

UMZIMVUBU LOCAL MUNICIPALITY PROVINCE OF THE EASTERN CAPE



INFRASTRUCTURE & PLANNING DEPARTMENT

Ngcwayi-Lower Brooksnek ACCESS ROAD MAINTENANCE

CONTRACT No.: UMZ/2022-23 /INFRA/CAP/ 010

@

EMAXESIBENI

Bidder

Name:

CRS NO:

Total of the prices inclusive of value added tax: R

**BIDDER'S CLOSING AT THE OFFICES OF: UMZIMVUBU LOCAL MUNICIPALITY OFFICES KWABHACA AT
12H00 ON MONDAY 07 NOVEMBER 2022**

Documents are to be delivered by hand in the tender box as no faxed copies will be acceptable; the box is situated at 'Reception' of Umzimvubu Municipality, **813 Main Street, Mount Frere.**

NO LATE SUBMISSION WILL BE CONSIDERED

Issued and by:
UMZIMVUBU LOCAL MUNICIPALITY
813 MAIN STREET
MOUNT FRERE
5010

Municipal Manager : G.P.T. Nota
Telephone : 039 – 255 8500

Ngcwayi-Lower Brooksnek Access Road Maintenance

UMZIMVUBU LOCAL MUNICIPALITY

CONTRACT NO. UMZ/2022-23 /INFRA/CAP/ 010
FOR

Ngcwayi-Lower Brooksnek ACCESS ROAD MAINTENANCE

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DOCUMENT CHECKLIST

This document checklist is provided to assist the tenderer.

	ITEMS	CHECKED
1	Returnable Schedules in Section T2.2	☐
2	Correct Tender Offer carried forward to Form of Offer and Acceptance and the Form of Offer duly completed and signed.....	☐
3	Schedule of Quantities:	
	i) Completed in BLACK INK only.....	☐
	ii) Corrections crossed out and initialled	☐
4	Contract specific data provided by the Contractor	☐

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T1: TENDERING PROCEDURES

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T1.1 TENDER NOTICE AND INVITATION TO TENDER

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T1.1 Tender Notice and Invitation to Tender



ADVERT DATE: 14 OCTOBER 2022

Bidders are hereby invited to submit their tenders for the following capital projects:

Project Name	Contract Number	Co-ordinates	CIDB Grading	Ward	Closing Date
Ngcwayi-Lower Brooksnek Access Road Maintenance	UMZ/2022-23 /INFRA/CAP/ 010	30°39'49" S 29°28'29" E	3 CE or Higher	01	07 Nov 2022

MANDATORY DOCUMENTS TO BE SUBMITTED, FAILURE TO DO SO WILL RESULT IN THE BID BEING DEMEED TO BE NON RESPONSIVE.

Umzimvubu Local Municipality Supply Chain Management policy will apply. Certificate or confirmation from SARS with a verification pin, Copy of company Registration/Founding Statement/CIPC Document. Original Certified BBBEE, 80/20 evaluation criteria. Prices quoted must be firm and must be inclusive of VAT for vat vendors. ID Copies of Managing Directors/ Owners. Fully completed MBD forms 4, 8 and 9 are compulsory submission. Certificate signed by the bidder that has no undisputed commitments for municipal services towards the municipality or service provider in respect of which payment is overdue for more than 30 days or Billing Clearance certificate or Statement of Municipal Accounts, confirmation letter from the councillor with signed letter on the company letterhead declaring that the company does not pay municipal rates. Bidders must be registered on CSD and provide confirmation of registration, no couriered, faxed, e-mailed and late tenders will be accepted. Certification of documents must be within a period of 90 days. Umzimvubu Local Municipality reserves the right not to appoint and value for money will be the key determinant of appointment. **The municipality will not make any award to a person or persons working for the state**

Closing Time and Date: Completed bid documents in sealed envelope clearly marked the name of the project must be deposited to the **Bid Box** situated at reception area of **Umzimvubu Local Municipality Offices at 813 Main Street, Mt Frere** not later than **12h00 noon as stipulated on the table above**. Tender documents will be available on E-Tender portal for free to download and those that need them, hard copies will be available at the municipal offices at a fee of **R451.00** to cover printing costs.

