functionality

The functionality points will only be used to pre-qualify the bids before scoring for preferences and price points. **Please note that bids that score less than 60% of the maximum points allocated for functionality will automatically be disqualified.** The maximum obtainable are 100 points (100%); however, a Bid will be disqualified should it fail to meet the minimum threshold for functionality per category/criteria and in total as prescribed in the following table. The minimum threshold required is 60 points (60%) and the minimum per category/criteria as indicated in the 'Min Pts. Required per criteria' column. The table below has reference, and the points will be allocated as follow:

No	Criteria	Criteria Description	Sub-criteria	Maximum Points	Minimum Points
1	Technical Qualifications and Competence CVs, Certified Copies of Qualifications and Certified Copies of ECSA Registration Certificates must attached	Project Leader 1 X Civil, Mechanical, Chemical or Structural Engineer or Technologist: ECSA (Pr Eng/ Pr Tech Eng) registered. Traceable Record in relevant project(s) tendered for as Project Leader or Project Engineer.	7+ years of experience with 5 years after registration.	10	6
			5-6 years of experience with 2 years after registration.	5	
			3-4 years of experience with 2 years after registration.	2,5	
			1-2 year of experience and not registered.	0	
		Design Specialist / Engineer 1 X Civil, Mechanical, Chemical or Structural Engineer or Technologist: ECSA (Pr Eng/ Pr Tech Eng) registered. Traceable Record in relevant project(s) tendered for.	7+ years of experience with 5 years after registration.	10	6
			5-6 years of experience with 2 years after registration.	5	
			3-4 years of experience with 2 years after registration.	2,5	
			1-2 year of experience not registered registration.	0	
		Contracts Engineer/Manager 1 X Civil, Mechanical, Chemical or Structural Engineer or Technologist: ECSA (Pr Eng/ Pr Tech Eng/Cert Eng) registered. OR 1 X Professional Project Manager (SACPCMP) registered. Traceable Record in relevant project(s) tendered for. Detailed experiential exposure to the application of the GCC or FIDIC and/or NEC3 suite of contracts must be clearly described in the relevant CV.	7+ years of experience with 4 years after registration.	10	6
			5-6 years of experience with 2 years after registration.	5	
			3-4 years of experience with 2 years after registration.	2,5	
			1-2 year of experience not registered registration.	0	
	Site Supervision & Monitoring 1 X Civil, Mechanical, Chemical or Structural Engineer or Technologist or Technician: ECSA (Pr Eng/ Pr Tech Eng/Pr Techni Eng) registered. Traceable Record in relevant project(s) for as E.R.	5+ years of experience with 2 years after registration.	10	6	
		4 years of experience with 1 years after registration.	5		
		3 years of experience with 1 years after registration.	2,5		
		Up to 2 year of experience not registered registration.	0		
Sub-total 1				40	24
2	Company experience Appointment Letters and Completion Certificates &/or Reference Letters	Demonstrated experience with respect to specific aspects of the project. Successful completion of similar projects (in nature and value) in the last ten (10) Years.	Six (6) projects and above	60	36
			Five (5) projects and above	35	
			Four (4) projects	20	
			Zero (0) projects	0	
Sub-total 2				60	36
Grand-Total				100	60

Stage 3: Financial Offer and Preference Evaluation

Each Bid will be evaluated in terms of price and preference in accordance with the Preferential Procurement Regulations 2022.

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

POINTS AWARDED FOR PRICE

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

80/20	or	90/10
$Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$	or	$Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$

Where

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

POINTS AWARDED FOR SPECIFIC GOALS

In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

A	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
	Within the boundaries of Free State	4		
	Within the boundaries of Dihlabeng municipality	6		
	Historically Disadvantaged Individual	10		

Stage 4: Risk Analysis-Supply Chain Management

In addition to the evaluation of Responsiveness, Functionality and Financial Offer, a risk analysis will be performed on the bidders having the highest ranking/number of points to ascertain if any of the following, as relevant, present an unacceptable commercial risk to the employer in terms of:

1. The bid of any bidder may be disregarded if that bidder, or any of its directors have –
 - (a) Abused the institution's supply chain management system;
 - (b) Committed fraud or any other improper conduct in relation to such system;
 - (c) Failed to perform on any previous contract.
2. The bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?

Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the *audi alteram partem* rule was applied.

The Database of Restricted Suppliers is available on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.

3. Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?

The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.

- (a) Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?
 - (b) Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?
4. This tender is and shall be implemented in accordance with all relevant and applicable legislation, which includes and is not limited to best practice guidelines of procurement, Engineering Profession Act (Engineering Council of South Africa – ECSA: Guideline for Services and Processes for Estimating Fees for Persons Registered in terms of the Engineering Professions (ECSA) for the typical services stages as listed), tender evaluations and etc.

APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS

TENDER NUMBER: PW030/2023

PART T2: RETURNABLE DOCUMENTS

PART T2: RETURNABLE DOCUMENTS

1. Failure to fully complete the **compulsory** returnable documents shall render such a tender offer non-responsive.
2. Tenderers shall note that their signatures appended to each returnable form **represents a declaration that they vouch for the accuracy and correctness of the information provided**, including the information provided by candidates proposed for the specified key positions.
3. Notwithstanding any check or audit conducted by or on behalf of the Employer, the information provided in the returnable documents is accepted in good faith and as justification for entering into a contract with a tenderer. **If subsequently any information is found to be incorrect such discovery shall be taken as willful misrepresentation by that tenderer to induce the contract.** In such event the Employer has the discretionary right under contract condition 9.2 to terminate the contract.

The Tenderer must complete the following returnable Schedules:

- **Returnable Schedules required for Tender evaluation purposes**

COMPULSORY TENDER DOCUMENTS	
FORM A	CERTIFICATE OF ATTENDANCE AT CLARIFICATION MEETING (NOT APPLICABLE)
FORM B	RECORD OF ADDENDA TO TENDER DOCUMENTS
FORM C	PROPOSED AMENDMENTS, QUALIFICATIONS AND ALTERNATIVES
FORM D	PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022
FORM E	COMPULSORY DECLARATION
FORM F	MBD 2: TAX CLEARANCE CERTIFICATE
FORM G	MBD 4: DECLARATION OF INTEREST
FORM H	DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)
FORM I	DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES
FORM J	MBD 9 CERTIFICATE OF INDEPENDENT TENDER
FORM K	DECLARATION OF TENDERER'S LITIGATION HISTORY
FORM L	AUTHORITY OF SIGNATORY
FORM M	SCHEDULE OF SPECIALIST SUB-CONSULTANTS
FORM N	PROOF OF GOOD STANDING WITH COMPENSATION COMMISSIONER
FORM O	SCHEDULE OF CURRENT COMMITMENTS
FORM P	PROFESSIONAL INDEMNITY
FORM Q	THE CONTRACT

FORM A: CERTIFICATE OF ATTENDANCE AT CLARIFICATION MEETING (NOT APPLICABLE)
--

Notes to Tenderer:

1. Unless the attendee's name, details and signature also appear on the attendance register this Certificate of Attendance shall not be accepted and the tenderer's offer shall be deemed non- responsive.

This is to certify that I,

representative of (tenderer)

of (address)

.....

.....

telephone number

fax number

e-mail

attended the clarification meeting on (date)

NB: There will be no compulsory clarification meeting for this tender and tenderers are encouraged to provide their contact details including the name of tenderer, contact number and email address to the contact details provided under **INVITATION TO BID – ADVERTISEMENT** for any addenda / erratum that may be communicated or issued by the **Client**.

Signature of Representative: _____

Signature of Project Manager: _____

FORM B: RECORD OF ADDENDA TO TENDER DOCUMENTS

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1		
2		
3		
4		
5		
6		
7		
8		
9		

Attach additional pages if more space is required.

Signed Date

Name Position

FORM C: PROPOSED AMENDMENTS, QUALIFICATIONS AND ALTERNATIVES

The Tenderer should record any deviations or qualifications he may wish to make to the tender documents in this Returnable Schedule. Alternatively, a tenderer may state such deviations and qualifications in a covering letter to his tender and reference such letter in this schedule.

