



BID NUMBER: 8/2/2/391 (2023-2026)

FOR

BID FOR A PANEL OF CONSULTANTS TO RENDER PROFESSIONAL ENGINEERING, QUANTITY SURVEYING AND ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS FOR MIDVAAL LOCAL MUNICIPALITY

CLOSING DATE AND TIME: 26 JUNE 2023 @ 10H00

NAME OF BIDDER:	
CSD SUPPLIER NUMBER:	
ADDRESS:	
POST CODE:	
TELEPHONE:	
FAX:	
EMAIL:	

ISSUED BY:

Midvaal Local Municipality:
Supply Chain Management Unit
Civic Centre,
25 Mitchell Street

MIDVAAL

Telephone: 016 360 7400
Email: tenders@midvaal.gov.za

CONTACT FOR TECHNICAL ENQUIRIES:

Director: Project Management Unit
Land line: 016 360 7400
E-mail: tenders@midvaal.gov.za

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T1.1: INVITATION TO BID

**YOU ARE HEREBY INVITED TO BID ON THE FOLLOWING REQUIREMENTS OF THE
MIDVAAL LOCAL MUNICIPALITY**

DESCRIPTION:	The provision of professional engineering, quantity surveying and architectural services for various projects in the Midvaal Local Municipal area
CLOSING DATE	: 26 June 2023
CLOSING TIME	: 10H00 Bid to be submitted in Block A-Ground Floor, 25 Mitchell Street, Meyerton, 1961
INFORMATION	: <u>Obtain documentation and Commercial Enquires:</u> Supply Chain Management Unit 25 Mitchel Street, MEYERTON (GPS co-ordinates: 26° 33' 25.55" S 28° 0' 59.8" E) <u>Technical Enquiries:</u> The PMU Director; Tel: 016 360 7400 Email: tenders@midvaal.gov.za <u>Office Hours for collection:</u> 07h30 – 15h30 Mondays to Fridays. A non-refundable fee of R 280.00 payable to Midvaal Local Municipality will be required for collection of a tender document.

Telegraphic, telephonic, telex, facsimile, e-mail, and late tenders will not be accepted. The Council reserves the right to accept any bid or part thereof, and does not bind itself to accept the lowest or any bid.

TENDERS TO BE DEPOSITED IN: The tender box at the entrance of Municipal offices of Midvaal Local Municipality, 25 Mitchel Street, MEYERTON, 1961. (Ensure tender number and title are on envelope).

NOTE:

This tender will be evaluated in terms of the revised Preferential Procurement Regulations, 2022 that was promulgated by the Minister of Finance on 4 November 2022 in Government Gazette No 47452. Please take note of the preferential conditions of Supply Chain Management special conditions for bidding, i.e.: PROCUREMENT PREFERENCE POINT SYSTEM: 90/10

The following conditions to bid exist (failure to comply may result in your bid being disqualified):

1. This bid is subject to the Standard Conditions of Tender as contained in Annex F of Board Notice 136 of 2015 in Government Gazette No 38 960 of 10 July 2015, Construction Industry Development Board.
2. Relevant specifications (SPECS).
3. Successful bidders must register on the Central Supply Database if they wish to conduct business with Midvaal Local Municipality.
4. Bids submitted must be in a sealed envelope clearly marked with the bid number, placed in the tender box before closing time, failure will result in the bid being invalid.
5. The validity period for this bid is 90 calendar days.

T1.2: TENDER DATA

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

The following variations, amendments and additions to the Standard Conditions of Tender as set out in the Tender Data below shall apply to this tender: Standard conditions of Tender. (include)

Clause number	Tender Data
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F1	General Data
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F.1.1	Actions
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Add the following:

The Employer is Midvaal Local Municipality.

F.1.2	Tender Documents
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Add the following:

The following documents form part of this tender:

1. This tender document issued by the Employer: Bid No 8-2-2-391 (2023-2026) BID FOR A PANEL OF CONSULTANTS TO RENDER PROFESSIONAL QUANTITY SURVEYING AND ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS IN THE MIDVAAL LOCAL MUNICIPALITY.

Comprising:

THE TENDER

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 |

THE CONTRACT

Part C1: Agreements and contract data

- | | |
|------|-------------------------------|
| C1.1 | Form of offer and acceptance. |
| C1.2 | Contract data |

Part C2: Pricing data

Not applicable

Part C3: Scope of work

C3.1 Scope of Work

APPENDIX 1 ELIGIBILITY ASSESSMENT

APPENDIX 2 EVALUATION OF TENDER OFFER

This document must be returned to the Employer, completed in all respects, together with any additional supporting documentation required, in terms of submitting a tender offer.

3. Standard Professional Services Contract (Third Edition, 2009) as published by the Construction Industry Development Board.

F.1.3 Interpretation

F.1.4 Communication and employer's agent

Add the following:

It should be noted that the Employer has no agent acting on his behalf for the purposes of this tender.

The Employer's representative, for the purposes of any communication between the employer and tenderer, is:

Name:	The Director PMU
Postal address:	P O Box 9 MEYERTON 1960
Tel:	(016)360 7400
e-mail:	tenders@midvaal.gov.za

Attention is drawn to the fact that verbal information given by the employer's representative prior to the close of tenders will not be regarded as binding on the Employer. Only information issued formally by the employer in writing to tenderers will be regarded as amending the tender documents.

F.1.5 The employer's right to accept or reject any tender offer

The Council reserves the right to accept any part of the bid, and in an event where a discipline does not have sufficient bidders, the council reserves the right to add on participants by re-advertising for that discipline.

F.1.5.1 *Omit this subclause*

F.1.6.2 Competitive negotiation procedure

Omit this clause.

F.1.6.3 Proposal procedure using the two-stage system

Replace this clause with the following:

Tenderers shall be submitted comprising of all the following criteria, i.e., Technical (Quality) in one single combined tender. There will not be a second stage of bidding. Tenders will however not be evaluated taking all three criteria into consideration in a single combined formula, but be split into a one stage evaluation process as shown below:

Stage 1: Technical evaluation

This stage will serve the purpose of evaluation.

Tenderers failing to achieve the minimum requirements will be disqualified from the tender process and will not be evaluated further. See the section below on Evaluation of Bids for the breakdown of the functionality and the process for technical evaluation.

All Bidders who qualify based on the above criteria will be included in the Midvaal LM database/panel of consultants.

No tenderer will be recommended for an award unless the tenderer has demonstrated that he/she has the resources and skills required.

Evaluation will be as per the minimum requirements as listed in section 3 below.

F.2 Tenderer's obligations

F.2.1 Eligibility

Add the following:

Only those tenderers who satisfy the following criteria are eligible to submit tenders:

F.2.1.1 Registration as Service Provider

Central Supplier Database Registration.

Successful tenderers must register on the Central Supply Database (CSD). The Employer will only enter a formal contract with a tenderer who is registered on the CSD as service provider and has been issued with a registration number.

Registration with professional body:

All tenderers must be registered with the applicable professional association for their profession.

BBBEE Registration

All tenderers must be registered for BBBEE to claim as points as outlined in this Bid document.

F.2.1.2 Office

The address of the office must be indicated on in Part T2.1: Returnable Schedules, and which will be regarded as the domicilium citandi et executandi for the purposes of any contract arising from this tender submission.

F.2.1.3 Key personnel

The following personnel must be in full time and in permanent employment of the tenderer and available for the envisaged appointments: In the event where there is change of personnel, the service providers is required to provide personnel in accordance with the provisions of clause 5.5 and clause 7.2 (Standard Professional Services Contract (3rd Edition Published by CIDB)) and complete the personnel schedule stated in the contract data.

1. A Project Leader who is a registered Professional Engineer/Architect/Quantity Surveyor or registered Professional Technologist, with at least five years verifiable post graduate experience in the provision of consulting services and project management of Infrastructure. The person must verify competence through both experience and post graduate qualification

and/or completion of relevant courses. The Project Leader must have acted as the 'Clients Agent' in terms of the General Conditions of Contract for Construction Works (2015) (latest version) within the last three years.

The Project Leader must be registered as a professional with the Engineering Council of South Africa. His or Her registration number must be indicated in Schedule T2.1: Key Personnel, Part T2.1: Returnable Schedules.

2. A Project Engineer who is a qualified Engineer / Technologist with at least five years verifiable post graduate experience in infrastructure projects.
3. A Resident Engineer who is a qualified Engineer / Technologist / Technician with at least three years verifiable post graduate experience in contract supervision in infrastructure projects.

The Curriculum Vitae of all key personnel must be submitted with the tender submission.

Key personnel will be expected to operate out of the local office, as the demands of the anticipated projects require.

F.2.1.4 Professional indemnity insurance

The employer shall not award a contract to any tenderer that does not hold a valid professional indemnity (PI) insurance as stipulated in the Contract Data clause 5.4. Proof of a minimum insurance cover of R5 000 000-00 must be submitted upon appointment. The Employer reserves the right to request Professional Indemnity Insurance of a higher value for bigger projects as part of the Risk Analyses referred to in clause F3.11.10 of the Standard Conditions of Tender.

F.2.7 Clarification meeting

N/A

F.2.13 Submitting a tender offer

Replace subclause F.2.13.2 with the following.

F.2.13.2 Return all returnable documents to the employer after completing them in their entirety by writing in **black ink**.

Add the following to F.2.13.3

F.2.13.3 Parts of each tender offer communicated on paper shall be submitted as an original, plus 0 (naught) copies.

F.2.13.4 *Add the following after the first sentence of F.2.13.4:*

The tender shall be signed by a person duly authorized to do so. Tenders submitted by joint ventures of two or more firms shall be accompanied by the document of formation of the joint venture, authenticated by a notary public or other official deputed to witness sworn statements, in which is defined precisely the conditions under which the joint venture will function, its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning.

F.2.13.5 *Add the following to 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: Tender Box at the Municipal Offices

Physical address: Midvaal Local, Municipality, 25 Mitchel Street, MEYERTON.

Identification details: Bid No.: 8-2-2-391 (2023-2026)

Title of tender: BID FOR A PANEL OF CONSULTANTS TO RENDER PROFESSIONAL ENGINEERING, QUANTITY SURVEYING and ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS IN MIDVAAL LOCAL MUNICIPALITY.

Sealed tenders with the Tenderer's name and address and the endorsement "**BID No. 8-2-2-391 (2023-2026): BID FOR A PANEL OF CONSULTANTS TO RENDER PROFESSIONAL ENGINEERING, QUANTITY SURVEYING and ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS IN MIDVAAL LOCAL MUNICIPALITY**" on the envelope, must be placed in the appropriate official tender box at the abovementioned address.

F.2.13.6 *Add the following to F.2.13.6:*

A two-envelope procedure will **not** be followed.

Add the following sub-clause after F.2.13.9:

F.2.13.9 By signing the offer part of C1.1 Form of Offer and Acceptance the tenderer declares that all information provided in the tender submission is true and correct.