Enquiries:

All SCM related enquiries can be directed to **Mr. T Mbukushe** at: (039) 255 8500 and Technical Enquiries Infrastructure and Planning department: **Mr.J. L. Moleko** Tel: 039 255 8500 Fax: 039 255 0167

GPT Nota
Municipal Manager

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T1.2 TENDER DATA

Ngcwayi-Lower Brooksnek Access Road Maintenance**T1.2 TENDER DATA**

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 consideration.

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

Each item of Tender Data given below is cross-referenced to the relevant clause in the Standard Conditions of Tender. The Conditions of Tender are the Standard Conditions of Tender as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement, as printed in Board Notice 94 of 2006 in the Government Gazette No. 29138 of 2006 dated 18 August 2006.

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

Tender Data Applicable to this Tender

Clause Number	Data / Wording
F.1.2	The Tender Documents consist of the following: (a) This Project Document, which contains the following: PART T1: TENDERING PROCEDURES T1.1 Tender Notice and Invitation to Tender T1.2 Tender Data PART T2: RETURNABLE DOCUMENTS T2.1 List of Returnable Documents T2.2 Returnable Schedules PART C1: AGREEMENTS AND CONTRACT DATA C1.1 Form of Offer and Acceptance C1.2 Contract Data C1.3 Form of Guarantee C1.4 Agreement in terms of Section 37(2) of the Occupational Health and Safety Act No. 85 of 1993 C1.5 Transfer of rights PART C2: PRICING DATA C2.1 Pricing Instructions C2.2 Schedule of Quantities PART C3: SCOPE OF WORKS C3.1 Standard Specifications C3.2 Project Specifications C3.3 Particular Specifications PART C4: SITE INFORMATION C4.1 Locality Plan C4.2 Example of Contract Signboard Details C4.3 Drawings (b) Drawings (Attached under Page C 4.3)

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Clause Number	Data / Wording
	(c) `General Conditions of Contract for Construction Works – New Edition 2015' issued by the South African Institution of Civil Engineering (abbreviated title 'General Conditions of Contract 2015'- GCC 2015). This document is obtainable separately and Tenderers shall obtain their own copy. (d) 'The COLTO Standard Specifications for Road and Bridge Works for State Road Authorities 1998 edition'. This document is obtainable separately and Tenderers shall obtain their own copy. (e) 'The Occupational Health and Safety Act No 85 and Amendment Act No 85 of 1993, and the Construction Regulations 2003' (Government Gazette No 10113 of 07 February 2014, Notice No 37305). This document is obtainable separately and Tenderers shall obtain their own copy. In addition Tenderers are advised, in their own interest, to obtain their own copies of the following Acts, Regulations and Standards referred to in this document as they are essential for the Tenderer to become acquainted with the basics of construction management, the implementation of preferential construction procurement policies, and participation of targeted enterprises and labour: (i) The Construction Industry Development Board Act No. 38 of 2000 as amended and the Regulations in terms of the CIDB Act 38 of 2000, Government Notice No 692 of 9 June 2004.
F.1.4	The Accounting Officer is : Name : Mr G.P.T. Nota Tel: (039) 255 8500 Fax: (039) 255 0167/1893 E-mail: Nota.Tobela@umzimbvubu.gov.za
F.2.1	A Tenderer will not be eligible to submit a tender if: (a) the Contractor submitting the tender is under restrictions or has principals who are under restriction to participate in the Employer's procurement due to corrupt or fraudulent practices; (b) the Tenderer does not have the legal capacity to enter into the contract; (c) the Contractor submitting the tender is insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of the foregoing; (d) The Tenderer does not comply with the legal requirements stated in the Employer's procurement policy; (e) The Tenderer cannot demonstrate that he possesses the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, personnel, experience and reputation to perform the contract; (f) The Tenderer cannot provide proof that he is in good standing with respect to duties, taxes, levies and contributions required in terms of legislation applicable to the work