The Tenderer's attention is drawn to clause 5.8 of SANS 10845-3 regarding the employer's handling of material deviations and qualifications.

(a) AMENDMENTS

Page, Clause or Item No	Proposed Amendment

Note: (1) Amendments to the General and Special Conditions of Contract are not acceptable.

(2) The Tenderer must give full details of all the financial implications of the amendments and qualifications in a covering letter attached to his tender.

This is not an invitation for alternatives but should the Tenderer desire to make any departures for the provisions of this contract he shall set out his proposals clearly hereunder.

(b) ALTERNATIVES

Proposed Alternative	Description of Alternative

Note: (1) Individual alternative items that do not justify an alternative tender, and an alternative offer for time for completion should be listed here.

(2) In the case of a major alternative to any part of the work, a separate Bill of Quantities, programme, etc. and a detailed statement setting out the salient features of the proposed alternatives must accompany the tender.

(3) Alternative tenders involving technical modifications to the design of the works and methods of construction shall be treated separately from the main tender offer.

Signed: Date:

Name: Position:

FORM D: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

- a) The applicable preference point system for this tender is the 80/20 preference point system.

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

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

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

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

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

A	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Within the boundaries of Free State		4		
Within the boundaries of Dihlabeng municipality		6		
Historically Disadvantaged Individual		10		

DECLARATION WITH REGARD TO COMPANY/FIRM

3.1. Name of company/firm.....

3.2. Company registration number:

3.3. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

WITNESSES

1.

DATE:

ADDRESS

2.

.....
SIGNATURE(S) OF BIDDERS(S)

.....

.....

.....

.....

FORM E: COMPULSORY DECLARATION

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

Section 1: Name of enterprise:

.....

Section 2: VAT registration number, if any:

.....

Section 3: Particulars of sole proprietors and partners in partnerships

Name*	Identity number*	Personal Income tax number*

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

Section 4: Particulars of companies and close corporations

Company registration number

.....

Close corporation number

.....

Tax reference number

.....

Section 5: Record in the service of the state

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

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

If any of the above boxes are marked, disclose the following:

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

Section 6: Records of spouses, children and parents in the service of the state

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

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

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

* insert separate page if necessary

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

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on

the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004.

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

Signature: _____

Date: _____

Name: _____

Position: _____

Enterprise: _____

FORM F: MBD 2: TAX CLEARANCE CERTIFICATE

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement bidders are required to complete in full form TCC001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids. Form TCC001 is available from any SARS branch office nationally or on the website www.sars.gov.za.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. **Valid Tax Clearance reference number and tax compliance status pin must be submitted together with the bid. Failure to submit Tax Clearance reference number and tax compliance status pin will result in the invalidation of the bid.**
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Applications for the Tax Clearance Certificates may also be made via e-Filing. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.
6. Exemption to the provision of a Tax Clearance Certificate will be granted provided that:
 - a) The bidder is registered on the vendor database of the municipality and a valid tax clearance certificate was submitted together with the application for registration
 - b) If the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the municipality's possession.

FORM G: MBD 4: DECLARATION OF INTEREST

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

3.1 Full Name:

3.2 Identity Number:

3.3 Company Registration Number:

3.4 Tax Reference Number:

3.5 VAT Registration Number:

3.6 Are you presently in the service of the state* **YES / NO**

3.6.1 If so, furnish particulars.

.....
.....

3.7 Have you been in the service of the state for the past twelve months? **YES / NO**

3.7.1 If so, furnish particulars.

.....
.....

* MSCM Regulations: "in the service of the state" means to be –

(a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

3.8 Do you, have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and/or adjudication of this bid?

YES / NO

3.8.1 If so, furnish particulars.

.....
.....

3.9 Are you, aware of any relationship (family, friend, other) between a bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?

YES / NO

3.9.1 If so, furnish particulars

.....

3.10 Are any of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES / NO

3.10.1 If so, furnish particulars.

.....
.....

3.11 Are any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES / NO

3.11.1 If so, furnish particulars.

.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

.....

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

FORM H: DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)

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

1.	Are you by law required to prepare annual financial statements for auditing?	*YES / NO
1.1	If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.	
2.	Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?	*YES / NO
2.1	If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.	
2.2	If yes, provide particulars:	
3.	Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?	*YES / NO
3.1	If yes, provide particulars:	
4.	Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?	*YES / NO
4.1	If yes, provide particulars:	

* Delete which is not applicable

CERTIFICATION

I, THE UNDERSIGNED (NAME)

.....

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

FORM I: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1. This Municipal Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - a) abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - b) been convicted for fraud or corruption during the past five years;
 - c) willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d) been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		

Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

FORM J: MBD 9 CERTIFICATE OF INDEPENDENT TENDER

1. This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
4. This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

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

I, the undersigned, in submitting the accompanying bid:

PW030/2023 - APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS

(Bid Number and Description)

in response to the invitation for the bid made by:

DIHLABENG LOCAL MUNICIPALITY

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate.
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect.

3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder.
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder.
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation);
 - (c) Methods, factors or formulas used to calculate prices;
 - (d) The intention or decision to submit or not to submit a bid;
 - (e) The submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) Bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

FORM K: DECLARATION OF TENDERER'S LITIGATION HISTORY

Does the tenderer have any litigation with which tenderer (including its directors, shareholders or other senior members in previous companies) have been involved with any organ of state or state department within the last ten years?

YES

NO

If yes, furnish your details in table below.

NB: It is compulsory for all bidders to sign this form.

The tenderer shall list below details of any litigation with which the tenderer (including its directors, shareholders or other senior members in previous companies) has been involved with any organ of state or state department within the last ten years. The details must include the year, the litigating parties, the subject matter of the dispute, the value of any award or estimated award if the litigation is current and in whose favour the award, if any, was made.

Client	Other Litigating Party	Dispute	Award Value	Date Resolved

Signature

Date

Capacity under which Tender is Signed

Name of Tenderer

FORM L: AUTHORITY OF SIGNATORY

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

Held at _____ (place)

On _____ (date)

RESOLVED that:

The Enterprise submits a Bid / Tender to Dihlabeng Local Municipality in respect of the following project:
APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS.

CONTRACT NUMBER: PW030/2023

1. *Mr/Mrs/Ms: _____
2. in *his/her Capacity as: : _____ (Position in the Enterprise)
3. and who will sign as follows: : _____
4. be, and is hereby, authorized to sign the Bid / Tender, and any and all other documents and/or correspondence in connection with and relating to the Bid / Tender, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid / Tender to the Enterprise mentioned above.

	Name	Capacity	Signature
1			
2			
3			
5			
6			

*Delete which is not applicable

NB : This resolution must be signed by all the Directors/Members/Partners of the Bidding Enterprise. Should **the** number of Directors/Members/Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

SCHEDULE 2

RESOLUTION OF BOARD OF DIRECTORS TO ENTER INTO CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

(Legally correct full name and registration number, if applicable, of the Enterprise)

Held at _____ (place)

On _____ (date)

RESOLVED that:

1. The Enterprise submits a Bid /Tender, in consortium/Joint Venture with the following Enterprises:

(List all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the Consortium/Joint Venture)

2. to Dihlabeng Local Municipality in respect of the following project: **APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS.**

CONTRACT NUMBER: PW030/2023

3. *Mr/Mrs/Ms:

in *his/her Capacity as: _____ (Position in the
Enterprise) and who will sign as follows:

be, and is hereby, authorized to sign a consortium/joint venture agreement with the parties listed under item 1 above, and any and all other documents and/or correspondence in connection with and relating to the consortium/joint venture, in respect of the project described under item 1 above.