F.2.15 Closing time

Add the following to F.2.15.1:

F.2.15.1 The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender. Telephonic, telegraphic, telex, facsimile or e-mailed tender offers will not be accepted.

F.2.16 Tender offer validity

Add the following to F.2.16.1:

F.2.16.1 Tenderers will receive notification of their positions on the roster, or failure to get listed on the roster, within **90 days** from the closing date of the tender. The decision to extend the period will be at the sole discretion of the Employer.

Successful tenderers will be expected to be available for assignments for a period not exceeding 30 June 2026 from the date of appointment.

F.2.17 Clarification of tender offer after submission

Add the following to F.2.17:

A tender will be rejected as non-responsive if the tenderer fails to provide any clarification requested by the employer, within the time for submission stated in the Employer's written request for such clarification. A tender will also be rejected as non-responsive if the tenderer fails, within the time stated in writing by the Employer, to comply with the requirements of F.4.3.

F.2.23 Certificates

Add the following:

F.2.23.1 Tax Clearance Certificate

Tenderers shall be registered and in good standing with the South African Revenue Services (SARS) and shall provide a pin code issued by the South African Revenue Services or proof that he or she has made arrangements with SARS.

Each party to a Consortium/Joint Venture shall submit a separate Tax Clearance Certificate, or pin code as proof that he or she has made the necessary arrangements with SARS.

Tenderers are to note that the Employer will not award a contract to a Tenderer whose tax matters are not in order. Furthermore, the successful Tenderer is required to submit an updated original Tax Clearance Certificate to the Employer should any current Tax Clearance Certificate expire during the contract. Failure to do so may lead to the withholding of payment to the Tenderer until a valid Tax Clearance Certificate is received by the Employer.

F.2.23.2 Central Supply Database (CSD)

Bidders are to be registered in the Central Supplier Database

F.2.23.3 Broad-Based Black Economic Empowerment (B-BBEE) Status Level Certificate(s)

Tenderers shall submit documentary evidence/proof in the form of an original valid or certified copy B-BBEE Status Level verification certificate in terms of the Construction Sector Charter on Black Economic Empowerment, or an Exempted Micro Enterprise certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of

1984)) or an accredited verification agency, or certified copies thereof) in terms of the Preferential Procurement Regulations, 2022.

Consortiums/Joint Ventures will qualify for preference points, provided that the entity submits the relevant certificate/scorecard in terms of the Preferential Procurement Regulations, 2022. In the case of unincorporated entities, a verified scorecard in the name of the Consortium/Joint Venture must be submitted with the tender.

F.3 The Employer's undertakings

F.3.2 Issue Addenda

Add the following to F.3.2:

Notwithstanding any requests for confirmation of receipt of Addenda issued, the tenderer shall be deemed to have received such addenda if the Employer can show proof of transmission thereof (or a notice in respect thereof) via electronic mail, facsimile or registered post.

F.3.4 Opening of tender submissions

Add the following to F.3.4.1:

F.3.4.1 The time and location for opening of the tender offers is:

Time: Tenders will be opened immediately after the closing time for receipt of tenders as stated in the Tender Notice and Invitation to Tender, or as stated in any Addendum extending the closing date.

Location: Midvaal Local Municipality, Civic Centre, 25 Mitchel Street, MEYERTON.

F.3.8 Test for responsiveness

Add the following to F3.8:

Tenders will be considered non-responsive if, inter alia:

- The tenderer does not comply with the eligibility criteria listed in F2.1 above.
- The tenderer has failed to clarify or submit any supporting documentation within the time for submission stated in the employer's written request.

F.3.9 Arithmetical errors, omissions, and discrepancies

Delete the contents of Subclauses F.3.9.2 to F.3.9.4

F.3.10 Clarification of a tender offer

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

F.3.11 Evaluation of tender offers

Evaluation will be as per the minimum requirements as listed in section 3 below:

F.3.13 Acceptance of tender offer

Add the following to F.3.13.1:

F.3.13.1 Tender offers will only be accepted if:

- a) Tenderers shall be registered and in good standing with the South African Revenue Services (SARS) and shall submit a pin code issued by the South African Revenue Services.

- b) The tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector.
- c) the tenderer has not:
 - i) abused the Employer's Supply Chain Management System; or
 - ii) failed to pay municipal rates and taxes or service charges and such rates, taxes and charges are in arrears for more than three months.
 - iii) failed to perform on any previous contract and has been given a written notice to this effect.
- d) the tenderer has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process.

Tender offers will be rejected if they show any additional items not originally included in the tender documents, conditional or incomplete offers, irregularities of any kind in the tender.

The Employer does not bind himself to accept the lowest priced tender, highest points tender or any tender offer. The Employer has the right to accept any part of a tender as he may deem expedient subject to negotiation with the successful tenderer for the whole tender.

F.3.13.2 **Disputes, objections, complaints, and queries**

In terms of Regulations 49 and 50 of the Local Government: Municipal Finance Management Act, 2003 – Municipal Supply Chain Management Regulations (Notice 868 of 2005):

- a) Persons aggrieved by decisions or actions taken by the Midvaal Local Municipality in the implementation of its supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint or query or dispute against the decision or action.
- b) Objections, complaints, queries and disputes must be submitted in writing to the Municipal Manager, Midvaal Local Municipality, Civic Centre, 25 Mitchel Street, MEYERTON or posted to P O Box 9, MEYERTON, 1960.

F.3.13.3 **Appeals**

- a) In terms of Section 62 of the Systems Act 32 of 2000 a person whose rights are affected by a decision taken by the Midvaal Local Municipality in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- b) An appeal must contain the following:
 - i) Reasons and/or grounds for the appeal
 - ii) The way in which the appellants rights have been affected
 - iii) Remedy sought by appellant
- c) Appeals must be submitted in writing to the Municipal Manager, Midvaal Local Municipality, Civic Centre, 25 Mitchel Street, MEYERTON or posted by registered post to P O Box 9, MEYERTON, 1960.

F.3.13.4 **Right to approach the courts & rights in terms of Promotion of Administrative Justice Act (Act 3 of 2000) and Promotion of Access to Information (Act 2 of 2000)**

Clauses F.3.13.2 and F.3.13.3 do not influence any affected person's rights to approach the High Court at any time or its rights in terms of the Promotion of Administrative Justice Act and Promotion of Access to Information Act.

- a) All legal process and pleadings must be served on the Municipal Manager, Midvaal Local Municipality, Civic Centre, 25 Mitchel Street, MEYERTON.
- b) All requests in terms of PAJA and PAIA must be submitted in writing to the Municipal Manager, Midvaal Local Municipality, Civic Centre, 25 Mitchel Street, MEYERTON.

F.3.18 **Provide copies of the contract**

Add the following:

The number of paper copies of the signed contract to be provided by the Employer is one.

F.4 Additional Conditions of Tender

The additional conditions of tender are:

F.4.1 Invalid tenders

1. No faxed or e-mailed tenders will be accepted.
2. All tenders must be submitted on the official forms (not to be re-typed). Only original signed tender documents will be accepted.
3. Bids must be completed in black ink. No correction fluid will be allowed. All alterations must be crossed-out and initialed.
4. Where a compulsory briefing session is required, it is the onus of the bidder to attend and arrive in time. Late arrivals will not be allowed to sign the attendance register and will be deemed to be absent. No bids will be considered from bidders who did not attend the briefing session.
5. Midvaal Local Municipality will not accept any bid with missing pages and not fully completed with the required attachments.
6. Bids will be evaluated and adjudicated according to the following criteria:
 - a. Relevant specifications and technical proposals
 - b. Value for money
 - c. Capability to execute the contract
 - d. Midvaal SCM Policy, PPPFA, PPPFA Regulations and any other relevant legislations
 - e. Supporting documents where required
 - f. Local content (where applicable)

F.4.2 Negotiations with preferred tenderers

The Employer may negotiate the final terms of a contract with tenderers identified through a competitive tendering process as preferred tenderers provided that such negotiation:

- a) does not allow any preferred tenderer a second or unfair opportunity.
- b) is not to the detriment of any other tenderer.
- c) does not lead to a higher price than the tender as submitted.

Minutes of any such negotiations shall be kept for record purposes.

F.4.3 General supply chain management conditions applicable to tenders

In terms of its Supply Chain Management Policy the Employer may not consider a tender unless the provider who submitted the tender:

- a) has furnished the Employer with that provider's:
 - full name;
 - identification number or company or other registration number; and
- b) has indicated whether:
 - the provider is in the service of the state, or has been in the service of the state in the previous twelve months;
 - the provider is not a natural person, whether any of the directors, managers, principal shareholders, or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months;
 - whether a spouse, child, or parent of the provider or of a director, manager, shareholder, or stakeholder referred to above is in the service of the state, or has been in the service of the state in the previous twelve months; or
- c) irrespective of the procurement process followed, the Employer is prohibited from making an award to:

- a person who is in the service of the state;
- a juristic entity of which any director, manager, principal shareholder or stakeholder is in the service of the state;
- an advisor or consultant contracted with the Employer, or
- a person, advisor or corporate entity involved with the bid specification committee, or a director of such corporate entity.

In this regard, tenderers shall complete Schedule 1, Part T2.1: Returnable Schedules: Compulsory Enterprise Questionnaire.

F.4.3 Combating abuse of the Supply Chain Management Policy

In terms of Midvaal Local Municipality's Supply Chain Management Policy, the Employer may reject the tender of any tenderer if that tenderer or any of its directors has:

- a) failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months;
- b) failed, during the last five years, to perform satisfactorily on a previous contract with Midvaal Local Municipality; or any other organ of state, after written notice was given to that tenderer that performance was unsatisfactory;
- c) abused the supply chain management system of Midvaal Local Municipality or has committed any improper conduct in relation to this system;
- d) been convicted of fraud or corruption during the past five years;
- e) willfully neglected, reneged on, or failed to comply with any government, municipal or other public sector contract during the past five years; or
- f) been listed with the Register of Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004) or has been listed on National Treasury's database as a person or juristic entity prohibited from doing business with the public sector. In this regard, tenderers shall complete Schedule T2.2: Returnable Schedules: Declaration in terms of the Municipal Finance Management Act, Failure to complete this schedule may result in the tender not being considered.

F.4.13 Requests for contract documents, or parts thereof, in electronic format

Electronic copies of the contract document, or parts thereof, will only be provided to tenderers who have requested the document via tenders@midvaal.gov.za

- (a) The electronic version shall not be regarded as a substitute for the issued tender documents.
- (b) The Employer shall not accept tenders submitted in electronic format. Tenderers may complete and submit a printed copy of the tender document. No electronic version of the tender document shall be considered. Only those tenders that have been completed on the original tender document shall be considered.
- (c) The Employer accepts no responsibility or liability arising from any reliance on or use of the electronic version provided in terms of this clause. The Employer further does not guarantee that the electronic version corresponds with the issued tender documents in all respects. Tenderers are alerted to the fact that electronic versions of the tender documents may not reflect any notices or addenda that amend the tender document.
- (d) Any non-compliance with these provisions, including effecting any unauthorised alterations to the tender document shall render the tender invalid. The Employer reserves the right to take any action against such tenderer allowed in law including, in circumstances where the tender had already been awarded, the right to cancel the contract.