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Clause Number	Data / Wording
	in the contract. Only Tenderers meeting the Construction Industry Development Board (CIDB) contractor grading designation of 3CE or Higher, as defined in the Regulations (01 June 2004 as amended) in terms of the CIDB Act 38 of 2000, are eligible to submit tenders for this contract: In terms of the Umzimvubu Municipality Supply Chain Management Policy Guideline, all suppliers of goods and services to the Umzimvubu Municipality are required to register on the Database. (1) Application forms may be obtained by phoning 039 255 8500
F.2.7	There will be no clarification meeting but arrangements to site can be made at: Contact person: Mr. L. Moleko Tel: (039) 255 8500 Fax: (039) 255 0167 Email: Moleko.Lebohang@umzimvubu.gov.za SCM Enquiries : Mr. T Mbukushe Tel: (039) 255 8500 Fax: (039) 255 0167 Email : Mbukushe.Themba@umzimvubu.gov.za ENQUIRIES: All SCM related enquiries can be directed to Mr. T. Mbukushe at: (039) 255 8500 and Technical Enquiries to: Mr. L Moleko Tel: 039 255 8500 Fax: 039 255 0167, other enquiries regarding this Bid may be directed to the office of the Municipal Manager: mailto: Moleko.Lebohang@umzimvubu.gov.za
F.2.8	Change 'five working days' to 'seven working days'. Working days shall be from Monday to Friday and shall exclude all gazetted public holidays.
F.2.10	All tenderers must be registered for Value Added Tax (VAT) with the South African Revenue Services (SARS).
F.2.12	The requirements are as described in Clause 1212 'ALTERNATIVE DESIGNS AND OFFERS' of 'The COLTO Standard Specification for Road and Bridge Works for State Road Authorities 1998 edition'.

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Clause Number	Data / Wording
F.2.13	F.2.13.3 Tender offers shall be submitted as an original only. Under no circumstances whatsoever may the tender forms be retyped or redrafted. Photocopies of the original tender documentation may be used, but an original signature must appear on such photocopies. F.2.13.5 The Employer's address for delivery of tender offers and identification details to be shown on each tender offer package are: Location of Tender Box: In the Foyer, Umzimvubu Local Municipality Physical Address: 183 Main Street, Mount Frere Identification Details: Ngcwayi-Lower Brooksnek access road maintenance Contract No UMZ/2022-23 /INFRA/CAP/ 010 F.2.13.6 A two-envelope system will <u>not be followed</u>.
F.2.15	The closing time for submission of Tender Offers is: 12h00 ON 07 November 2022 Telegraphic, telephonic, telex, facsimile, electronic, e-mailed and late tenders will not be accepted.
F.2.16	The tender offer validity period is 90 days from the closing time for submission of tenders.
F.2.19	Access shall be provided for inspections and testing by personnel acting on behalf of the Employer.
F.2.22	This is not applicable.
F.2.23	The certificates as required in the Returnable Schedules and Forms must be provided with the tender for each party to a consortium / joint venture.
F.3.1	Change 'five working days' to 'seven working days'. Working days shall be from Monday to Friday and shall exclude all gazetted public holidays.
F.3.2	Change 'seven days' to 'five working days'. Working days shall be from Monday to Friday and shall exclude all gazetted public holidays.
F.3.4	The time and location for opening of the tender offers are: Time: 12h00 Date: 07 November 2022 Location / Venue: Umzimvubu Local Municipality Reception, Kwabhaca (Mount Frere).
F.3.5	A two-envelope system will <u>not be followed</u> .

Ngcwayi-Lower Brooksnek Access Road Maintenance**1.1 Determination of Scores**

Entities that meet the set target for a particular element will get a full score. For entities whose tendered and verified targets are less than the set ones, the score shall be on a pro-rata basis. The typical formula that could be used in calculating the scores is as per the SCM Policy of the Umzimvubu Local Municipality

Total Scores for Price and B-BBEE Status

- 1.2 The points scored for a tenderer in respect of Price must be added to the points scored for B-BBEE Status. Only the tender with the highest number of points may be selected, except in those instances identified in the SCM Policy

Framework of the Umzimvubu Local Municipality.

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T2. RETURNABLE DOCUMENTS

Ngcwayi-Lower Brooksnek Access Road Maintenance**T2: RETURNABLE DOCUMENTS****T2.1 LIST OF RETURNABLE DOCUMENTS**

1. This Project Document must be submitted as a whole and shall not be taken apart or altered in any way whatsoever. The following schedules and forms are contained in this document and are to be properly completed as required:

- a) Returnable Schedules in T2.2.
- b) C1.1 Form of Offer and Acceptance, A. Offer, on page C3.
- c) Contract Specific Data Provided by the Contractor in C1.2.2 Part B.
- d) Pricing Data in C2.2: Schedule of Quantities.