4. The Enterprise accepts joint and several liability with the parties listed under item 1 above for the due fulfillment of the obligations of the joint venture deriving from, and in any way connected with, the Contract to be entered into with the Department in respect of the project described under item 1 above.
5. The Enterprise chooses as its *domicilium citandi et executandi* for all purposes arising from this joint venture agreement and the Contract with the Department in respect of the project under item 1 above:

Physical address : _____

 _____(code)

Postal Address : _____

 _____(code)

Telephone number : _____(code)

Fax number : _____(code)

	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

* Delete which is not applicable

NB : This resolution must be signed by all the Directors/Members/Partners of the Bidding Enterprise. Should the number of Directors/Members/Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

SCHEDULE 3:

SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the duly authorized representatives of the following legal entities who have entered into a consortium/joint venture to jointly bid for the project mentioned below: *(legally correct full names and registration numbers, if applicable, of the Enterprises forming a Consortium/Joint Venture)*

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Held at _____ (place)

On _____ (date)

RESOLVED that:

The above-mentioned Enterprises submit a Bid in Consortium/Joint Venture to the Dihlabeng Local Municipality in respect of the following project: **APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS.**

CONTRACT NUMBER: PW030/2023

A. Mr/Mrs/Ms: _____

in *his/her Capacity as: _____ (Position in the Enterprise) and who will sign as follows: _____

be, and is hereby, authorized to sign the Bid, and any and all other documents and/or correspondence in connection with and relating to the Bid, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid to the Enterprises in Consortium/Joint Venture mentioned above.

B. The Enterprises constituting the Consortium/Joint Venture, notwithstanding its composition, shall conduct all business under the name and style of:

-
- C. The Enterprises to the Consortium/Joint Venture accept joint and several liability for the due fulfilment of the obligations of the Consortium/Joint Venture deriving from, and in any way connected with, the Contract entered into with the municipality in respect of the project described under item A above.
- D. Any of the Enterprises to the Consortium/Joint Venture intending to terminate the consortium/joint venture agreement, for whatever reason, shall give the Department 30 days written notice of such intention. Notwithstanding such decision to terminate, the Enterprises shall remain jointly and severally liable to the municipality for the due fulfilment of the obligations of the Consortium/Joint Venture as mentioned under item C above.
- E. No Enterprise to the Consortium/Joint Venture shall, without the prior written consent of the other Enterprises to the Consortium/Joint Venture and of the municipality, cede any of its rights or assign any of its obligations under the consortium/joint venture agreement in relation to the Contract with the municipality referred to herein.
- F. The Enterprises choose as the *domicilium citandi et executandi* of the Consortium/Joint Venture for all purposes arising from the consortium/joint venture agreement and the Contract with the municipality in respect of the project under item A above:

Physical address : _____

_____ (code)

Postal Address : _____

_____ (code)

Telephone number : _____

Fax number : _____

	NAME	CAPACITY	SIGNATURE
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

* Delete which is not applicable

NB : This resolution must be signed by all the Directors/Members/Partners of the Bidding Enterprise. Should the number of Directors/Members/Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

Resolutions, duly completed and signed, from the separate Enterprises who participate in this Consortium/Joint Venture must be attached to the Special Resolution.

FORM M: SCHEDULE OF SPECIALIST SUBCONTRACTORS/CONSULTANTS

• **Notes to tenderer:**

1. The tenderer shall list below the specialist items of work on this contract. Alternatives may be mentioned.
2. The tenderer shall state whether he intends to carry out any specialised work himself.

Acceptance of this tender shall not be construed as approval of all or any of the listed specialist subcontractors. Should any or all of the specialist subcontractors not be approved subsequent to the acceptance of the tender, it shall in no way invalidate this tender, and the tendered unit rates for the various items of work shall remain final and binding, even in the event of a subcontractor not listed below being approved by the engineer.

SPECIALISED ITEM	INDICATE IF SUB-CONTRACTED (Tick correct option)	
	YES	NO

In order to complete the Works under this Contract, I/we propose to employ the following sub-contractors to carry out the portion/type of work as detailed. **Affix Original or Certified proof of 3 previous projects for each sub-contractor.**

(Note: All proposed sub-contractors must be listed).

Sub-contractor: Name, Address and Telephone No.	Portion/type of work to be undertaken	
_____ _____ (____)_____		Previous value of work:
		Previous Experience:
_____ _____ (____)_____		Previous value of work:
		Previous Experience:

FORM N: PROOF OF GOOD STANDING WITH COMPENSATION COMMISSIONER
--

Notes to tenderer:

1. Discovery that the tenderer has failed to make proper disclosure may result in Dihlabeng Local Municipality terminating a contract that flows from this tender on the ground that it has been rendered invalid by the tenderer's misrepresentation.
2. The tenderer shall attach to this Form evidence that he is registered and in good standing with the compensation fund or with a licensed compensation insurer who is approved by Department of Labour in terms of section 80 of the Compensation for Injury and Disease Act 1993 (COID) (Act 130 of 1993).

Affix certified Proof of Good Standing with Compensation Commissioner to this page

FORM O: SCHEDULE OF CURRENT COMMITMENTS

Notes to tenderer:

- (a) The tenderer shall list below all contracts currently under construction or awarded and about to commence and tenders for which offers have been submitted but awards not yet made.
- (b) In the event of a joint venture enterprise, details of all the members of the joint venture shall similarly be attached to this form.
- (c) The lists must be restricted to not more than 5 contracts and 5 tenders. If a tenderer's actual commitments or potential commitments are greater than 5 each, those listed should be in descending order of expected final contract value or sum tendered.

Contracts Awarded				
Employer	Project	Expected Value of contract (Inclusive of VAT)	Durations (Months)	Expected Completion Date

Signature

Date

Capacity under which Tender is Signed

Name of Tenderer

FORM P: PROFESSIONAL INDEMNITY INSURANCE

Professional Indemnity Insurance - Insurance against risk in performing professional services, minimum professional cover must be R 5,000,000.00.

FORM P: THE CONTRACT

PART C1	AGREEMENT AND CONTRACT DATA
---------	-----------------------------

PART C2	PRICING DATA
---------	--------------

PART C3	SCOPE OF WORKS
---------	----------------

PART C1 AGREEMENT AND CONTRACT DATA
--

CONTENTS	PAGE(S)
C1.1 FORM OF OFFER	C1.1
C1.2 FORM OF ACCEPTANCE	C1.2
C1.3 SCHEDULE OF DEVIATIONS	C1.3
C1.4 CONTRACT DATA	C1.4
C1.5 PERFORMANCE GUARANTEE	C1.5
C1.6 AGREEMENT IN TERMS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO 85 OF 1993)	C1.6
C1.7 CERTIFICATE OF AUTHORITY FOR SIGNATORY TO AGREEMENT IN TERMS OF OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO 85 OF 1993)	C1.7

C1.1**FORM OF OFFER**

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

CONTRACT NUMBER: PW030/2023

The tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the returnable 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 service provider / consultant 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 THE FOLLOWING:

.....

..... (Amount in words);

R (Amount 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 provider / consultant in the conditions of contract identified in the contract data.

Signature Block: Tenderer

Signature

Date

Name

Capacity

Name of Organization

Address of Organization

.....

.....

Signature of Witness

Date

Name of witness

C1.2

FORM OF ACCEPTANCE

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

The terms of the contract, are contained in:

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

and documents or parts thereof, which may be incorporated by reference into Parts C1 to C3 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the 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.

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

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer (now contractor) within five working days of the date of such receipt notifies the employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

Signature Block: Employer	
Signature	Date
Name.....	
Capacity.....	
for the Employer	Dihlabeng Local Municipality P.O. Box 551 Bethlehem 9700
Signature of Witness	Date
Name of Witness.....	

C1.3

SCHEDULE OF DEVIATIONS

1. Subject: _____

Details: _____

2. Subject: _____

Details: _____

3. Subject: _____

Details: _____

4. Subject: _____

Details: _____

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

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

For the Tenderer:

Signature(s)
Name(s)
Capacity
Name and address of organization
Date
Name and signature of witness Date

For the Client:

Signature(s)
Name(s)
Capacity
Date

GENERAL 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.

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;

Employer

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

Force Majeure

An event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

Key Persons

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

Others

Persons or organisations 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 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.

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; and
 - 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 Law

Law governing the Contract shall be the law of the Republic of South Africa.

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 Provider furnished the Employer with detailed justification for the adjustment to the Contract Price or Period of Performance (or both)..

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, approvals or other communication made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract Data. Such communication 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 one week after having been sent by registered post, or unless otherwise indicated in the Contract Data, when sent by e-mail or facsimile to such Party
- 3.4.2 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 stated in the Contract Data, 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 by the Employer shall not be unreasonably withheld.