- (e) In requesting the electronic version of the tender document or parts, the tenderer is deemed to have read, understood, and accepted all of the above conditions.

Annexure F
(normative)

Standard Conditions of Tender

(As contained in Annex F of the Board Notice 86 of 2010 in Government Gazette No 33 239 of 28 May 2010, Construction Industry Development Board (CIDB) Standard for uniformity in Construction Procurement)

F.1 General

F.1.1 Actions

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

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

- Note:
- 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.
 - 2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect, or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

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

F.1.2 Tender Documents

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

F.1.3 Interpretation

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

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

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

- a) **conflict of interest** means any situation in which:
 - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially;
 - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
 - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis

- c) **corrupt practice** means the offering, giving, receiving, or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
- e) **organization** means a company, firm, enterprise, association, or other legal entity, whether incorporated or not, or a public body
- f) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs.

F.1.4 Communication and employer's agent

Delete the contents of clause F.1.4

F.1.5 The employer's right to accept or reject any tender offer

F.1.5.1 The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection but will give written reasons for such action upon written request to do so.

F.1.5.2 The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

F.1.6 Procurement procedures

F.1.6.1 General

Delete the contents of clause F.1.6.1

F.1.6.2 Competitive negotiation procedure

Delete the contents of clause F.1.6.2

F.1.6.3 Proposal procedure using the two stage-system

Delete the contents of clause F.1.6.3

F.2 Tenderer's obligations

F.2.1 Eligibility

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

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

F.2.2 Cost of tendering

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

F.2.3 Check documents

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

F.2.4 Confidentiality and copyright of documents

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

F.2.5 Reference documents

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

F.2.6 Acknowledge addenda

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

F.2.7 Clarification meeting

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

F.2.8 Seek clarification

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

F.2.9 Insurance

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

F.2.10 Pricing the tender offer

Delete the contents of clause F.2.10

F.2.11 Alterations to documents

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

F.2.12 Alternative tender offers

Delete the contents of clause F.2.12

F.2.13 Submitting a tender offer

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

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

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

F.2.13.4 Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint

ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

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

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

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

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

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

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

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

F.2.15 Closing time

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

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

F.2.16 Tender offer validity

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

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

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

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

F.2.17 Clarification of tender offer after submission

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

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

F.2.18 Provide other material

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

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

F.2.19 Inspections, tests, and analysis

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

F.2.20 Submit securities, bonds, policies, etc.

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

F.2.21 Check final draft

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

F.2.22 Return of other tender documents

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

F.2.23 Certificates

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

F.3 The Employer's undertakings

F.3.1 Respond to requests from the tenderer

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

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

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

F.3.2 Issue Addenda

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

F.3.3 Return late tender offers

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

F.3.4 Opening of tender submissions

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

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

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

F.3.5 Two-envelope system

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

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

F.3.6 Non-disclosure

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

F.3.7 Grounds for rejection and disqualification

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

F.3.8 Test for responsiveness

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

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

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

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

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

F.3.9 Arithmetical errors, omissions, and discrepancies

Delete the contents of clause F.3.9

F.3.10 Clarification of a tender offer

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

F.3.12 Insurance provided by the employer

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

F.3.13 Acceptance of tender offer

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

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

F.3.14 Prépare contract documents

Delete the contents of clause F.3.14

F.3.15 Complete adjudicator's contract

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

F.3.16 Notice to unsuccessful tenderers

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

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

F.3.17 Provide copies of the contract

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

F.3.18 Provide written reasons for actions taken

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

T1.3: RESPONSIVENESS AND EVALUATION CRITERIA

1. RESPONSIVENESS CRITERIA

No bid will be considered by Midvaal Local Municipality unless it meets the following responsiveness criteria (for the bid to be considered responsive, the bid must meet the following requirements):

- a) Bidders do not need to be registered on the database of Midvaal Local Municipality for the purpose of submitting a bid, however once successful in their bid and being listed as a preferred service provider (placed on the roster), they must register.
- b) Bidders must be registered on the CSD
- c) Registration forms can be obtained as follows:
 - i. Supply Chain Management Unit, Civic Centre, 25 Mitchel Street, MEYERTON.
 - ii. Downloaded from our website at www.midvaal.gov.za

Enquiries regarding the above can be directed to:

Email address	Contact persons	Tel no
tenders@midvaal.gov.za	SCM	(016) 360 7400

- c) Midvaal Local Municipality will reject a bid in terms of the following:
 - i) If any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors to this of any other municipality or municipal entity, are in arrears for more than three months.
 - ii) The name of the company of any of its director(s) names appear on the list of Tender Defaulters or restricted suppliers as published by National Treasury.
- d) The following completed documents must be submitted or provided as part of the bid submission:
 - i) Valid tax clearance certificate (MBD 2). A trust, consortium or joint venture must submit individual tax clearance certificates for each company.
 - ii) Copy or Certified valid B-BBEE Status Level Verification Certificate. Bidders who do not submit a B-BBEE Status Level Verification Certificate or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but will not be disqualified from the bidding process. A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification certificate for every separate bid.
 - iii) Copy of a billing account of your local municipality for the company or directors where applicable. Such account must not be older than 30 days.
- iii) Completed and signed declaration of interest form (MBD 4).

SPECIFIC GOALS – POINTS CLAIM				
Goal	Weight		Required Proof	Bidder's Checklist
Local Enterprise (5 Points)	10 Points, if the business operates within the jurisdiction of Midvaal Local Municipality		- Rates and Taxes statement in the name of the business, or that of its director(s); OR - Confirmation of the company's director(s) ward and voting district as per the IEC (Independent Electoral Commission of South Africa)	YES NO
	5 Points, if the business operates outside Midvaal but within the Sedibeng District jurisdiction			
	3 Points, if the business operates outside the Sedibeng jurisdiction			
	0 points for non-submission			
B-BBEE Status (5 Points)	Status Contributor	Points	B-BBEE certificate: - issued by the DTIC (The Department of Trade and Industry and Competition) through CIPC; OR - from an accredited institution registered with SANAS; OR - a valid sworn affidavit, as issued by the DTIC	YES NO
	1	5		
	2	4		
	3	3		
	4	2		
	5	1		

- e) Bidders must acquaint themselves fully on the Standard Conditions of contract and special conditions of contract (if applicable). The Standard Conditions of Contract of 2010 is available on request from the official dealing with bidding procedures and documents as indicated in MBD 1.
- f) No bids will be accepted unless the bid documentation as issued by the municipality is completed and submitted with the tender.
- g) No telephonic, faxed or e-mailed or late bids will be accepted.
- h) The awarding of this bid is subject to the following:
 - i) Relevant technical specifications as stated in this bid document.
 - ii) Attendance of compulsory site or clarification meetings, if applicable
 - iii) Attaining the minimum requirements for evaluation,
 - iv) Proper completion of this bid document and signing of declarations
 - v) Any special conditions of contract as stipulated in this bid document.
- i) Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.
- j) **Inducements, rewards, gifts and favours to municipalities, officials and other role players**
 - I. No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representation intermediary promise, offer or grant any inducement or reward to the Midvaal Local Municipality for or in connection with the award of a contract;
 - II. The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- k) The bid must be properly received in a sealed envelope. The outside of the envelope must clearly indicate the bid number and title (refer to invitation to bid for further details regarding submission)
- l) The bid must be deposited in the relevant quotation box as indicated in the invitation to bid (MBD1) on or before the closing date and time of the bid. **Telephonic, facsimile, electronic/ emailed and late bids will not be accepted.**
- m) The official bid document must be fully completed in indelible ink. Where information requested does not apply to the bidder and the space is left blank, the bidders must indicate "Not Applicable".
- n) All requested relevant and/ or additional documentation such as compliance certificates, professional registration, artisan qualification, etc., must be attached behind the bid document.
- o) Bidders must submit a certified statement signed by the bidder declaring that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 90 days.
- p) The bidder must be in good standing to do business with the public sector in terms of Regulation 38 of the Municipal Supply Chain Management Regulations (Government Gazette 27636 of 30 May 2005).
- q) If the entity submitting a bid is a joint venture or consortium or partnership, each party to that formation must submit all the above information.
- r) The Bidder's details must be provided.
- s) The necessary document authorising the representative to sign and submit the bid on the bidder's behalf must be completed and signed.
- t) The declaration of interest by the bidder must be completed and signed.

- u) The bid must comply with all the minimum technical specifications.
- v) The MBD 9 (certificate of bid determination) must be completed and signed.

2. EVALUATION OF BIDS

The evaluation of bids shall be in line with the minimum requirements as outlined below. Bidders who satisfy fully this minimum requirements are going would tick the requirements to be included in the panel. Note to be taken that should a bidder fail to meet all this requirements below will not be included in the panel/database.

3. MINIMUM REQUIREMENTS

3.1 Bidders must submit proof of a valid Professional Indemnity Insurance cover in the name of the bidding company or in the of the registered Professional.

3.2 Bidder must submit a valid **Professional registration of the company** with any of the following disciplines that the company is bidding to participate in:

- **Engineering:** CESA or SABTACO

N.B No.1: This requirement shall not be applicable to bidders bidding to be included in the panel of Quantity Surveyors and Architects.

N.B No. 2.: In the case whereby the bidder is bidding for all disciplines, professional registration must be submitted for all disciplines.

3.3 Bidders to submit proof of company experience to a minimum of **three (3) projects** per field applied for under a discipline. Where the field and the discipline are the same, bidder must submit for that discipline three projects.

Bidders are to Provide **Appointment letters** in the relevant discipline outlining the scope of work completed, with the corresponding **signed** reference letters. Reference Letters must be in the letter head of the company providing the reference, and they must be verifiable. Each refence must be specific to each discipline highlighted in bold below as indicated in the table 1 below.

3.4 Project Leader: *To be considered as a project leader, the proposed personnel shall be registered as a Professional Engineer/Architect/Quantity Surveyor or registered Professional Technologist for a minimum of 5 years (from date of tender closing) as a registered Professional with relevant professional body as outlined below. Furthermore, an experience of ten (10) years is required in Engineering/ Architectural/ Quantity Surveying projects.*

Engineers: ECSA (Pr. Eng. Or Pr. Tech.)

Architects: SACAP (Pr. Arch Or Pr. SArchT Or Pr. ArchT)

Quantity Surveyors: SACQSP (Pr. QS)

N.B: A detailed CV is to be attached indicating experience as outlined above and all qualification are to be attached with the CV.