2. VERY IMPORTANT NOTICE ON DISQUALIFICATIONS:

- A bid not complying with the peremptory/mandatory requirements stated hereunder will be regarded as not being an “Acceptable bid”, and as such will be rejected.
- “Acceptable bid” means any bid which, in all respects, complies with the conditions of bid and specifications as set out in the bid documents.
- A BID WILL BE REJECTED:
- 2.1. Tax clearance certificate or copy thereof or TCS Pin number (or in the case of a joint venture or consortium, of all the partners in the joint venture or consortium) has not been submitted with the bid document on closing date of the bid. (An expired tax clearance certificate submitted at the closure of the bid will NOT be accepted).
- As per Supply Chain Management Circular No. 1/2013 – recommended bidders that did not submit a valid tax clearance certificate with their bid will be requested in writing to submit their tax clearance certificate within five working days for inclusion in the Bid Evaluation Committee item, if a bidder fails to submit before 12:00 on the 5th working day after the date of request, the relevant bid will be rejected.
- In bids where Consortia and Joint Ventures are involved, each party must submit a separate Tax Clearance Certificate.
- Copies of the TCC 001 “Application for a Tax Clearance Certificate” form are available from any SARS branch office nationally or on the website www.sars.gov.za.
- 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 e-Filing through the website www.sars.gov.za.
- 2.2.If any of the evaluation criteria pages have been removed from the bid document, and have therefore, not been submitted.
- 2.3.1. In the event of a failure to complete and sign in full the schedule of quantities as required.
- 2.3.2. In the event of there being scratching out, writing over or painting out rates or information, affecting the evaluation of the bid, without initialing next to the amended rates or information, however in cases where the total amount has not been affected the bid will still be acceptable.
- 2.3.3. In the event of the use of correction fluid (e.g. tippex), any erasable ink, or any erasable writing instrument (e.g. pencil)
- 2.3.4.If the Bid has not been properly signed by a person having the authority to do so. (Refer to Declaration)
- 2.3.5.If the bidder attempts to influence, or has in fact influenced the evaluation and/or awarding of the contract.
- 2.3.6.If the bid has been submitted either in the wrong bid box or after the relevant closing date and time.

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- 2.3.7.If any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors/members to the municipality or municipal entity, or to any other municipality or municipal entity, are in arrears for more than three months
- 2.3.8.If any bidder who during the last five years has failed to perform satisfactorily on a previous contract with the municipality, municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
- 2.3.9.The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
 - who is in the service of the state, or;
 - if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder, is a person in the service of the state; or;
 - Who is an advisor or consultant contracted with the municipality in respect of contract that would cause a conflict of interest?
- If the bidder is not registered in the required CIDB contractor grading designation (category) or higher, if required in this bid documentation.
- 3.If the bidder or any of its directors is listed on the Register of Bid Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector.
- 4.In the event of non-submission of financial statements if required (SEE BID DATA OR PRICING SCHEDULE). In this regard please note:
- (10.1). If a bidder is a registered company required by law to have its annual financial statements audited or independently reviewed in compliance with the requirements of the Companies Act ,Act No.71 of 2008, or any other law, audited or independently reviewed annual financial statements, as the case may be, prepared within six (6) months of the end of the bidders most recent financial year together with the audited or independently reviewed annual financial statements for the two immediately preceding financial years, unless the bidder was only established within the past three (3) years in which case all of its annual financial statements must be submitted.
- (10.2). If a bidder is a registered close corporation, annual financial statements in compliance with the provisions of the Close Corporations Act, Act No. 69 of 1984, prepared within nine (9) months of the end of the bidders most recent financial year together with the annual financial statements for the two immediately preceding financial years, unless the bidder was only established within the past three (3) years in which case all of its annual financial statements must be submitted.
- (10.3). If the bidder only commenced business within the past three years, the bidder is required to submit annual financial statements in compliance with the provisions of (10.1) and (10.2) above for each of its financial years since commencing business.
- (10.4). If a bidder is not required by law to have its annual financial statements audited or independently reviewed, or is not a Close Corporation, then non-audited annual financial statements for the periods referred to above must be submitted. As per Supply Chain Management Circular No. 1/2013 – recommended bidders that did not submit Annual Financial Statements (if required) with their bid will be requested in writing to submit their Annual Financial Statements within five working days for inclusion in the Bid Evaluation Committee item, if a bidder fails to submit before 12:00 on the 5th working day after the date of request, the relevant bid will be rejected.
- 5.Please check special requirements in scope of work in document for additional attachments
- 6. If the following have not been fully completed and signed:
 - FORM “A” - Declaration of Interest (MBD 4)
 - FORM “B (MBD 6.1) - Declaration for Procurement above R50 Million (if applicable)
 - FORM “C” - Declaration of Bidder’s Past SCM Practices (MBD 8)
 - FORM “D” - Certificate of Independent Bid Determination (MB9) (if applicable)
- 7. As per Supply Chain Management Circular No. 1/2013 – recommended bidders that did not complete and sign all relevant declarations in the bid document will be requested in writing to