3.7 **Confidentiality**

Both parties shall keep all 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.

3.8 **Variations**

The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services in writing or may request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services.

3.8.1 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 between the Service Provider and the Employer.

3.8.2 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 any 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 negligent act or omission by the Service Provider in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trade-marks and other forms of intellectual property such as copyrights.

3.11 **Penalty**

If 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 or in law, be entitled to levy a penalty for every Day or part thereof, of 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.

3.11.1 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.

3.12 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 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, on becoming aware that the Contract requires him to undertake anything which is illegal or impossible.

3.14 Programme

- 3.14.1 The Service Provider shall, within the time period set out in the Contract Data, submit to the Employer a programme 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 programme. 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 programme to reflect actual progress to date and expected future progress.

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 reasonable assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

4.2 Decisions

- 4.2.1 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

- 4.3.1 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:
- a) authorise the Service Provider to act as his agent insofar as may be necessary for the performance of the Services;
 - b) provide all relevant data, information, reports, correspondence and the like, which become available;

-
- c) procure the Service Provider's ready access to premises, or sites, necessary for the performance of the Services;
 - d) assist in the obtaining of all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data;

Unless otherwise communicated, the authorised and designated person named in the Contract Data has complete authority in giving instructions and receiving communications on the Employer's behalf and interpreting and defining the Employer's policies and requirements in regard to the Services.

4.4 Services of Others

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

4.5 Notification of material change or defect

The Employer shall immediately advise the Service Provider on becoming aware of:

- a) any matter other than a change in legislation which will materially change, or has changed the Services; or
- b) a material defect or deficiency in the Services.

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.

5.1.2 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.

5.2 Exercise of authority

5.2.1 The Service Provider shall have no authority to relieve Others appointed by the Employer to undertake work or services 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.

5.3 **Designated representative**

Unless otherwise communicated, the authorised and designated person named in the Contract Data has 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**

The Service Provider shall as a minimum and at his own cost take out and maintain in force all such insurances as are stipulated in the Contract Data.

- 5.4.1 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 and maintained in force.

5.5 **Service Provider's actions requiring Employer's prior approval**

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

- a) appointing Subcontractors for the performance of any part of the Services,
- b) appointing Key Persons not listed by name in the Contract Data.
- c) 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 Services, the Service Provider shall within 14 Days thereof give notice to the Employer.

6. **CONFLICTS OF INTEREST**

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 judgement, or that of Subcontractors or Personnel.

7. **SERVICE PROVIDER'S PERSONNEL**

7.1 **General**

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

7.1.2 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.

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

7.1.4 The Service Provider shall bear all additional costs arising out of or incidental to replacement of Personnel, except where such replacement is otherwise provided for in the Contract.

7.1.5 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.

7.2 **Provision of Personnel in terms of a Personnel Schedule**

7.2.1 The Service Provider shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and 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.

7.2.2 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.

7.2.3 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 7.2.1 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.

7.2.4 The Service Provider shall, if required in terms of Clause 7.2.1:

- a) 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.
- b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
- c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION

8.1 Commencement of Services

The Service Provider shall commence the performance of the Services within the period stated 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:

- a) additional Services ordered by the Employer;
- b) failure of the Employer to fulfil his obligations under the Contract;
- c) any delay in the performance of the Services which is not due to the Service Provider's default; *Force Majeure*; or suspension.

8.2.3 The Service Provider shall within 14 Days of becoming aware that a delay may occur or has occurred, 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 after the delay ceases deliver to the Employer full and detailed particulars of the request.

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 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 informed the other Party as soon as possible about the occurrence of such an event.

8.3.2 In the event that the performance of the Services has to be suspended on the grounds of *Force Majeure*, the Period of Performance shall be extended by the extent of the delay plus a reasonable period for the resumption of work.

8.3.3 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 any payment due in 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.

8.4 Termination

8.4.1 The Employer may terminate the Contract:

- (a) where the Services are no longer required;
- (b) where the funding for the Services is no longer available;

-
- (c) 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;
 - (d) if the Service Provider becomes insolvent or liquidated; or
 - (e) 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;

8.4.2 The Employer shall give the Service Provider not less than thirty (30) Days written notice of any termination made in terms of 8.4.1 (a) or (b).

8.4.3 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:

- (a) 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
- (b) 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
- (c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds the period stated in the Contract Data, 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 the period stated in the Contract Data; or
- (d) 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.

8.4.4 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

8.4.5 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 of either Party against the other.

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 minimize 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 Service Provider transfers his 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 this 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 and the third party will have no claim against the Employer resulting from such termination.

11. SUBCONTRACTING

- 11.1 A Service Provider may not subcontract any work which he has the skill and competency to perform, unless otherwise permitted in the Contract Data.
- 11.2 A subcontract, where permitted in terms of the Contract Data, 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.
- 11.3 The Service Provider shall not subcontract to nor engage a Subcontractor 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 Subcontractor 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 subcontracted, notify the Service Provider of his decision, stating reasons, should he withhold such authorization. If the Service Provider enters into a subcontract with a Subcontractor without prior approval, the Employer may forthwith terminate the Contract.

-
- 11.4 The Employer shall have no contractual relationships with Subcontractors. However, if a Subcontractor is found by the Employer to be incompetent, the Employer may request the Service Provider either to provide a Subcontractor with qualifications and experience acceptable to the Employer as a replacement, or to resume the performance of the relevant part of the Services himself.
- 11.5 The Service Provider shall advise the Employer without delay of the variation or termination of any subcontract for performance of all or part of the Services.
- 11.6 The Service Provider shall be responsible for the acts, defaults and negligence of Subcontractors 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 subcontracting of any part of the Contract or of the engagement by the Service Provider of Subcontractors 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 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 14 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.
- 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.

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 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 no notice of dissatisfaction is 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 published by the Association of Arbitrators current at the date the arbitrator is appointed.
- 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 stated in a notification 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.
- 13.1.3 All persons in a joint venture or consortium shall be jointly and severally liable to the Employer in terms of this Contract and shall carry individually the minimum levels of insurance stated in the Contract Data, if any.

13.2 Liability of the Employer

- 13.2.1 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 Legal 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:

- (a) Compensation shall be limited to the amount of reasonably foreseeable loss and damages suffered as a result of the breach.
- (b) 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 Unless otherwise indicated in the Contract Data, 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 events; and
- b) the sum stated in the Contract Data or, where no such amount is stated, to an amount equal to twice the amount of fees payable to the Service Provider under the Contract, excluding reimbursement and expenses for items other than salaries of Personnel, in respect of non-insurable events.

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

13.6.1 Unless otherwise indicated in the Contract Data, 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, if applicable, 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. If not otherwise stated in the Pricing Data, the following shall apply:

14.1.1 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 shall be based on progress.

- 14.1.2 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 prime interest rate charged by his bank and certified by such bank, plus 2% per annum, and calculated from the due date of payment.
- 14.2 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.
- 14.3 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 twenty four 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.

15 AMOUNTS DUE TO THE EMPLOYER

Amounts due to the Employer shall be paid by the Service Provider within thirty (30) Days of receipt by him of the relevant invoices. If the Employer does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Service Provider, at the rate stated in the Contract Data, calculated from the due date for payment.

C.1.3 CONTRACT SPECIFIC DATA PROVIDED BY THE CLIENT

The following **contract specific data** are applicable to this Contract:

Clause		
	Please note that the word "employer" must be erased and replaced with the word "client" in all referred to documentation such as the Standard Professional Services contract (July 2009) (Third Edition of CIDB document 1014)	
	The Client is the Dihlabeng Local Municipality	
3.4 and 4.3.2	The Authorized and Designated representative of the Client is	
	Name: Mohau Ntheli MUNICIPAL MANAGER	
	The Client's address for receipt of communications:	
	Physical address: 9 Muller Street Bethlehem 9700	Postal address: PO Box 551 Bethlehem 9700
	Telephone: (058) 303 5732 Fax: (058) 303 5732	
	The Project is for the Provision of Professional Engineering Services for the following projects: APPOINTMENT OF A PANEL OF SIX (6) PROFESSIONAL ENGINEERING CONSULTANTS FOR PROVISION OF PROFESSIONAL SERVICES ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF THREE (3) YEARS. CONTRACT NUMBER: PW030/2023.	