3.5 Principal Agent: *To be considered as a Principal Agent, the proposed personnel shall be registered as a Professional Engineer/Architect/Quantity Surveyor or registered Professional Technologist for a minimum of three (3) years (from date of tender closing as a registered Professional with relevant professional body as outlined below. Furthermore, an experience of five (5) years is required in Engineering/ Architectural/ Quantity Surveying projects.*

Engineers: ECSA (Pr. Eng. Or Pr. Tech.)

Architects: SACAP (Pr. Arch Or Pr. SArchT Or Pr. ArchT)

Quantity Surveyors: SACQSP (Pr. QS)

N.B: A detailed CV is to be attached indicating experience as outlined above and all qualification are to be attached with the CV.

3.6 **Two (2) x Site Agent/ Site Supervisor:** *To be considered as a Site Agent or Site Supervisor, the proposed personnel shall be registered as a Candidate with relevant Professional Body as outlined*

below. Furthermore, an experience of three (3) years is required in Engineering/ Architectural/ Quantity Surveying projects.

Candidate Engineers: ECSA (C. Eng. Or C. Tech.)

Candidate Architects: SACAP (C. Arch Or C. SArchT Or C. ArchT)

Candidate Quantity Surveyors: SACQSP (C. QS)

N.B: A detailed CV for each Site Agent/Site Supervisor is to be attached indicating experience as outlined above and all qualification are to be attached with the CV.

NB: FAILURE TO MEET THE ABOVE REQUIREMENTS WILL LEAD TO THE BIDDER NOT TO INCLUDED IN THE PANEL OF CONSULTANTS.

BUILT ENVIRONMENT FIELDS APPLICABLE TO THIS BID

- Bidders to tick each field they intend to apply/bid for. For evaluation purposes, for each box ticked, bidders are to submit a separate attachment.
- Bidders are advised to pay attention to the requirements of this bid and ensure that all required documentation (e.g., CVs of key personnel, company experience portfolio of evidence, etc.) is submitted for each field they wish to bid.
- **Bidders are requested to insert dividers for the annexures clearly indicating each sub field.**

Table 1

Evaluation Criteria:

ITEM	DISCIPLINE	FIELD	Tick	Company	Project leader	Principal Agent	Site Agent/Supervisor
1	Civil Engineering						
1.1.1	Hydraulogical Engineering/ Water Resources Engineering	Sewer Reticulation					
1.1.2		Water Reticulation					
1.1.3		Water Treatment Works					
1.1.4		Wastewater Treatment Works					
1.1.5		Water Conservation & Water Demand Management					
1.2	Roads & Stormwater	Roads & Stormwater					
1.3	Traffic Engineering	Traffic Engineering					
1.4.1	Structural Engineering	Buildings					
1.4.2		Reservoirs, Pump Stations, etc.					
1.4.3		Bridges					
1.5	Geotechnical Engineering	Geotechnical Engineering					
2.1	Electrical Engineering	Low Voltage Reticulation and Industrial/Buildings					
		Medium Voltage Reticulation and Substations					
		High Voltage Reticulations and Substations					

3	Mechanical Engineering	Mechanical Engineering					
4	Quantity Surveyors	Quantity Surveyors					
5	Architects	Architects					
6.1	Specialists Engineering Services	Master Planning					
6.2		Audits and Reports (e.g., Technical Reports)					
6.3		Project Management					
6.4		Dolomatic Studies					
6.5		Surveying					
6.6		Pavement Management					

T2.1 LIST OF RETURNABLE DOCUMENTS

The following documents are to be completed and returned as they constitute the tender. Whilst many of the returnable are required for the purpose of evaluating the tenders, some will form part of the subsequent anticipated contract, as they form the basis of the tender offer. For this reason, it is very important that all tenderers return all information requested.

A failure to provide the information may result in your tender being disqualified or not passing functionality. **NB. It is the Bidders responsibility to provide the information Midvaal Local Municipality will not request Bidders to provide missing information.**

In the event any information found to be false MLM will have right disqualify the Bidder before the tender is awarded and it is after award MLM will have the right to terminate the appointment and recover damages.

The tenderer must complete and return the documents listed below as part of his/her tender submission:

SCHEDULE	DESCRIPTION	Page no.
	Returnable documents required for tender evaluation purposes	
Schedule A	Documents incorporated in this tender document that must be completed and signed by all tenderers	
A1	Invitation to bid (MBD1)	29
A2	Certificate of Authority of Signatory	31
A3	Clarification Meeting Certificate	32
A4	Certificate of Authority for joint ventures	33
A5	Schedule of Work Experience of <u>Tenderer</u> (by Discipline)	34
A6	Schedule Of Key Personnel (by Discipline)	35
A7	Curriculum Vitae (CV's) Of Key Personnel (by Discipline)	36
A8	Service Provider/Tenderer Experience	37
A9	Compulsory Enterprise Questionnaire(MBD4)	38
A10	Declaration for Procurement above R10 Million (all applicable Taxes included) (MBD 5)	42
A11	Alterations/ Amendments by <u>Tenderer</u>	44
A12	Preference Points Claim Form In Terms Of The Preferential Procurement Regulation 2022 (MBD 6.1)	45
A13	Record of Addenda to Tenderer	50
A14	Performance Management System	51
A15	ISO 9001:2000/2008 Certification	57
A16	Professional Indemnity Insurance	58
A17	Declaration of Bidders Past Supply Chain Management Practices (MBD8)	59
A18	Certificate of Independent Bid Determination. (MBD9)	61
A19	Protection of Personal Information Act	63
A20	Tax Clearance Certificate and Financial Statements	65
A21	Municipal Services Account/ Rates and Taxes Certificate for Supply Chain Purpose	67

Schedule B	Additional Documents to be provided by the Tenderer and attached to his/her tender	
B1	Additional Functionality Documentation Provided by the Tenderer (Not applicable)	68
Schedule C	Other Documents that will form part of The Contract	
C1.1	Form of Offer and Acceptance	69
C1.2	Contract Data	73
C3	Scope of Work	

NB: TENDERERS MUST COMPLETE THESE DOCUMENTS / DATA SHEETS / FORMS IN BLACK INK

MBD 1

**A1. PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF MIDVAAL LOCAL MUNICIPALITY					
BID NUMBER:	8/2/2/391(2023-2026)	CLOSING DATE:	26/06/2023	CLOSING TIME:	10H00
DESCRIPTION	BID FOR A PANEL OF CONSULTANTS TO RENDER PROFESSIONAL ENGINEERING, QUANTITY SURVEYING AND ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS FOR MIDVAAL LOCAL MUNICIPALITY				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS					
25 MITCHELL STREET					
MEYERTON					
1961					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ YES ☐ NO		B-BBEE STATUS LEVEL SWORN AFFIDAVIT ☐ YES ☐ NO		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ YES ☐ NO [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ YES ☐ NO [IF YES ENCLOSE PROOF B:3]
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE		R
SIGNATURE OF BIDDER			DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	SUPPLY CHAIN MANAGEMENT		USER DEPARTMENT	COMMUNITY SERVICES OFFICE	
TELEPHONE NUMBER	016 360 7481		TELEPHONE NUMBER	016 360 7595	
E-MAIL ADDRESS	tenders@midvaal.gov.za		E-MAIL ADDRESS	tenders@midvaal.gov.za	

MBD 1

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:										
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – (NOT TO BE RE-TYPED) OR ONLINE 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.										
2. TAX COMPLIANCE REQUIREMENTS										
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS. 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS. 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA. 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3. 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER. 2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.										
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS										
<table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</td> <td style="text-align: right;">☐ YES ☐ NO</td> </tr> <tr> <td>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?</td> <td style="text-align: right;">☐ YES ☐ NO</td> </tr> <tr> <td>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</td> <td style="text-align: right;">☐ YES ☐ NO</td> </tr> <tr> <td>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?</td> <td style="text-align: right;">☐ YES ☐ NO</td> </tr> <tr> <td>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?</td> <td style="text-align: right;">☐ YES ☐ NO</td> </tr> </table> IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO	3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO	3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO	3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO	3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	☐ YES ☐ NO
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO									
3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO									
3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO									
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO									
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	☐ YES ☐ NO									

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

A2. CERTIFICATE OF AUTHORITY OF SIGNATORY

Assurance shall be given at the time of submission of the tender that the tender has been signed by someone properly authorised thereto by resolution of the Directors, Members or Partners. Tenderers shall submit with their tenders the following information:

Single Company, Close Corporation or Partnership

Signatories for companies shall confirm their authority by attaching to this form a copy of the relevant resolution of the board of directors, duly signed and dated.

By resolution of the board of directors taken on (*Date*).....

Mr/Ms (*Print Name*)

has been duly authorized to sign all documents in connection with this tender / contract on behalf of:..

(*Print Company Name*)

.....

Signed on behalf of Company:.....

In his/her capacity as:.....

Date:

A3. CLARIFICATION MEETING CERTIFICATE

This is to certify that I/We*
of (tenderer)
.....
of (address)
.....
.....
Telephone number
Fax number
Email
on (date)

attended bid clarification examined the Site of the Works and its surroundings for which I/we* am/are* submitting this Tender and have, so far as is practicable, familiarised myself/ourselves* with all information, risks, contingencies and other circumstances which may influence or affect my/our* tender.

*Delete whichever is inapplicable`

(Print Company Name)
.....

Signed on behalf of Tenderer:.....

Date:

A4. CERTIFICATE OF AUTHORITY FOR JOINT VENTURES

This Returnable Schedule is to be completed only if Tenderer is a joint venture.

We, the undersigned, are submitting this tender offer in joint venture and hereby authorise.

Mr/Ms, authorised signatory of the company, close corporation or partnership..... acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
Lead partner		Signature : Name : Designation :
		Signature : Name : Designation :
		Signature : Name : Designation :
		Signature : Name : Designation :

Note: A copy of the Joint Venture Agreement showing clearly the percentage contribution of each partner to the Joint Venture shall be appended to this Schedule.

A5. SCHEDULE OF WORK EXPERIENCE OF TENDERER

Tenderers shall insert in the Schedule hereunder details of work successfully carried out by **Discipline** for which the tender is submitted for. **Note to be taken that in terms of the functionality criteria bidders are required to submit supporting documentation to ascertain their experience.**

DISCIPLINE_____

Employer, contact person and contact details (telephone email address etc.)	Project Name and brief description of the works	Contract value	Planned dates		Actual dates	
			Start	End	Start	End

Note: Tenderer's may retype the above schedule for easy completion as long as it has same columns in the same order as above and each separate sheet must be signed.

(Print Company Name)

.....

Signed on behalf of Tenderer:

Date:

A6. SCHEDULE OF KEY PERSONNEL

Tenderers shall insert in the Schedule hereunder details of the Key Personnel they propose using by **Discipline** for which their tender is submitted. **Failure to complete this Schedule will be taken to indicate that the Tenderer has no staff with experience in the discipline. Note to be taken that in terms of the functionality criteria bidders are required to submit supporting documentation to ascertain their experience and Qualifications. A CV is compulsory.**

Tenderer must replicate this schedule of each of the Disciplines for which they are tenderer as each discipline will be evaluated separately for functionality.