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complete and sign relevant declarations within five working days for inclusion in the Bid Evaluation Committee item, if a bidder fails to complete and sign before 12:00 on the 5th working day after the date of request, the relevant bid will be rejected.

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T2.2 RETURNABLE SCHEDULES

A	CERTIFICATE OF ATTENDANCE (Not Compulsory).....	T17
B	RECORD OF ADDENDA TO TENDER DOCUMENTS.....	T18
C	COMPULSORY ENTERPRISE QUESTIONNAIRE.....	T19
D	CERTIFICATE OF AUTHORITY	T21
E	PLANT AND EQUIPMENT	T26
F	EXPERIENCE OF TENDERER	T27
G	PROPOSED SUB CONTRACTORS.....	T28
H	KEY PERSONNEL	T29
I	DEVIATIONS AND QUALIFICATIONS.....	T30
J	CONTRACTOR'S HEALTH AND SAFETY DECLARATION	T31
K	TAX CLEARANCE CERTIFICATE.....	T33
L	PREFERENCING SCHEDULE (FOR CONTRACT PARTICIPATION GOALS).....	T34
	MBD 4.....	T35
	MBD 6.1.....	T38
	MBD 8.....	T45
	MBD 9.....	T47

NOTE: The Tenderer is required to complete each and every schedule and form listed above to the best of his ability as the evaluation of tenders and the eventual contract will be based on the information provided by the Tenderer. Failure of a Tenderer to complete the schedules and forms to the satisfaction of the Employer may lead to rejection on the grounds that the tender is not responsive.

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A. CERTIFICATE OF ATTENDANCE (Not Compulsory to be signed as this will be checked on-site inspection attendance register)

This is to certify that (*Tenderer*)

of (*address*)

..... was represented by the person(s) named below at the compulsory clarification meeting held for all tenderers **at the Umzimvubu Local Municipality offices, EmaXesibeni (Mount Ayliff)**

I / We acknowledge that the purpose of the meeting was to acquaint myself / ourselves with the site of the works and / or matters incidental to doing the work specified in the tender documents in order for me / us to take account of everything necessary when compiling our rates and prices included in the tender.

Particulars of person attending the meeting:

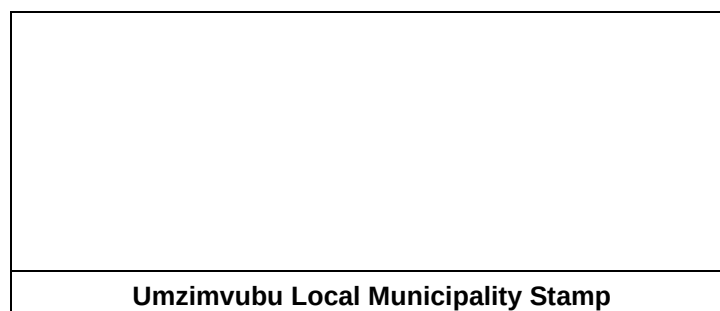
Name: Signature:

Capacity:

Attendance of the above person at the meeting is confirmed by the Employer's agent, namely:

Name: L. Maqalekane Signature:

Capacity: PROJECT MANAGER Date and Time:



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B. RECORD OF ADDENDA TO TENDER DOCUMENTS

I / We confirm that the following communications received from the Employer or his representative before the date of submission of this tender offer, amending the tender documents, have been taken into account in this tender offer and are attached hereto.