3.6.1	Omit and replace with: The Service Provider may not release public or media statements or publish material related to the Services or Project under any circumstances.									
3.11.1	PENALTY Add: The Service Provision shall be completed within the Duration as indicated in each Work Package Instruction, with the following key Milestones: <table><tr><th>MILESTONES</th><th>PENALTY PER CALENDAR DAY</th></tr><tr><td>Prelim Design</td><td>0,1% of total tendered professional fees</td></tr><tr><td>Detail Design and Cost Estimates</td><td>0,1% of total tendered professional fees</td></tr><tr><td>Tender Documentation</td><td>0,1% of total tendered professional fees</td></tr></table>		MILESTONES	PENALTY PER CALENDAR DAY	Prelim Design	0,1% of total tendered professional fees	Detail Design and Cost Estimates	0,1% of total tendered professional fees	Tender Documentation	0,1% of total tendered professional fees
MILESTONES	PENALTY PER CALENDAR DAY									
Prelim Design	0,1% of total tendered professional fees									
Detail Design and Cost Estimates	0,1% of total tendered professional fees									
Tender Documentation	0,1% of total tendered professional fees									
	PENALTY Add: Penalty for misleading council with wrong information provided in the returnable schedules, and information provided in this Tender. A penalty not less than an amount equal to the points allocated expressed as a percentage of the total points wrongly allocated to the Tendering Entity as a result of the wrong information provided by the Tendering Entity, multiplied by 1.25 of the total Tendered professional fees. Penalty = (Points wrongly claimed as %) x 1.25 x (Tendered Professional Fees)									
3.15	The Service Provision shall be completed within the Duration as indicated in each Work Package Instruction.									
3.15.1	The amended programme shall be submitted within 14 Days of the award of the Work Package or Specific Project.									
5.4.1	The Service Provider is required to provide the following insurances: <table><tr><td>1. Insurance against</td><td>Risk in performing professional services (Professional Indemnity cover)</td></tr><tr><td>Cover is:</td><td>R 5,000,000.00</td></tr><tr><td>Period of cover:</td><td>Duration of Project</td></tr><tr><td>Deductibles are:</td><td>NONE</td></tr></table>		1. Insurance against	Risk in performing professional services (Professional Indemnity cover)	Cover is:	R 5,000,000.00	Period of cover:	Duration of Project	Deductibles are:	NONE
1. Insurance against	Risk in performing professional services (Professional Indemnity cover)									
Cover is:	R 5,000,000.00									
Period of cover:	Duration of Project									
Deductibles are:	NONE									
5.5	Add: The Service Provider is required to obtain the Client's prior approval in writing before taking any of the following actions: <ol style="list-style-type: none">Commencement of detailed design.Commencement of Tender Advertisement for calling of Tenders.Appointing Sub Consultants for the performance of any part of the Services.All variation orders with cost implications.For exceeding the budgeted amount.									

7.3	<p>Add:</p> <p>The Client will not be responsible for any overtime worked by or overtime payments made to Personnel.</p>
8.1	<p>Omit and Replace with:</p> <p>The Service Provider is to commence the performance of the Services within 14 Days of date that the Contract becomes effective.</p>
9.1	<p>Omit and Replace with:</p> <p>Copyright of documents prepared for the Project shall be vested with the Dihlabeng Local Municipality.</p>
12	<p>Omit and Replace with:</p> <p>Settlement of disputes is to be in terms of the Supply Chain Management Policy of the Dihlabeng Local Municipality.</p>

C.1.4 DATA PROVIDED BY THE SERVICE PROVIDER

Clause		
1	The Service Provider is:	
5.3	The authorized and designated representative of the Service Provider is:	
	Name:	
	The Service Provider's address for receipt of communications is	
	Physical address:	Postal address:
	Telephone:	
	Fax:	
		E-mail:

C.1.4**DATA PROVIDED BY THE SERVICE PROVIDER**

Clause		
1	The Service Provider is:	
5.3	The authorized and designated representative of the Service Provider is:	
	Name:	
	The Service Provider's address for receipt of communications is:	
	Physical address:	Postal address:
	Telephone:	
	Fax:	
	E-mail:	

PART C.2: PRICING DATA

C.2.1 PRICING DATA & INSTRUCTIONS

1. All activities must be invoiced on a monthly basis, based on the completion of the activity but not exceeding the allocated budget that has been priced for that activity.
2. Payment will be based on the completion of activities provided that reasonable progress towards the completion of the activity within the estimated budget is demonstrated.
3. The total price for the activities shall not be exceeded without prior written approval and agreement of the Client.
4. The Schedule of Activities and the Bills of Quantities comprises items covering the service provider's profit and costs of general liabilities and includes costs of all services.
5. The schedule items covering the service provider's profit or general liabilities and the construction of temporary and permanent risk.
6. Although the tenderer is at liberty to insert a rate of his own choice for each item in the schedule, his attention is drawn to the fact that the employer has the right, under various circumstances, to payment for additional work carried out and that the engineer is obliged to base his assessment and the payment to be paid for such additional work on the rates inserted in the schedule by the tenderer.
7. The prices and rates to be inserted in the schedule of quantities are to be the full inclusive prices to be the employer for the work described under several items. The prices shall be exclusive of Value Added Tax (VAT). Such prices shall cover all costs and expenses that may be required in and for the work described, and shall cover the cost of all general risks, liabilities and obligations set forth or implied in the document on which the tender is based.
8. A rate/amount is to be entered against all items in the schedule of fees/Bill of Quantities, an item against which no rate/amount is entered will lead to immediate disqualification due to unfair price advantage;

The tendered rates, prices and sums shall, subject only to the provisions of the Conditions of Contract, remain valid irrespective of any change in the quantities during the execution of the Contract.

9. In the event of the tenderer failing to price any item it will be construed that the tenderer has made adequate allowance under other items for all labour, material and costs required, for the exclusion, not only for the quantum of work covered by the unpriced item, but also for any increase in the said quantum which may have to be undertaken during the course of the contract.
10. For the purposes of this Schedule of Activities and Bills of Quantities, the following words shall have the meanings hereby assigned to them:
 - Unit: The unit of measurement for each item of Service provided as defined in the Standardized, Project or Particular Specifications.
 - Quantity (Qty): The number of units of work/service provision for each item.
 - Rate: The payment per unit of work/provision of services at which the Tenderer Tenders to do the work.
 - Amount: The quantity of an item multiplied by the Tendered rate of the (same) item.
 - Sum: An amount Tendered for an item, the extent of which is described in the schedule of activities, the scope of works or elsewhere, but of which the quantity of work is not measured in units.

C.2.2 SCHEDULE OF ACTIVITIES FEE PROPOSAL

SCHEDULE OF RATES

No	Description	Unit	Rate (R)
1	Director / Partner	hr	
2	Specialist Consultant	hr	
3	Senior Consultant	hr	
4	Senior Engineer	hr	
5	Senior Scientist	hr	
6	Senior Contract Manager / Senior Project Manager	hr	
7	Contract Manager / Project Manager	hr	
8	Engineer	hr	
9	Technologist	hr	
10	GIS Specialist	hr	
11	Technician	hr	
12	Clerk of Works	hr	
13	Administrator	hr	
14	Secretariat	hr	
15	Overhead factor	%	
16	Mark-up on outsourced services	%	

Annual escalation of the above rates

No	Description	Unit	Rate (%)
1	Year 1 increase	%	
2	Year 2 increase	%	

Project Description / Name	Professional Services for Engineering Project based in Bethlehem for a Period of 6 Months
Typical Construction Budget	R 10 000 000.00 (15% Vat inclusive)

Table A1 - Fees for Disbursements:

ITEM	DESCRIPTION	LUMP SUM - RAND
1	Stage 1 – Project Inception (5%)	R
2	Stage 2 – Concept and Viability (25%)	R
3	Stage 3 – Design Development (25%)	R
4	Stage 4 – Documentation and Procurement (15%)	R
5	Stage 5 – Contract Administration and Inspection (25%)	R
6	Stage 6 – Close Out (5%)	R
TOTAL 1 (Vat excl.)		R