DISCIPLINE: _____

Name of Staff Member	Qualification	Years of Experience in Discipline

A7. CURRICULUM VITAE (CV's) OF KEY PERSONNEL

Tenderers shall insert in the CV's of Key Personnel by Discipline of the Key Personnel they propose by **Discipline** for which their tender is submitted. **Failure to complete this Schedule will be taken to indicate that the Tenderer has no staff with experience in the discipline.**

Tenderer must replicate this schedule of each of the Disciplines for which they are tenderer as each discipline will be evaluated separately for functionality.

Discipline: _____

Position	
Name of Firm	
Name of Staff Member	
Date of Birth	
Country of Citizenship	

Education		
Institution	Qualification	Year obtained

A8 : SERVICE PROVIDER/ TENDERER EXPERIENCE

DISCIPLINE: _____

(Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held , types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the discipline should not be included.)

Period	Employing Organization and your title/position	Contact Information for References	Summary of Activities performed relevant to the Discipline

Membership and Registration Number in Professional Associations (copies to be attached in the CV)

Organization	Registration No.	Year Joined

Note: Tenderer's may retype the above schedule for easy completion as long as it has same columns in the same order as above and each separate sheet must be signed.

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date :

A9. COMPULSORY ENTERPRISE QUESTIONNAIRE (MBD 4)

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
Address 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 an **X**, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation participating in this tender is currently or has within the last 12 months, been in the service of any of the following:

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

an employee of Parliament or a provincial legislature	

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

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 or has, within the last 12 months, been in the service of any of the following:

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

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

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:

- authorises the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- confirms that neither the name of the enterprise nor 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. |

A10. DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED) (MBD 5)

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

- 1 Are you by law required to prepare annual financial statements for auditing? **YES / NO**
- 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 a municipality or any other service provider in respect of which payment is overdue for more than 30 days? **YES / NO**
- If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.
- 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**
- If yes, furnish 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**

If yes, 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

A11. ALTERATIONS / AMENDMENTS BY TENDERER

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

If no deviations or modifications are desired, the Schedule hereunder is to be marked NIL and signed by the Tenderer.

PAGE/ITEM	CLAUSE/DESCRIPTION

If there is insufficient space above, the tenderer may append additional sheets.

Number of additional sheets appended by the tenderer to this Schedule (If nil, enter NIL)

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date :

A12. 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 90/10 preference point system. OR
 - b) The applicable preference point system for this tender is the 80/20 preference point system.
 - c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
- (a) Price; and
 - (b) Specific Goals.

1.4 To be completed by the organ of state

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	
SPECIFIC GOALS	
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 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20	or	90/10
$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$	or	$P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$

Where

P_s = Points scored for price of tender under consideration

P_t = Price of bid under consideration

P_{min} = 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 If it is unclear whether the 80/20 or 90/10 preference point system applies, the following will apply:—

- (a) an invitation for tender for income-generating contracts, either the 80/20 or 90/10 preference point system will apply and the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, either the 80/20 or 90/10 preference point system will apply and 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 tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (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)
Local Enterprise	N/A	10	N/A	
B-BBEE	N/A	10	N/A	

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3 Name of company/firm _____

4.4 Company registration number _____

4.5 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (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.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

PAGE LEFT BLANK INTENTIONALLY

A13. 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:		
No.	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		

If there is insufficient space above, the tenderer may append additional sheets.

Number of additional sheets appended by the tenderer to this Schedule (If nil, enter NIL)

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date :

A14. PERFORMANCE MANAGEMENT SYSTEM

The Municipal Finance Management Act (No. 56 of 2003) Section 116 (2) (d) determines that a Municipality must enter into a Performance Management System (PMS) with all service providers.

An assignment specific PMS has been drafted and needs to be signed by the appointed signatory as part of this tender document and the costing for this project will run during the 2023/2024, 2024/2025, & 2025/2026 financial budget years.

ACCEPTANCE OF PMS AGREEMENT

You are hereby requested to sign this document as acceptance of the agreement. Failure to sign this document will lead to disqualification.

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date

CONTRACT	Bid for a Panel of Consultants to render Professional Engineering, Quantity Surveying, and Architectural Services for Various Projects in Midvaal Local Municipality	
BIDDER		
TERM OF CONTRACT	From Date of award till	TENDER NUMBER:
PERIOD OF ASSESSMENT		RESPONSIBLE OFFICIALS

KEY AREA	KEY PERFORMANCE INDICATOR	RESPONSIBLE PERSON & TARGET DATE	OUTCOME OF PERFORMANCE ASSESSMENT	RECTIFICATION MEASURES TO BE IMPLEMENTED IN THE CASE OF REPORTED DEVIATIONS	AGREED RECTIFICATION MEASURES TO COMPLY
KEY DELIVERABLES AS PER TENDER SPECIFICATIONS					
Project Initiation	- Obtain Health & Safety file from the Contractor and have approved. - Confirm that the department of labour is informed about the project. - Approve the construction programme. - Confirm that construction guarantees, and the necessary insurances are in place. - Signed construction drawings by a registered engineer	Consultant Within 14 days of contract award.			
Contract Administration	- Provide monthly progress report. - Obtain monthly labour reports as required for both MIG and EPWP reporting and forward to MLM by 7th of the month. - Evaluate the contractor updated construction programme. - Check & process invoices within 7 days. - Arrange and chair site meetings at least monthly.	Consultant Within 14 days of contract award. Monthly.			

Construction	1. Monitor compliance with health and safety requirements. 2. Monitor compliance with quality requirements. 3. Monitor progress in accordance with approved construction programme. 4. Provide information and interpretation of designs as required. 5. Promptly attend to all contract completion activities. Compliance with contractual dates	Consultant Within 14 days of contract award. Monthly or as required.			
4. Indemnity Clause	Indemnification of Midvaal Local Municipality of any in-juries or losses that may occur during the execution of work	Service Provider Annually			
5. Occupational Health & Safety Act	Compliance to Occupational Health & Safety Act at all times including Covid 19 Regulations	Service Provider Ongoing			

6. Consultant Compliance with Project Management	1. Professional Indemnity Insurance in place for consultant 2. Administer the project to meet program timelines. 3. Submission of reports on time 4. Omissions in the designs that might result in Variation Orders beyond 15% of contract amount. 5. Omissions in the specification that might result in Variation Orders beyond 15% of contract amount. 6. Omissions in the BoQ that might result in Variation Orders beyond 15% of contract amount. 7. Failure to manage the project in anyone of the Project Management Knowledge areas	Service Provider Annually			
7. Supply chain requirements	1. Certified copy of company registration 2. Proof of Banking details 3. CSD compliance status 4. Ensure compliance for contractor's UIF Certificates 5. Ensure compliance for contractor's Workman's compensation	Service Provider Annually			

Comments:



Accepted and agreed upon:

ON BEHALF OF SERVICE PROVIDER

Project Manager

Director/HOD

DATE

DATE

DATE

A15. ISO 9001:2000/2008 CERTIFICATION

If applicable, the tenderer shall append proof of their ISO 9001:2000/2008 certification to this schedule.

Points for quality will be awarded to tenderers who are ISO 9001:2000/2008 certified and/or are awaiting accreditation and/or are in the process of implementing a Quality Management System. Proof of the aforementioned must be provided by an accredited implementing agent or service provider. Tenderers are referred to Appendix 2: Evaluation of Tender Offer to ensure information required and the applicable scoring. Where the entity tendering is a joint venture, provided one of the parties is ISO 9001:2000/2008 certified, and it has been indicated on the work plan submitted that, that party will take responsibility for quality management, then the joint venture will be awarded the respective tender evaluation points.

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date :

A16. PROFESSIONAL INDEMNITY INSURANCE

The tenderer is referred to clause F.2.1.4 of the Tender Data and Clause 5.4 of the Contract Data and shall state below details of the professional indemnity insurance held by the tenderer. Where the tenderer is a joint venture, each party to the joint venture must submit details of their professional indemnity insurance. Proof of insurance must be appended to this schedule.

PROFESSIONAL INDEMNITY INSURANCE HELD		
NAME OF INSURED	NAME OF INSURER	LIMIT OF INDEMNITY IRO EACH CLAIM

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date :

A17. DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (MBD 8)

- 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. wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 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:		
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.

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date :

A18. CERTIFICATE OF INDEPENDENT BID DETERMINATION (MBD9)

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).²² 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:

I, the undersigned, in submitting the accompanying bid:

Bid No: 8-2-2-391 (2023-2026): THE PROVISION OF PROFESSIONAL ENGINEERING, QUANTITY SURVEYING AND ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS IN MIDVAAL LOCAL MUNICIPALITY

in response to the invitation for the bid made by:

Midvaal 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

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.

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.
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.

(Print Company Name)

.....

Signed on behalf of Tenderer :

Date : ...

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

A19. PROTECTION OF PERSONAL INFORMATION ACT

CONSENT AND ACKNOWLEDGMENTS IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT 2013 (POPI)

This section sets out how personal information will be collected, used and protected by Midvaal Local Municipality hereinafter referred to as “MLM”, as required by the Protection of Personal Information Act. The use of the words “the individual” for the purposes of this document shall be a reference to any individual (bidder) communicating with MLM and/or concluding any agreement, registration or application, with the inclusion of each of those individuals referred to or included in terms of such agreement, registration or application.

1. What is personal information?

The personal information that MLM requires relate to names and surnames, birth dates, identity numbers, passport numbers, demographic information, education information, occupation information, health information, addresses, memberships, and personal and work email and contact details.

2. What is the purpose of the collection, use and disclosure (the processing) of personal information?

MLM is legally obligated to collect, use and disclose personal information for the purposes of:

- reporting MLM initiatives to the Gauteng Provincial Treasury and Sedibeng District Municipality;
- reporting to National Treasury all contracts awarded;
- obtaining information related to Tax Compliance information from SARS;
- Verifying information on the National Treasury database of defaulters;
- evaluating and processing applications for registration on the database;
- compiling statistics and other reports;
- providing personalised communications;
- complying with the law; and/or
- for a purpose that is ancillary to the above. Personal information will not be processed for a purpose other than what is identified (the purpose) above without obtaining consent beforehand.

3. How will MLM process personal information?

MLM will only collect personal information for the purpose as stated above. Information will be collected in the following manner:

- directly from the individual;
- from service providers who provided with services or goods to MLM;
- from MLM’s own records relating to previous supply of services or goods; and/or
- from a relevant public or equivalent entity.