ADDENDUM No.	DATE	DESCRIPTION

Please attach all Addenda to this page

SIGNATURE:

DATE:

(Of person authorised to sign on behalf of the Tenderer)

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C. COMPULSORY ENTERPRISE QUESTIONNAIRE

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

Section 1: Name of enterprise:

Section 2: VAT registration number, if any:

Section 3: CIDB registration number, if any:

Section 4: 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 5: Particulars of companies and close corporations

Company registration number

Close corporation number

Tax reference number

Section 6: Record of 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 serving or has served within the last 12 months as any of the following:

- | | |
|--|---|
| ☐ a member of any municipal council | ☐ an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| ☐ a member of any provincial legislature | ☐ a member of an accounting authority of any national or provincial public entity |
| ☐ a member of the National Assembly or the National Council of Province | ☐ an employee of Parliament or a provincial legislature |
| ☐ a member of the board of directors of any municipal entity | |
| ☐ 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 (tick appropriate column)	
		current	Within last 12 months

*insert separate page if necessary

Ngcwayi-Lower Brooksnek Access Road Maintenance**Section 7: Record of spouses, children and parents in the service of the state**

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

- | | |
|--|---|
| ☐ a member of any municipal council | ☐ an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| ☐ a member of any provincial legislature | ☐ a member of an accounting authority of any national or provincial public entity |
| ☐ a member of the National Assembly or the National Council of Province | ☐ an employee of Parliament or a provincial legislature |
| ☐ a member of the board of directors of any municipal entity | |
| ☐ an 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 authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly 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, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed _____ Date _____

Name _____ Position _____

Enterprise name _____

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D. CERTIFICATE OF AUTHORITY

The tenderer must indicate the enterprise status by ticking the appropriate box hereunder.

(I) SOLE PROPRIETOR	(II) CLOSE CORPORATION	(III) PARTNERSHIP	(IV) COMPANY	(V) JOINT VENTURE

The tenderer must complete the relevant certificate/s set out hereafter or must provide a certificate authorising the signatory on behalf of the enterprise(s).

(I) CERTIFICATE FOR SOLE PROPRIETOR

I....., hereby confirm that I am the sole owner of the

business trading as:.....

Specimen Signature of Sole Owner:

Date:

In the case of a Joint Venture, this certificate must be completed by all Joint Venture partners that are Sole Proprietorships.

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(II) CERTIFICATE FOR CLOSE CORPORATION

I / We, the undersigned, being the key members in the business trading as.....
 hereby authorise Mr/Ms, acting in the
 capacity of, to sign all documents in connection with the tender
 for Contract No. and any contract resulting from it on our behalf.

Signatures of Members:

NAME	ADDRESS	SIGNATURE	DATE

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

Specimen Signature of Signatory:

Date:

In the case of a Joint Venture, this certificate must be completed by all Joint Venture partners that are Close Corporations.

Ngcwayi-Lower Brooksnek Access Road Maintenance

(III) CERTIFICATE FOR PARTNERSHIP

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

.....

hereby authorise Mr/Ms ,

acting in the capacity of , to sign all documents in connection with the

tender for Contract No. and any contract resulting from it on

our behalf.

NAME	ADDRESS	SIGNATURE	DATE

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

Specimen Signature of Signatory:

Date:

In the case of a Joint Venture, this certificate must be completed by all Joint Venture partners that are Partnerships.

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(IV) CERTIFICATE FOR COMPANY

I, chairperson of the Board of Directors

of, hereby confirm that by resolution of the Board

(copy attached) taken on 20.....,

Mr/Ms, acting in the capacity of

....., was authorised to sign all documents in connection with this tender and any contract resulting from it on behalf of the company.

Signature of Chairman:

Specimen Signature of Signatory:

Date:

In the case of a Joint Venture, this certificate must be completed by all Joint Venture partners that are companies.

Ngcwayi-Lower Brooksnek Access Road Maintenance**(V) CERTIFICATE FOR JOINT VENTURE**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorize

Mr/Ms,

authorized signatory of the company

acting in the capacity of Lead Partner, to sign all documents in connection with the tender offer for,

Contract No. and any contract resulting from it on our behalf. This

authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of

all the partners to the Joint Venture.

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME AND CAPACITY

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

Specimen Signature of Signatory:

Date:

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E. PLANT AND EQUIPMENT

Note: Each partner to a Joint Venture is to provide the information required below with respect to his company's contribution to the plant and equipment resourcing of the Joint Venture.

The following are lists of major items of relevant equipment that I / we presently own or lease and will be available for this contract if my / our tender is accepted.