Table B1 - Fees for Disbursements:

ITEM	DESCRIPTION	LUMP SUM - RAND
1	Recoverable expenses and costs (Typing, copying, printing and binding of all PDR, contract and as built documents)	R
2	Community Participation	R
TOTAL 2 (Vat excl.)		R

Table C1 - Fees for Construction Monitoring:

CONSTRUCTION MONITORING	LUMP SUM - RAND
Level 3 Construction Monitoring	R
TOTAL 3 (Vat excl.)	R

Table D1 - Fees Summary:

SERVICE DESCRIPTION	FROM TABLE	TOTAL FEES
Total Professional Fees for Civil Engineering Services	A1	R
Total for Disbursement Fees	B1	R
Total Construction Monitoring	C1	R
SUB-TOTAL		R
Add 15% VAT		R
GRAND TOTAL (Including 15% VAT) – TO FORM OFFER / ACCEPTANCE		R

PART C3: SCOPE OF WORK

C3.1 EMPLOYER'S OBJECTIVES

The Employer's objective is to create professional services capacity by appointing a panel of Professional Service Providers for the Engineering Professional Services of various projects within the boundaries of Dihlabeng Municipal Area, as-and-when required basis for a period of 3 years.

The appointed Professional Engineering Consultants will be required to provide Professional Engineering Services referred to in this regard as defined herein, as follows inter alia:

- Project Planning;
- Preliminary Design Report (PDR);
- Detailed Design;
- Drafting Construction Specifications;
- Bid Documentation and Bid Evaluation Reports;
- Construction Supervision and Monitoring; and
- Successful Completion.

C3.3 MANAGEMENT / OVERSIGHT STRUCTURES FOR THE PROJECT

Projects will be fully administered and managed by the Dihlabeng Local Municipality.

C3.4 DESCRIPTION OF THE SERVICES

Engineering Projects can be defined as the following:

- Roads : Asphalt or Blocked Paved Roads;
- Stormwater : Open Channels or Underground Piping;
- Water : Water Networks, Bulk Water Pipelines, Water Treatment Works, Pumps and Boreholes;
- Sanitation : Sewer Networks, Waterborne Systems, Pumps and Wastewater Treatment Works;
- Mechanical : Pump Stations, Abstraction Points, Water and Waste Water Treatment Plants, Valves, Generators, Fire Equipment;
- Structural : Municipal Buildings, Bridges, Reinforced Concrete Structures, Temporary Structures, Municipal Halls;
- Sports Facilities : Stadiums, Tennis Courts, Netball Courts, Indoor Sports Facilities, Volleyball Courts, Jogging / Running Tracks, Basketball Courts, Swimming Pools, Handball Courts, Badminton Courts, Long Jump Pitches.
- Cemeteries : Development and Extension of Cemeteries; and
- Solid Waste : Landfill Sites, Transfer Stations.

The Service Provider will be required to perform the following services in accordance with the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Act No.46 of 2000):

C3.4.1 Normal Services

- C3.4.2.1 Stage 1: Inception (Defined as: Establish employer requirements and preferences assess user needs and options, appointment of necessary consultants, establish the project brief including project objectives, priorities, constraints, assumptions aspirations and strategies).

Typical Functions	Typical Deliverables
<ol style="list-style-type: none">1. Assist in developing a clear project brief.2. Attend project initiation meetings.3. Advise on procurement policy for the project.4. Advise on the rights, constraints, consents and approvals.5. Define the scope of services and scope of work required.6. Conclude the terms of the agreement with the employer.7. 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.8. Determine the availability of data, drawings and plans relating to the project.9. Advise on criteria that could influence the project life cycle cost significantly.10. Provide necessary information with the agreed scope of the project to other consultants involved.	<ul style="list-style-type: none">♦ Agreed scope of services and scope of work;♦ Signed agreement;♦ Report on project, site and functional requirements;♦ Schedule of required surveys, tests, analyses, site and other investigations; and♦ Schedule of consents and approvals.

- C3.4.2.2 Stage 2: Concept and Viability (also called Preliminary Design) (Defined as: Prepare and finalise the project concept in accordance with the brief, including project scope, scale, character, form and function, plus preliminary programme and viability of the project).

Typical Functions	Typical Deliverables
<ol style="list-style-type: none"> 1. Agree documentation programme with principle consultant and other consultants involved. 2. Attend design and consultants' meetings. 3. Establish the concept design criteria. 4. Prepare initial concept design and related documentation. 5. Advise the employer regarding further surveys, analyses, tests and investigations which may be required. 6. Establish regulatory authorities' requirements and incorporate into the design. 7. Refine and assess the concept design to ensure conformance with all regulatory requirements and consents. 8. Establish access, utilities, services and connections for the design. 9. Coordinate design interfaces with other consultants involved. 10. Prepare process designs (where required), preliminary designs and related documentation for approval by authorities and employer and suitable for costing. 11. Provide cost estimates and life cycle costs as required. 12. Liaise, cooperate and provide necessary information to the employer, principle consultant and other consultants. 	<ul style="list-style-type: none"> ♦ Concept design; ♦ Schedule of required surveys, tests and other investigations and related reports; ♦ Process design; ♦ Preliminary design; and ♦ Cost estimates as required.

C3.4.2.3 Stage 2 Review: Concept and Viability Review (also called Preliminary Design Review) (Defined as: Review of concept and viability report(s) and all related information (project scope, scale, character, form and function, preliminary programme and viability of the project) of an existing project which were prepared by a previously appointed consultant whose contract has ended/expired.

Typical Functions	Typical Deliverables
<ol style="list-style-type: none"> 1. Carefully studying and critically reviewing concept and viability report(s). 2. Attend meetings with client. 3. Critically review of preliminary programme. 4. Amending/adjusting of preliminary programme. 	<ul style="list-style-type: none"> ♦ Preliminary design review report; ♦ Schedule of required surveys, tests and any other investigations that may be required; ♦ Adjusted programme; ♦ Cost review report; and ♦ Statement/Certification indicating that consultant assumes professional liability of Stage 2 after carefully reviewing and

Typical Functions	Typical Deliverables
5. Advise the employer regarding further surveys, analyses, tests and investigations which may be required. 6. Advise the employer if project is viable. 7. Make adjustments to the concept and viability report and all related information. 8. Recalculating project costs. 9. Taking professional liability of concept and viability report. 10. Liaise, cooperate and provide necessary information to the employer, principle consultant and other consultants.	amending/adjusting all available information for this stage.

C3.4.2.4 Stage 3: Design Development (also termed Detail Design) (Defined as: Develop the approved concept to finalize the design, outline specifications, cost plan, financial viability and programme for the project)

Typical Functions	Typical Deliverables
1. Review documentation programme with principal consultant and other consultants involved. 2. Attend design and consultants' meetings. 3. Incorporate employer's and authorities' detailed requirements into the design. 4. Incorporate other consultant's designs and requirements into the design. 5. Prepare design development drawings including draft technical details and specifications. 6. Review and evaluate design and outline specification and exercise cost control. 7. Prepare detailed estimates of construction cost. 8. Liaise, co-operate and provide necessary information to the principal consultant and other consultants involved. 9. Submit the necessary design documentation to local and other authorities for approval.	<ul style="list-style-type: none"> ♦ Design development drawings; ♦ Outline specifications; ♦ Local and other authority submission drawings and reports; ♦ Detailed estimates of construction costs; and ♦ Report indicating that consultant assumes professional liability of stage 3 after carefully reviewing and amending/adjusting all available information for this stage.

C3.4.2.5 Stage 3 Review: Design Development Review (also termed Detail Design Review) (Defined as: Review of detailed design drawings (dxf/dwg/pdf), design report(s) and all project related information (design specifications, client specifications, health and safety specifications, statutory requirements, costing plan, financial viability and programme for the project) of an existing project which were prepared by a previously appointed consultant whose contract has ended/expired.