4. To whom will personal information be disclosed?

The personal information may be disclosed to other relevant public or other entities on whose behalf we act as intermediaries, other third parties referred to above in relation to the purpose or who are sources of personal information, service providers such as professional bodies who operate across the borders of this country (transborder flow of information) where personal information must be sent in order to provide the information and/or services and/or benefits requested or applied for. In the event of another party/ies acquiring all of or a portion of MLM’s mandate or functions, personal information will be disclosed to that party but they will equally be obliged as we are, to protect personal information in terms of this policy and the law.

5. Consent and Permission to process personal information:

I hereby agree with the policy and provide authorisation to MLM to process the personal information provided for the purpose stated.

- I understand that withholding of or failure to disclose personal information will result in MLM being unable to perform its functions and/or any services or benefits I may require from MLM.

- Where I shared personal information of individuals other than myself with MLM I hereby provide consent on their behalf to the collection, use and disclosure of their personal information in terms of this personal information policy and I warrant that I am authorised to give this consent on their behalf.
- To this end, I indemnify and hold MLM not responsible in respect of any claims by any other person on whose behalf I have consented, against MLM should they claim that I was not so authorised.
- I understand that in terms of POPI and other laws of the country, there are instances where my express consent is not necessary in order to permit the processing of personal information, which may be related to police investigations, litigation or when personal information is publicly available.
- I will not hold MLM responsible for any improper or unauthorised use of personal information that is beyond its reasonable control.

6. Rights regarding the processing of personal information:

- The individual may withdraw consent to the processing of personal information at any time, and should they wish to do so, must provide MLM with reasonable notice to this effect. Please note that withdrawal of consent is still subject to the terms and conditions of any contract that is in place. Should the withdrawal of consent result in the interference of legal obligations, then such withdrawal will only be effective if MLM agrees to same in writing. MLM specifically draws to the attention that the withdrawal of consent may result in it being unable to provide the requested information and/or services and/or financial or other benefits.
- In order to withdraw consent, please contact the Information Officer at Johannesm@midvaal.gov.za
- A copy of the full MLM policy is available at our offices, situated at Head Office, 25 Mitchell Street, Meyerton, 1961, South Africa.
- Individuals are encouraged to ensure that where personal information has changed in any respect to notify MLM so that our records may be updated. MLM will largely rely on the individual to ensure that personal information is correct and accurate.
- The individual has the right to access their personal information that MLM may have in its possession and are entitled to request the identity of which third parties have received and/or processed personal information for the purpose. Please note however, that any request in this regard may be declined if:
 - the information comes under legal privilege in the course of litigation,
 - the disclosure of personal information in the form that it is processed may result in the disclosure of confidential or proprietary information,
 - giving access may cause a third party to refuse to provide similar information to MLM,
 - the information was collected in furtherance of an investigation or legal dispute, instituted or being contemplated,
 - the information as it is disclosed may result in the disclosure of another person's information,
 - the information contains an opinion about another person and that person has not consented, and/or
 - the disclosure is prohibited by law.

7. Requesting access and lodging of complaints:

- Please submit any requests for access to personal information in writing to MLM's information officer at Johannesm@midvaal.gov.za
- With any request for access to personal information, MLM will require the individual to provide personal information in order to verify identification and therefore the right to access the information.
- There may be a reasonable charge for providing copies of the information requested.
- If any request has not been addressed to satisfaction a complaint may be lodged at the office of the Information Regulator.

Signature:	Date:
------------	-------

A20. TAX CLEARANCE CERTIFICATE AND FINANCIAL STATEMENTS

Note that each party to a Consortium/Joint Venture shall separately comply with the following Tax Clearance Requirements. Failure to do so will result in the tender being rejected.

TAX CLEARANCE REQUIREMENTS

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.

NEED A TAX CLEARANCE? GO ONLINE

- ☐ Electronically request your Tax Compliance Status which will include a unique PIN which you can provide to any third party (if requested) to enable them to verify your tax compliance status online via e-Filing.
- ☐ Request a TCC via e-filing which will give you the option to print the TCC.
- ☐ Or request a TCC at a SARS branch where a SARS agent will be able to print or e-mail the TCC to you.
- ☐ To register for e-filing go to: www.sarsefiling.co.za

A tax compliant status is a holistic view of your tax compliance level across all your registered tax types.

Is your tax compliance status green?

- ☐ Ensure all tax returns are submitted
- ☐ No outstanding debt owed to SARS
- ☐ SARS has been notified of any change of residential or business address
- ☐ Your business is registered for all required tax types e.g. PAYE, VAT, income tax.

Check your tax compliance status by logging onto your e-filing profile and viewing your "my compliance Profile" and rectify any non-compliance.

THIRD PARTY AUTHORISATION TO VIEW BIDDER TCS:

To assist with the evaluation process of your bid we require your consent to check your SARS tax compliance via e-filing. Kindly complete the table below authorising MLM to check TCC for tender purposes only.

TCS Details	
Tax payer name	
Trading Name	
Purpose of request	TENDER
Request Reference number	
PIN	
PIN EXPIRY DATE	

Note: Bidders may attach their Tax compliance status printout to the bidding document.

I, _____ in my capacity as _____ duly appointed as _____

authorised signatory holder, hereby grant **Midvaal Local Municipality** permission to check the _____

TCC status of _____ and it is duly understood that the search is for tender purposes only.

NAME AND SURNAME

DESIGNATION

DATE

SIGNATURE

**A21. MUNICIPAL SERVICES ACCOUNT/ RATE AND TAXES CERTIFICATE FOR SUPPLY CHAIN
PURPOSE**

B1. ADDITIONAL FUNCTIONALITY DOCUMENTS

Any additional functionality documents the tender wishes to provide.

**THIS PAGE SHALL ALSO BE INSERTED IN THE SIGNED
SERVICE LEVEL AGREEMENT.**

C1.1 : FORM OF OFFER AND ACCEPTANCE

1 OFFER

The employer, identified in the acceptance signature block, has solicited submission for pre-qualification and/or offers to enter into a contract for the procurement of:

BID NO 8-2-2-391 (2023-2026) : THE PROVISION OF PROFESSIONAL ENGINEERING, QUANTITY SURVEYING AND ARCHITECTURAL SERVICES FOR VARIOUS PROJECTS IN THE MIDVAAL LOCAL MUNICIPAL AREA.

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

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this Form of Offer and Acceptance, the Tenderer offers to perform all of the obligations and liabilities of the Tenderer 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:

Signature(s)

Name(s)

Capacity

for the Tenderer

(Name and address of organization)

Name and signature of witness

.....

Date

This offer may be accepted by the Employer by signing the acceptance part of this Form of Offer and Acceptance and returning one copy of this document to the Tenderer before the end of the period of validity stated in the tender data, whereupon the Tenderer becomes the party named as the contractor in terms of the conditions of contract identified in the contract data.

Signature(s)

Name(s)

Capacity

for the Tenderer

(Name and address of organization)

Name and signature of witness

Date

ACCEPTANCE

By signing this part of this Form of Offer and Acceptance, the Employer accepts the Tenderer's offer. In consideration thereof, the Employer shall pay the contractor the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the Tenderer's offer shall form an agreement between the Employer and the Tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract are contained in

Part C1 : Agreements and contract data (which include this agreement)

Part C2 : Pricing data

Part C3 : Scope of work

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

C1.3

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, which shall be signed by the authorized representatives(s) of both parties.

The Tenderer shall, within two weeks of 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 on, or just after, the date on which this agreement comes into effect. Failure to fulfil any of the obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the Tenderer, within 5 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(s)

Name(s)

Capacity

for the Employer

(Name and address of organization)

Name and signature of witness

Date

2 SCHEDULE OF DEVIATIONS

The extent of deviations from the tender documents issued by the Employer before the tender closing date

is limited to those permitted in terms of the conditions of tender.

A Tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.

Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents, and which it is agreed by the parties becomes an obligation of the contract, shall also be recorded here.

Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the contract.

1. Subject

Details

2. Subject

Details

3. Subject

Details

4. Subject

Details

5. Subject

Details

By the duly authorized representatives signing this schedule of deviations, the Employer and the Tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the tender schedules, as well as any confirmation, clarification or 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)

Name and signature of witness

Date



For the Employer :

Signature(s)

Name(s)

Capacity

.....
(Name and address of organization)

Name and signature of witness

Date

C1.2: CONTRACT DATA

The Standard Professional Services Contract, Second Edition, July 2009 as published by the Construction Industry Development Board, is applicable to this contract. Copies of these conditions of contract may be obtained from the CIDB or their website www.cidb.org.za.

PLEASE NOTE THAT THE PRO-FORMAS (PAGE 16 TO 23) INCLUDED IN THE STANDARD PROFESSIONAL SERVICES CONTRACT, SECOND EDITION, SEPTEMBER 2005, SHALL NOT APPLY TO THIS CONTRACT AND IS REPLACED WITH OTHER DOCUMENTATION BOUND INTO THIS DOCUMENT

PART 1 : DATA PROVIDED BY THE EMPLOYER

Clause	Description
1	The Employer is Midvaal Local Municipality.
3.4 & 4.3.2	The authorized and designated representative of the Employer is: Name: Municipal Manager The address for receipt of communications is: Telephone : 016 360 7400 Facsimile : 016 360 1522 E-mail :tenders@midvaal.gov.za Address : Civic Centre, 25 Mitchel Street, Meyerton
3.5	The location for the performance of the services shall be within the Midvaal Local Municipal area.
3.11	The penalty for failing to complete any stage of the project as defined in the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Professions Act, 2000, (Act No 46 of 2000) as published in Government Gazette No 38 324, dated 15 December 2015 will be equal to the portion of the fee payable for that stage, plus any additional cost the Employer may have in order to have the stage completed.
3.14	The estimated programme for the execution of the works shall be agreed with the Employer within 14 days after the acceptance of the tender Offer.
5.4.1	The Tenderer is required to provide Professional Indemnity Insurance. A minimum amount of R5 000 000-00 cover is required upon award. the proof of which is to be submitted in the Returnable documents. The Employer however reserves the right to request Professional Indemnity Insurance of a higher value for bigger projects as part of the Risk Analyses in the Standard Conditions of Tender.
5.5	The Tenderer is required to obtain the Employer's written approval for the following: 1. Commencement of detail design and documentation; 2. Commencement of the procurement of tenders; 3. Appointing the successful tenderer/contractor, and 4. Appointing construction monitoring personnel for the construction stage of the contract.
7.2	Delete the words "Personnel Schedule" in this clause and replace with the following : "The Tenderer must submit a list of Key Personnel attached to Returnable Schedule.
8.1	The Tenderer shall commence with the performance of the services within 14 days after the acceptance of the Tenderer's Offer.
8.2.1	The performance of services is concluded when the Tenderer has issued the Final Completion Certificate to the contractor for the completion of the Construction Stage of the Tenderers services and submitted all relevant Record Data to the Employer.
8.4.3(c)	The period of suspension under clause 8.5 is not to exceed 90 days.
9.1	Copyright of documents prepared for the Contract shall be vested with the Employer.
12.1	Interim settlement of disputes is to be by mediation.