- (a) **Details of major Plant and Equipment that is owned by me / us and is immediately available for this contract:**

DESCRIPTION (type, size, capacity, etc.)	QUANTITY	YEAR OF MANUFACTURE

Attach additional pages if more space is required

- (b) **Details of major Plant and Equipment that will be hired or acquired for this contract if my/ our tender is accepted:**

DESCRIPTION (type, size, capacity, etc.)	QUANTITY	HOW ACQUIRED	
		HIRE/ BUY	SOURCE

Attach additional pages if more space is required

The Tenderer undertakes to bring onto site without additional cost to the Employer any additional plant not listed but which may be necessary to complete the contract within the specified contract period.

SIGNATURE:

DATE:

(of person authorised to sign on behalf of the Tenderer)

F. EXPERIENCE OF TENDERER

2. Work of similar nature shall be deemed to mean Ngcwayi-Lower Brooksnek Access Road Maintenance

[illegible]

DATE:

T28

G. PROPOSED SUBCONTRACTORS

Acceptance of this tender shall not be construed as approval of all or any of the listed subcontractors. Should any of or all of the 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 Employer.

[illegible]

DATE:

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I. DEVIATIONS AND QUALIFICATIONS

Should the Tenderer wish to make any deviation from or any qualification to the Special Conditions of Contract, Specifications, Schedule of Quantities, or Drawings, or should he wish to qualify the tender in any way, he shall indicate the proposals clearly hereunder or alternatively on photocopies of the original tender documentation which shall be attached to this page.

SECTION	PAGE	DEVIATION OR QUALIFICATION, INCLUDING REFERENCE CLAUSE OR ITEM NUMBER

Attach additional pages if more space is required

SIGNATURE:

DATE:

(of person authorised to sign on behalf of the Tenderer)

Ngcwayi-Lower Brooksnek Access Road Maintenance**J. CONTRACTOR'S HEALTH AND SAFETY DECLARATION**

In terms of Clause 4(4) of the OHSA 1993 Construction Regulations 2003 (referred to as "the Regulations" hereafter), a Contractor may only be appointed to perform construction work if the Employer is satisfied that the Contractor has the necessary competencies and resources to carry out the work safely in accordance with the Occupational Health and Safety Act No 85 of 1993 and the OHSA 1993 Construction Regulations 2003.

To that effect a person duly authorised by the tenderer must complete and sign the declaration hereafter in detail.

Declaration by Tenderer

1. I the undersigned hereby declare and confirm that I am fully conversant with the Occupational Health and Safety Act No 85 of 1993 (as amended by the Occupational Health and Safety Amendment Act No 181 of 1993), and the OHSA 1993 Construction Regulations 2003.
2. I hereby declare that my company has the competence and the necessary resources to safely carry out the construction work under this contract in compliance with the Construction Regulations and the Employer's Health and Safety Specifications.
3. I propose to achieve compliance with the Regulations by one of the following:
 - (a) From my own competent resources as detailed in 4(a) hereafter: ***Yes / No**
 - (b) From my own resources still to be appointed or trained until competency is achieved, as detailed in 4(b) hereafter: ***Yes / No**
 - (c) From outside sources by appointment of competent specialist subcontractors as detailed in 4(c) hereafter: ***Yes / No**

(* = delete whatever is not applicable)

4. Details of resources I propose:

(Note: Competent resources shall include safety personnel such as a construction supervisor and construction safety officer as defined in Regulation 6, and competent persons as defined in the OHSA 1993 Construction Regulations 2003, as applicable to this contract)

- (a) Details of the competent and qualified key persons from my company's own resources, who will form part of the contract team:

NAMES OF COMPETENT PERSONS	POSITIONS TO BE FILLED BY COMPETENT PERSONS

Ngcwayi-Lower Brooksnek Access Road Maintenance

(b) Details of training of persons from my company's own resources (or to be hired) who still have to be trained to achieve the necessary competency:

(i) By whom will training be provided?

(ii) When will training be undertaken?

(iii) List the positions to be filled by persons to be trained or hired:

.....

.....

(c) Details of competent resources to be appointed as subcontractors if competent persons cannot be supplied from own company:

Name of proposed subcontractor:

Qualifications or details of competency of the subcontractor:

.....

.....

5. I hereby undertake, if my tender is accepted, to provide, before commencement of the works under the contract, a suitable and sufficiently documented Health and Safety Plan in accordance with Regulation 5(1) of the Construction Regulations, which plan shall be subject to approval by the Employer.