Typical Functions	Typical Deliverables
<ol style="list-style-type: none"> 1. Carefully studying and critically reviewing detailed designs 2. Attend meetings with client. 3. Critically review of programme. 4. Amending/adjusting of programme. 5. Making adjustments/changes on the electronic design drawings (dxf/dwg/pdf) where necessary. 6. Advise the employer regarding further surveys, analyses, tests and investigations which may be required. 7. Reviewing and recalculating of detailed estimates of construction cost. 8. Taking professional liability of reviewed and adjusted design drawings and design report. 9. Liaise, cooperate and provide necessary information to the employer, principle consultant and other consultants. 10. Re-submit the necessary design documentation to local and other authorities for approval (Wayleave). 	<ul style="list-style-type: none"> ♦ Design development drawings; ♦ Outline specifications; ♦ Local and other authority submission drawings and reports; and ♦ Detailed estimates of construction costs.

C3.4.2.6 Stage 4: Documentation and Procurement (Defined as: Prepare 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).

Typical Functions	Typical Deliverables
<ol style="list-style-type: none"> 1. Attend design and consultants' meetings. 2. Prepare specifications and preambles for the works. 3. Accommodate services design. 4. Check cost estimates and adjust designs and documents if necessary to remain within budget. 5. Formulate the procurement strategy for contractors or assist the principal consultant where relevant. 6. Prepare documentation for contractor procurement. 7. Review designs, drawings and schedules for compliance with approved budget. 8. Assist in calling for tenders and/or negotiation of prices and/or assist the principal consultant where relevant. 	<ul style="list-style-type: none"> ♦ Specifications; ♦ Services co-ordination; ♦ Working drawings; ♦ Budget construction cost; ♦ Tender documentation; ♦ Tender evaluation report; ♦ Tender recommendations; and ♦ Priced contract documentation.

<p>9. Liaise, co-operate and provide necessary information to the principal consultant and the other consultants as required.</p> <p>10. Provide information to the client which will assist in the evaluation of tenders.</p> <p>11. Assist with the preparation of contract documentation for signature.</p> <p>12. Assist in pricing, documentation and tender evaluation as required when the detailed services for these activities are provided by others</p> <p>13. Assess samples and products for compliance and design intent.</p>	
--	--

C3.4.2.7 Stage 5: Contract Administration and Inspection (Defined as: Manage, administer and monitor the construction contracts and processes including preparation and coordination of procedures and documentation to facilitate practical completion of the works).

Typical Functions	Typical Deliverables
<p>1. Attend site handover.</p> <p>2. 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.</p> <p>3. Carry out contract administration procedures in terms of the contract.</p> <p>4. Prepare schedules of predicted cash flow.</p> <p>5. Prepare pro-active estimates of proposed variations for employer decision making.</p> <p>6. Attend regular site, technical and progress meetings.</p> <p>7. Review the Contractor's quality control programme and advice and agree a quality assurance plan.</p> <p>8. Inspect 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 C3.4.3.2 for Level 1: periodic construction monitoring.</p> <p>9. Review outputs of quality assurance procedures and advice the contractor and client on the adequacy and need for additional controls, inspections and testing.</p> <p>10. Adjudicate and resolve financial claims by contractor(s).</p>	<ul style="list-style-type: none"> ♦ Schedules of predicted cash flow; ♦ Construction documentation; ♦ Drawing 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; and ♦ Electrical Certificate of Compliance.

Typical Functions	Typical Deliverables
11. Assist in the resolution of contractual claims by the contractor. 12. Establish and maintain a financial control system. 13. Clarify details and descriptions during construction as required. 14. Prepare valuations for payment certificates to be issued by the principal agent. 15. Instruct, witness and review of all tests and mock ups carried out both on and off site. 16. Check and approve contractor drawings for design intent. 17. Update and issue drawings register. 18. Issue contract instructions as and when required. 19. Review and comment on operation and maintenance manuals, guarantee certificates and warranties. 20. Inspect the works and issue practical completion and defects lists. 21. Arranging for the delivery of all test certificates, statutory (regulatory) and other approvals, as built drawings and operating manuals.	

C3.4.2.8 Stage 6: Close-Out (Defined as: Fulfil and complete the project close-out including necessary documentation to facilitate effective completion, handover and operation of the project)

Typical Functions	Typical Deliverables
1. Inspect and verify the rectification of defects. 2. Receive, comment and approve relevant payment valuations and completion certificates. 3. Facilitate and/or procure operations and maintenance manuals, guarantees and warranties. 4. Prepare and/or procure as-built drawings and documentation. 5. Conclude the final accounts where relevant.	♦ Valuations for payment certificates. ♦ Works and final completion lists. ♦ Operations and maintenance manuals, guarantees and warranties. ♦ As-built drawings and documentation. ♦ Final accounts.

C3.4.2.7 Revision of stages already completed

In cases where Stages 1, 2 or 3 have been previously completed by another consultant the Employer can require a revision of such a stage. The Typical Functions and Deliverables will be adjusted to suit the level and extent of the revision required.

The percentage for the stage in the case of cost based appointments will also be adjusted from the guideline percentages to suit the level and extent of the revision required.

C3.4.3 Additional Services

C3.4.3.1 Additional Services pertaining to all stages of the project

- (1) All services related to defining the scope of work, previously carried out under the report stage and that was normally paid for on a time and cost basis.
- (2) Enquiries not directly concerned with the works and its subsequent utilization.
- (3) Valuation for purchase, sale or leasing of plant, equipment, material, systems, land or buildings or arranging for such valuation.
- (4) Making arrangements for way leaves, servitudes or expropriations.
- (5) Negotiating and arranging for the provision or diversion of services not forming part of the works.
- (6) Additional work in obtaining the formal approval of the appropriate Government Departments or Public Authorities, 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.
- (7) Additional work related to monitoring as required by any Government Departments or Authorities in order to facilitate regulatory approvals and certification (e.g. Mines Health and Safety Act 29 of 1996).
- (8) 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 employer.
- (9) Setting out or staking out the works and indicating any boundary beacons and other reference marks.
- (10) Preparation of drawings for manufacture and installation or detailed checking of such for erection or installation fit.
- (11) Detailed inspection, reviewing and checking of designs and drawings not prepared by the service provider and submitted by any contractor or potential contractor as alternative to those embodied in tender or similar documents prepared by the consulting engineer.
- (12) Travel and travel time costs related to offsite inspection and testing of materials and plant during manufacture and or prior to delivery to site.
- (13) Preparing and setting out particulars and calculations in a form required by any relevant authority.
- (14) Abnormal additional services by or costs to the service provider due to the failure of a contractor or others to perform their required duties adequately and on time.
- (15) Executing or arranging for the periodic monitoring and adjustment of the works, after final handover and completion of construction and commissioning, in order to optimize or maintain proper functioning of any process or system.
- (16) Investigating or reporting on tariffs or charges leviable by or to the employer.
- (17) Advance ordering or reservation of materials and obtaining licenses and permits.
- (18) Preparing detailed operating, operation and maintenance manuals.
- (19) Additional services, duties and/or work resulting from project scope changes, alterations and/or instructions by the employer, or his duly authorized agents, requiring the service provider to advise upon, review, adapt and/or alter his completed designs and/or any other documentation and/or change the scope of his services and/or duties. Such additional services are subject to agreement in writing between the consulting engineer and the employer prior to the execution thereof.
- (20) The frequency and extent of site administration and sections 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 programme, 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 work as described for Level 1: Construction Monitoring in clause C3.5.3.2. When the frequency of meetings and inspections exceeds this norm then such additional attendance at meetings and related inspections are considered as additional services.

-
- (21) Preparing as-built drawings and designs done by others or related alterations to existing works.
 - (22) Work and or services related to targeted procurement that could entail, but is not necessarily limited to any or all of the following:
 - incorporation of any targeted participation goals;
 - the measuring of key participation indicators;
 - the selection, appointment and administration of participation and;
 - Auditing compliance to the above by any contractors and/or professional consultant.
 - (23) Exceptional arrangements, communication, facilitation and agreements with any stakeholders other than the employer and contractors appointed for the works on which the service provider provides services.
 - (24) Any other additional services, of whatever nature, specifically agreed to in writing between the service provider and the employer.