- 12.2.1 In the event that the parties fail to agree on a mediator, the mediator is nominated by the President of the South African Institute of Civil Engineers.
- 12.2.4 Final settlement is by arbitration.
- 12.4.2 In the event that the parties fail to agree on an arbitrator, the arbitrator is nominated by the Chairperson of the Association of Arbitrators of Southern Africa.
- 13.1.3 All persons in a joint venture/consortium shall carry a minimum PI insurance as specified in 5.4.1 above.
- 13.4 For contracts involving top structures on housings projects, the period referred to in this clause will be five (5) years.
- 13.5 Remove sub-clause 13.5.1 (b) from this clause.

PART 2 : DATA PROVIDED BY THE TENDERER

1 The Tenderer is *[The Legal name of the Tenderer]*.

The authorized and designated representative of the Tenderer :

Name :

The Tenderer's address for receipt of communications and notices is :

Telephone: Facsimile:

E-mail :

Address (Postal) : Address (Physical) :

.....

.....

.....

.....

Signed Date -----

Name

Position

Tenderer

PART C3: SCOPE OF WORK

C3.1 EMPLOYER'S OBJECTIVE

Since the calling of tenders and the evaluation of submissions is time consuming, tender offers are hereby solicited in order to establish lists of- and/or procure the services of pre-qualified- and/or Preferred/Approved Professional Consulting Engineers, Quantity Surveyor and Architects (discipline: Municipal Infrastructure) for Project Assignments for a period of up to 3 financial years all in accordance with the legislative requirements for the procurement of professional services.

In order not to exclude potential service providers for lengthy periods and to provide equal opportunity to access work, Midvaal Local Municipality shall re-invite tenders periodically not exceeding three years. The Panel will be valid from date of appointment up until 30 June 2026. Each project appointment shall have its own commencement date which shall not exceed a maximum period of thirty-six (36) months, provided the project commencement date was on or before 30 June 2026.

In the same vein, tenderers shall hold offers valid for acceptance by the Employer for a period of three years.

The provision of professional services shall be in the jurisdictional area of Midvaal Local Municipality

C3.2 SCOPE

The Scope of the Work is envisaged to be the provision of Consulting Civil, Electrical and Mechanical Engineering Services (Buildings) as detailed in the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Professions Act, 2000, (Act No 46 of 2000), which may include providing professional Consulting Engineering Services for the different service areas as indicated in Returnable Schedule inclusive of, but not limited to, preliminary studies, design, contract documentation, contract administration, quality inspections/monitoring, project management and special assignments like investigations and reports.

OR

The Scope of the Work is envisaged to be the provision of Architectural Services as detailed in the South African Council for the Architectural Profession Board Notice 122 of 2015. for the different service areas as indicated in Returnable Schedule, inclusive of, but not limited to, preliminary studies, design, contract documentation, contract administration, quality inspections/monitoring, project management and special assignments like investigations and reports.

OR

The Scope of the Work is envisaged to be the provision of Quantity Surveying Services as detailed in the 2015 Guideline Tariff of Professional Fees in respect of Services rendered by persons registered in terms of the Quantity Surveying Profession Act 2000 (Act No 49 of 2000) for the different service areas as indicated in Returnable Schedule, inclusive of, but not limited to, preliminary studies, design, contract documentation, contract administration, quality inspections/monitoring, project management and special assignments like investigations and reports.

Tenderers shall note that the envisaged services provision shall be for projects as perceived in Procurement Legislative documentation.

C3.3

Tenderers shall note that the agreement shall be based on the estimated construction contract value. The envisaged negotiation and agreement shall also be based on the premise that all tenderers appreciate the scope of work of: -

- i) Engineering Assignments in the various disciplines of as defined in the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Professions Act, 2000, (Act No 46 of 2000).
- ii) Architectural Services as detailed in the South African Council for the Architectural Profession Board Notice 122 of 2015.

- iii) Quantity Surveying Services as detailed in the 2015 Guideline Tariff of Professional Fees in respect of Services rendered by persons registered in terms of the Quantity Surveying Profession Act 2000 (Act No 49 of 2000)

C3.4 AWARDING OF BID

- The Council reserves the right to accept any bid or part thereof and does not bind itself to accept the lowest or any bid.
- The panel will be composed of bidders who have passed the minimum requirements.
- Emphasis is put to the fact that being successfully included to the panel does not necessarily mean that work is guaranteed.
- As noted in the specifications, the bid is on an as and when required basis and the award will be made to the highest procurement scoring bidder as and when services are required through the request for quotation process (RFQ).
- A site clarification meeting might be requested as per Terms of Reference (TOR), where necessary.
- An RFQ will be sent to the qualifying panellists per discipline/field requesting them to submit a quote within the specified timeframe, the submission will then be evaluated in terms of the requirements as per the TOR and in terms of PPPFA (highest procurement points scorer).

C3.5 BASIS FOR ALLOCATING ENGINEERING ASSIGNMENTS

For the purposes of allocating engineering assignments to the qualified panellists the following procedure shall apply;

- Project Assignments will be awarded as and when required by the Employer.
- A process of request for quotation from all PSP's from the database/panel per discipline/field shall be followed in assigning Project Assignments.
- This request for a quotation shall be in a form of "TERMS OF REFERENCE (Tor)".
- This Tor shall be a detailed document outlining the project details and clearly indicating the scope of work that the PSP's will be appointed to undertake in order to enable the PSP to produce a financial proposal.
- This Tor will eventually form part of the Service Level Agreement which will be entered into by Midvaal LM and the PSP per project or Assignment.
- The draft SLA is attached as Annexure 1 to this document. As a principle, the selection shall follow the:

N.B.: Notwithstanding compliance with regard to ECSA registration or any other regulations or requirements of the TOR, the employer may perform a risk analysis in respect of the following:

- Reasonableness of the financial offer
- Reasonableness of unit rates and prices
- The tenderers' ability to fulfil its obligations in terms of the tender document, that is, that the tenderer can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience, reputation, personnel to perform the contract, etc.

It should be noted that being included in this panel or database does not serve as a guarantee that the PSP will receive a project/work in the three (3) year period with which this panel will be active. Issuing of projects will be subject to budget availability and the selection will be as outlined above.

Midvaal Local Municipality shall afford PSP's a minimum period of seven (7) calendar days to resubmit the financial proposal after receiving Tor.

The assignment will be categorised per discipline/ field

ANNEXURE 1 BID NO 8-2-2-391 (2023-2026) : DRAFT SERVICE LEVEL AGREEMENT



MIDVAAL LOCAL MUNICIPALITY

P O BOX 9, MEYERTON, 1960

PROFESSIONAL SERVICES LEVEL AGREEMENT
WITH

XXXXXX Consulting.

FOR THE PROJECT "XXXXXXXXXXXX"

June 2023

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APPENDIX C: Organizational structure

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CONDITIONS OF AGREEMENT

1. DEFINITIONS & INTERPRETATION

1.1 Definitions

The Definitions in this Memorandum of Agreement for professional consulting services shall apply, subject to the following amendments and additions: -

- a) “Agreement” means this Form of Agreement between the Client and the Consultant(s) for the execution of all or portion of the Works by the Consultant(s) for defined Services together with any appendices and signed by both parties hereto.
- b) “Client” means Midvaal Local Municipality
- c) “Consultant(s)” means XXXXXXXX.
- d) “Contract Documents” means all documents relating to the Works including those issued by or through the Consultant or the Principal Agent, including, but not limited to, the contract drawings, bills of quantities, specifications and schedules and any amendments thereto.
- e) “Contractor” means any person or body corporate under contract to the Client to execute the Works or part thereof and includes any sub-contractor to whom any part of the Works has been assigned.
- f) “Day” means the period between any one midnight and the next
- g) “Month” means a period extending from a date in one calendar month to the day preceding the corresponding date in the next calendar month, both dates inclusive as according to the Gregorian calendar commencing with any day of the month.
- h) “Party” or “parties” means the Client, consultant/s and “third party” means any other person or entity, as context indicates.
- i) “Principal Agent” means the party (consultant) appointed by the Client to take overall responsibility of the administration of the Project, including the work of other Consultants.
- j) “Projects” means the project named in the Agreement for which the Services are to be provided.
- k) “Services” means the service or services to be performed by the Consultant in accordance with the Agreement and comprises Normal Services, Additional Services and Exceptional Services.
- l) “Stage/s” means the Report Stage, the Preliminary Design Stage, the Design and Tender Stage, the Construction Stage or any other Stage of the Services to be performed by the Consultant, as described in this agreement/ contract.
- m) “Works” means the works to be executed (including the goods and equipment to be supplied to the Client) by the Contractor or Contractors for the achievement of the Project.

1.2 Interpretation

- a) The headings in the Agreement shall not be used in its interpretation.

- b) The singular includes the plural; the masculine includes the feminine and vice versa where the context requires.
- c) If there is conflict between any of the provisions of this Agreement then the following order of priority shall apply in the interpretation of the parties' obligations:-

Additional documents specified in the Specific Provisions
Appendices A & B
Specific Provisions
Conditions of Agreement

2. OBLIGATION OF THE CONSULTANT

2.1 Guideline Scope of Service and Tariff Fee, Gazette 39480, of **04 December 2015**

2.1.1 The consultant shall perform, as a minimum, services as stipulated in the Guideline Scope of Service and Tariff Fee, Gazette 38324 of **04 December 2015**

2.1.2 The Consultant shall exercise reasonable skill, care and diligence in the Performance of the Services.

2.1.3 The Consultant as the Professionally Accredited Personnel with Engineering Council of South Africa is responsible to ensure that his/her designs, scope of work (Construction work) and construction monitoring, will render the services, fully functional and according to approved design upon the completion of the project.

2.2 Exercise of Authority

Where the Services include the exercise of powers to certify, decide or exercise discretion in terms of a contract between the Client and any third party, then the Consultant shall act in accordance with that contract, as an independent professional acting with reasonable skill, care and diligence. It is important to also note that only ECSA accredited personnel is eligible to exercise authority when it comes to certification of work done by the contractor.

2.3 Designated Representative

The Consultant shall designate in writing a Civil Engineer in possession of a Bsc (Civil) or a BTECH (Civil) (Registered, as a Professional Engineer or a Professional Technologies with the Engineering Council of South Africa –ecs) to act as his representative and such person shall have complete authority to receive instructions and to give information to the Client on behalf of the Consultant.

2.4 Co-operation with Others

The Consultant shall perform the Services in conjunction with any other consultants or specialists who are providing services to the Client. The Consultant shall only be responsible for his/her own performance and the performance of his sub-consulting engineers or specialists who have specifically been appointed by him directly to assist him/her with the provision of Services.

2.5 Notice of Change

On becoming aware of any matter which shall materially change or has changed the scope, cost or timing of the Services or Works, the Consultant shall give notice to the Client.