6. I confirm that copies of my company's approved Health and Safety Plan, the Employer's Safety Specifications as well as the OHSA 1993 Construction Regulations 2003 will be provided on site and will at all times be available for inspection by the Contractor's personnel, the Employer's personnel, the Engineer, visitors, and officials and inspectors of the Department of Labour.

7. I hereby confirm that adequate provision has been made in my tendered rates and prices in the schedule of quantities to cover the cost of all resources, actions, training and all health and safety measures envisaged in the OHSA 1993 Construction Regulations 2003, and that I will be liable for any penalties that may be applied in terms of the said Regulations (Regulation 30) for failure on the Contractor's part to comply with the provisions of the Act and the Regulations.

8. I agree that my failure to complete and execute this declaration to the satisfaction of the Employer will mean that I am unable to comply with the requirements of the OHSA 1993 Construction Regulations 2003, and accept that my tender will be prejudiced and may be rejected at the discretion of the Employer.

SIGNATURE:

DATE:

(of person authorised to sign on behalf of the Tenderer)

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K. TAX CLEARANCE CERTIFICATE

The tenderer is to attach an original Tax Clearance Certificate issued by the South African Revenue Services (SARS) to this page.

Failure to submit original and valid Tax Clearance Certificates may invalidate the tender.

Ngcwayi-Lower Brooksnek Access Road Maintenance**L. PREFERENCING SCHEDULE (DIRECT PREFERENCES)**

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2001 & THE CONTRACT FORM – RENDERING OF SERVICES.

MBD 4	T35
MBD 6.1	T39
MBD 8	T44
MBD 9	T46

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1. MBD 4**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state¹.
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.

3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name of bidder or his or her representative:

3.2 Identity Number:

3.3 Position occupied in the Company (director, trustee, hareholder²):

3.4 Company Registration Number:

3.5 Tax Reference Number:

3.6 VAT Registration Number:

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state?

2. YES / NO

3.8.1 If yes, furnish particulars.....

¹MSCM Regulations: "in the service of the state" means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) An employee of Parliament or a provincial legislature.

² Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

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

3.9.1 If yes, furnish particulars.....

.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.10.1 If yes, furnish particulars.

.....

.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars

.....

.....

3.12 Are any of the company's directors, trustees, managers, Principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

.....

.....

3.13 Are any spouse, child or parent of the company's director's trustees, managers, Principle shareholders or stakeholders in service of the state?

3. YES / NO

3.13.1 If yes, furnish particulars.

.....

.....

3.14 Do you or any of the directors, trustees, managers, Principle shareholders or stakeholders of this company Have any interest in any other related companies or Business whether or not they are bidding for this contract.

4. YES / NO

3.14.1 If yes, furnish particulars:

.....

.....

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

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

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MBD 6.1

5. PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

6. NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- 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).

1.2.1.2

a) The value of this bid is estimated **not to exceed** R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or

b) The 80/20 preference point system will be applicable to this tender

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

Ngcwayi-Lower Brooksnek Access Road Maintenance**2. DEFINITIONS**

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
- 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE**3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

7. **80/20 or 90/10**

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_t - P_{\min}} \right) \quad \text{or} \quad 90 \left(1 - \frac{P_t - P_{\min}}{P_t - P_{\min}} \right)$$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

$P_{\min}$ = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level

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of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted %
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

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Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
☐ One person business/sole propriety
☐ Close corporation
☐ Company
☐ (Pty) Limited
 [TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
☐ Supplier
☐ Professional service provider
☐ Other service providers, e.g. transporter, etc.
 [TICK APPLICABLE BOX]

8.7 MUNICIPAL INFORMATION

11. Municipality where business is situated:
 Registered Account

Number:

Stand Number:.....

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8.8 Total number of years the company/firm has been in business:.....

8.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding 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 bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

WITNESSES

- 1.
- 2.

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

DATE:

ADDRESS

.....
.....

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MBD 8

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	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating 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.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		

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4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
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 ☐	No ☐
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 ☐	No ☐
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

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MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 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. takes 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. cancels 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:

12. 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.

Ngcwayi-Lower Brooksnek Access Road Maintenance**13. CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

I certify, on behalf

of: _____ that:

(Name of Bidder)

14. I have read and I understand the contents of this Certificate;
15. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
16. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
17. 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;
18. 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
19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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