C3.4.3.2 Construction Monitoring

- (1) 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.
- (2) 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-compliance 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.
- (3) 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.
- (4) The stage 5 construction monitoring services described in C3.4.2.5 above 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.
- (5) Aspects that need to be considered determining the degree to which additional construction monitoring services are required are:
 - a) The type of work;
 - b) The discipline of the work (civil, structural, mechanical, electrical etc.);
 - c) The competency and reputation of the contractor and its related quality control system;
 - d) The speed with which critical elements of the work are covered;
 - e) The consequences of non-compliance; and
 - f) Timing and ease of subsequent detection and rectification of non-compliance.

-
- (6) Arising from the above, three levels of construction monitoring may be defined and described, as follows:

a) Level 1: Periodic Construction Monitoring (Normal Services i.e. no additional services).

The Consulting engineer's staff shall:

- i. Visit the works at a frequency of once every two weeks on average over the duration of the works, with additional visits for completion inspections and inspections for defects lists.
- ii. Review random samples of material and work procedures, for conformity to contract documentation, and review random samples of important completed work prior to covering up, or on completion, as appropriate.

b) 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:

- i. 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.
- ii. Review regular samples of materials and work procedures, for conformity to contract documentation, and review regular samples of important completed work prior to covering up, or on completion, as appropriate.
- iii. 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.

c) 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:

- i. 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.
- ii.
- iii. Assist with the preparation of as-built records and drawings to the extent required in the agreement with the client.
- iv.
- v. 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.

- (7) 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.

-
- (8) 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.
 - (9) 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.
 - (10) 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 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.
 - (11) 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.

C3.4.3.3 Occupational Health and Safety Act, 1993 (Act 85 of 1993) Mitigation plans

Should the employer require the consulting engineer to undertake duties falling under the Occupational Health and Safety Act, 1993 (Act No.85 of 1993) and the Construction Regulations in terms thereof, on behalf of the employer, the additional services may include the following:

- (1) The consulting engineer must arrange, formally and in writing, for the contractor to provide documentary evidence of compliance with all the requirements of the Occupational Health and Safety Act, 1993 (Act No.85 of 1993).
- (2) The consulting engineer must execute the duties of the employer, as his appointed agent, as contemplated in the Construction Regulations to the Occupational Health and Safety Act, 1993 (Act No.85 of 1993).

C3.4.3.4 Quality Assurance System

Where the employer requires that a quality management system or quality assurance services, over and above construction monitoring services, be applied to the project, these are in addition to normal services provided by the consulting engineer and to be specifically defined and separately agreed in writing prior to commencement thereof.

C3.4.3.5 Lead Service Provider

Should the employer require the consulting engineer to assume the leadership of a joint venture, consortium or team of service providers, of the same discipline, prescribed or requested by the employer, the additional services may include the following:

-
- (1) Responsibility for the overall administration of all sections of the services, including those portions of the services, which fall within the ambit of the other consulting engineers.
 - (2) Responsibility for the overall co-ordination, programming of design and financial control of all the works included in the services.
 - (3) Processing certificates or recommendations for payment of contractors.

C3.5 SELECTION PROCEDURE

A service provider will be awarded per panel, as and when projects are implemented. Service providers will be selected based on the grading and their preferences in terms of ranking or based on rotational basis.

C3.7 PRICING PROCEDURE

Not Applicable

C3.8 REQUIREMENTS

C3.8.1 Labour-intensive works

- (1) The Consultant shall not perform any significant portion of a project involving labour-intensive works under the direction of a staff member who has not completed the NQF level 7 unit standard "Develop and Promote Labour Intensive Construction Strategies" or equivalent QCTO qualifications.
- (2) The staff member of the consultant who is responsible for the administration of any works contract involving labour intensive works must have completed the NQF level 5 unit standard "Manage Labour Intensive Construction Projects" or equivalent QCTO qualifications.

The Consultant must provide the Employer with satisfactory evidence that staff members satisfy the requirements of 1 and 2.

- (3) The Consultant must design and implement the construction/maintenance works in accordance with the Guidelines for the Implementation of the Labour Intensive Projects under the Expanded Public Works Programme (the Guidelines) published by the National Department of Public Works. The Consultant must sign the undertaking (Appendix E of Guidelines) confirming they have complied with EPWP requirements at design and implementation stages
- (4) The Consultant shall, for monitoring purposes, keep monthly records of and transmit to the Client data obtained from the contractor on the following indicators with regard to workers employed:
 - Project budget and planned output according to EPWP requirements
 - Actual Project Expenditure and actual output according to EPWP requirements
 - Planned and achieved labour intensity
 - Number of work opportunities created
 - Demographics of workers employed (disaggregated by women, youth and persons with disabilities)
 - Wage rate earned on project
 - Number of person-days of employment created
 - Copies of identity documents of workers
 - Number of persons who have attended training including the nature and duration of training provided
 - Assets created, rehabilitated or maintained in accordance with indicators in the EPWP M&E Framework

-
- Services provided or delivered maintained in accordance with indicators in the EPWP M&E Framework

(5) The values for the indicators shall be submitted to the employer according to the agreed time frames on the prescribed reporting template (from the EPWP Unit in the DPW) and obtainable from www.epwp.gov.za.

(6) The Consultant shall certify that the works have been completed in accordance with the requirements of the Guidelines and the Contract:

- a) whenever a payment certificate is presented to the Employer for payment; and
- b) immediately after the issuing of a practical completion certificate that signifies that

the whole of the works have reached a state of readiness for occupation or use for the purposes intended although some minor work may be outstanding.

C3.10 FACILITIES AND EQUIPMENT TO BE PROVIDED BY THE EMPLOYER

The Employer will not supply any facilities, office space, equipment, software, vehicles, telecommunications systems etc.

C3.11 REFERENCE DATA

None

C3.12 APPROVALS

C3.12.1 Wayleave approval

Application to be made to the relevant department for wayleave approvals.

C3.13 PLANNING AND PROGRAMMING

C3.13.1 Programmes submitted by the consultants for projects should reflect the following:

- Starting dates, milestone dates, estimated duration and planned completion dates.
- Order and timing of services which the service provider plans to do
- Provisions for
 - Float
 - Time risk allowances
 - Health and safety requirements

C3.13.2 Activities for which the employer are responsible and which shall be included in the service provider's programme are the following:

- Approval of Tender Advertising Request (TAR);
- Approval of Tender Advertising Objectives (TAO);
- Acceptance of tender documentation;
- Acceptance of tender drawings;
- Approval of Tender Advertising Request (TAR) by the the SCM(supply chain management);
- Approval of tender documentation by the Bid Specification Committee (BSC);
- Acceptance of Bid Evaluation Report (BER);
- Recommendation of Bid Evaluation Report by Bid Acquisition Committee (BAC);
- Letter of acceptance

C3.14 SOFTWARE APPLICATION FOR PROGRAMMING

All software shall be compliant with Microsoft Windows 7 and/or the latest operating systems and shall be fully compatible with Microsoft Office 2005 and/or the latest versions.

C3.15 FORMAT OF COMMUNICATIONS

Consultants will be required to submit documents in the following format:

Document Type	Hard Copy	Electronic
Tender documents	<input type="checkbox"/>	<input type="checkbox"/>
Tender drawings (Printed/PDF/DXD/DWG/AutoCAD)	<input type="checkbox"/>	<input type="checkbox"/>
Reports (all reports including completion and photo reports)	<input type="checkbox"/>	<input type="checkbox"/>
Construction Drawings	<input type="checkbox"/>	<input type="checkbox"/>
As Built test results	<input type="checkbox"/>	<input type="checkbox"/>
As Built drawings	<input type="checkbox"/>	<input type="checkbox"/>

C3.16 MANAGEMENT MEETINGS

Consultants will be required to attend monthly project progress meetings.

C3.17 USE OF DOCUMENTS BY THE EMPLOYER

The copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised by a Service Provider in the course of the service is vested in the Dihlabeng Local Municipality.

C3.18 SELECTION PROCEDURE

- The Dihlabeng Local Municipality will use the following method of selection and rotation of Service Providers engaged in a Framework Contract.
- Service providers will be ranked from the highest lowest in terms of Functionality Score, Pricing and BBBEE Status
- The Service providers will be allocated projects based on their ranking.
- The Service providers whose ranking are higher, will be allocated projects more complex in nature or with higher estimate Values.