2.6 Construction Monitoring

The Consultant undertakes to provide support to the Client's Project Management Unit and Technical Services Department with regard to monitoring construction on projects to the extent defined in the description of Services, to assess whether the designs are being correctly interpreted, whether the construction techniques are appropriate and whether work is being completed generally in accordance with the plans, specifications and programme.

The responsibility for completing the Works in accordance with the requirements of the Contract(s) remains that of the Contractor(s). The consultant is required to provide a **Level 1 supervision** as defined in the **Guideline Scope of Service and Tariff Fee, Gazette 38324 of 04 December 2015.**

The Consultant must ensure the performance of the Contractor/specialist whom he appointed. The provision of construction stage services creates contractual relationships between the Consultant and the Contractor.

3. OBLIGATIONS OF THE CLIENT

3.1 Information

The Client shall timeously provide to the Consultant, free of cost, all information that may be reasonably required for the provision of the Services. The Consultant shall be entitled to rely on the accuracy and completeness of such information furnished by or on behalf of the Client.

3.2 Responsibility and Decisions

The Client shall assign competent officials be responsible personnel for all interaction with the consultant. The said officials shall give their decision on all matters properly referred to them in writing by the Consultant within (7) seven days so as not to delay the services or the Contract.

3.3 Assistance

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

- a) Authorize the Consultant to act as his agent as may be necessary for the performance of the Services.
- b) Provide all available documents, maps, plans, record drawings and other relevant information.
- c) Obtain all approvals, licences and permits from governmental, regional and municipal authorities having jurisdiction over the projects and associated tasks and activities.

3.4 Office space

The consultant shall provide office space for his staff in order to execute his/her duties.

3.5 Reporting arrangements

The Consultant shall report directly to the Project Management Unit Manager or his/her designated official/s in all matters relating to this contract. The Consultant shall co-operate and liaise with such officials and specialists, as may be necessary to effectively complete his/her duties but shall not be responsible for them or their performance.

3.6 Notice of Change

On becoming aware of any matter which materially shall change or has changed the scope, cost or timing of the Services or the Works, or on becoming aware of any defects or deficiencies in the Services or the Works whilst in progress or still within the retention period, the Client shall give appropriate notice to the Consultant.

3.7 Issue of Instructions

Where the Consultant is required to administer the work of others or of any contract on behalf of the Client, then the Client shall only issue instructions related to such work or contract through the Consultant. Further, the Client shall not enter into any agreement or contract which describes the duties of the Consultant or imposes obligations on him without first obtaining the Consultant's written agreement thereto.

3.8 Occupational Health and Safety Act

For the purpose of the execution of the works by Contractors, the Consultant is required to comply with the provisions of the Occupational Health and Safety Act, Act 85 of 1993. The Client undertakes to ensure that the PMU and Technical department are well informed to manage the Contractors, who in their capacity for the execution of the works will have accepted liability to comply with the provisions of the said Act and the regulations promulgated in terms thereof.

4. DURATION OF AGREEMENT

4.1 Commencement

The appointment of the Consultant shall commence from the date of signing of this Agreement.

4.2 Completion

Unless terminated under one of the General Conditions of Contract clauses, Special Conditions of Contract, and clauses stipulated in this Service Level Agreement, the appointment of the Consultant shall be completed when the Consultant submits the completion report (Close out report). The submission of the completion report shall be due after a period of one month from the completion date.

4.3 Force Majeure

If circumstances arise for which the Consultant is not responsible and which make it impractical or impossible for the Consultant to perform the Services in the normal manner as contemplated by the parties in accordance with the Agreement in whole or in part, then the Consultant shall promptly notify the Client.

If in those circumstances certain Services have to be suspended, the time for their completion shall be extended by the extent of the delay plus a reasonable period for their resumption or, if the speed of performing certain Services has to be reduced, the time for their completion shall be extended as may be necessary due to the circumstances.

4.4 Termination by the Client

- a) The Client may suspend all or part of the services or terminate the contract/ agreement by notice in writing to the Consultant who will immediately make arrangements to stop the Services and minimize further expenditure.
- b) If the Consultant is in material breach of a term of Agreement and fails to rectify such breach within 14(fourteen) days of the receipt of written notice requiring him to do so.

4.5 Termination by the Consultant

The Consultant may by notice of not less than a month, terminate the Agreement, or at his discretion and without prejudice to the right to terminate, may suspend or continue suspension of performance of the whole or part of the Services,

- a) when 30 days after the submission date for payment account the Consultant has not received payment and the Client has not by that time contested such payment or part thereof in writing, or

- b) when the Services have been suspended under either Clause 4.3 or 4.4 and the period of suspension has exceeded 3 months, or it is clear to the Consultant that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded 3 months, or
- c) If the Client is in material breach of a term of Agreement and fails to rectify such breach within 14 days after the receipt of written notice requiring him to do so.

4.6 Rights and Liabilities of the Parties

Completion, suspension and termination of the Agreement shall not prejudice or affect the accrued rights or liabilities of the parties.

4.7 Contractual Dates

The contractual dates as agreed upon by both parties at the project kick off meeting are as outlined below:

Project Duration: see attached Programme in Annexure D

5. REMUNERATION – GENERAL

5.1 Payment

(Indicate payment as per appointment letter within the framework of Guideline on Tariff and Fees 2015 showing the various phases or stages and the applicable percentage remunerations.) The conditions of this Service Level Agreement shall also be applicable on every claim submitted by the Consultant to the Client. Attached as appendix A.

5.2 Time of Payment

Amounts due to the Consultant shall be paid in full on a monthly basis on the agreed dates or within thirty (30) days from the date of receipt of any account. The Consultant must sign a register kept by the client which will certify the date a payment claim is submitted by the Consultant.

5.3 Disputed Invoices

If any item or part of an item in an invoice submitted by the Consultant is disputed by the Client, the Client shall give written notice with reasons, within 7 days of receiving the invoice and such invoice will be returned to the Consultant for rectification before the invoice could be paid in full. Clause 5.2 shall apply to contested amounts which are finally determined to be payable to the Consultant. Where the Client inadvertently overpays the Consultant then the Consultant shall refund the excess amount on the same basis as in Clauses 5.2 and 5.3.

5.4 Reimbursable Expenses

All authorised expenses incurred by the Consultant in connection with the Services shall be reimbursed on a monthly basis as an additional charge unless specifically incorporated in the fees and expenses set out in ECSA guidelines.

5.5 Independent Audit

In the case of Services carried out on a time charge basis and for all other directly reimbursable expenses the Consultant shall maintain records which clearly identify such time and expenses and shall retain such records for a period of 3 months after the completion or termination of the Services. Within this period the Client may, on not less than 14 days notice, require that a reputable and independent firm of accountant, nominated by the Client and at the Client's expense, audit any such time and expenses claimed by the Consultant by attending during normal working hours at the office where the records are maintained

6. LIABILITY AND INSURANCE

6.1 Liability of the Consultant

The Consultant shall only be liable to pay compensation to the Client arising out of or in connection with the Agreement if a breach of Clause 2 relating to his obligations, is established against him.

6.2 Liability of the Client

The Client shall be liable to the Consultant when a breach of its obligation/s arising out of or in connection with this Agreement is established. The Consultant shall have no separate delictual right of action against the Client.

6.3 Compensation

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

- a) Such compensation shall be limited to the amount of reasonably foreseeable loss and damage suffered as a result of such breach.
- b) The compensation payable by either party shall be reduced by the court/arbitrator/mediator to such extent as is deemed just and equitable having regard to the degree in which the other party or any third party was at fault in relation to the loss or damage. There is no joint liability of the parties and each party shall only be liable for that proportion of the compensation, which is attributable to his faults.
- c) In any event, the amount of such compensation will be limited to the amount specified in Clause 6.5. .
- d) The consultant shall effect professional indemnity to cover third party liability with reputable insurance firm(s).

6.4 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 Client nor the Consultant shall be held liable for any loss or damage resulting from any occurrence unless a claim is made in terms of Clause 8 within the period stated in the Specific Provisions, or, where no such period is stated, within a period of three years from the date of termination or completion of this Agreement.

6.5 Limit of Compensation

The maximum amount of compensation payable by either party to the other in respect of liability under this Agreement is limited to the amount of fees payable to the Consultant under this Agreement, excluding reimbursements and expenses unless otherwise stated in the Specific Conditions.

Each party agrees to waive all claims against the other in so far as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

If either party makes a claim of 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 8 for such costs as may be awarded.

6.6 Insurance for Liability and Indemnity

The consultant agrees to arrange and keep in force professional indemnity insurance cover in respect of the Services provided under this Agreement to the extent of their liabilities under Clause 6.5 until the time at which that liability shall cease in terms of Clause 6.4.

6.7 Indemnity by the Client

The Client shall indemnify the Consultant against all claims by third parties which arise out of or in connection with the rendition of the Services save to the extent that such claims do in the aggregate exceed the limit of compensation in Clause 6.5 or are covered by the insurance's arranged under the terms of Clause 6.6.

6.8 Exceptions

Clauses 6.5 and 6.7 shall not apply to claims arising from deliberate misconduct

7. GENERAL PROVISIONS

7.1 Governing Law

This Agreement shall be governed by all the applicable laws of the Republic of South Africa.

7.2 Changes in Legislation

If, after the date of signing of this agreement/ contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or by-law, or in the requirements of any authority having jurisdiction over any matter in respect of the Project, then the agreed remuneration and time for completion shall be adjusted in order to reflect the impact of those changes as per announced effective date.

7.3 Assignments and Sub-Contracts

- a) Should the Consultant, being an individual or the last survivor 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 this Agreement, this Agreement shall be terminated without prejudice to the accrued rights of either party against the other.
- b) Except as defined in (a) above, each party binds itself and its partners, successors, executors, administrators, assignees and legal representatives to the other party to this Agreement
- c) Neither party shall assign, cede or transfer any right or obligation under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Unless specifically stated to the contrary in any written consent to an assignment. No assignment shall release or discharge the assignor from any obligation under this Agreement.
- d) The Consultant shall not without obtaining the written consent of the Client, which consent shall not be unreasonably withheld, initiate, vary or terminate any contract for performance of all or part of the Services.

7.4 Ownership of Data, Designs and Documents

- a) In accordance with the relevant clauses of the Copyright Act (Act 98 of 1978) relating to assignment, the Consultant shall retain copyright of all documents prepared by the Consultant. The Client shall be entitled to use them or copy them only for the Project and the purpose for which they are intended and need not obtain the Consultant's permission to copy for such use;
- b) The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client.

- c) The Client shall have no right to use any documents referred to in this Clause where any or all of the fees and expenses payable to the Consultant have not been paid in accordance with this Agreement.
- d) In the event that the parties agree that the copyright in the documents shall be ceded to the Client then the Consultant 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 Client thereby indemnifies
- e) The Consultant is obligated to submit, to the Project Management Unit Director or an assigned Project Manager from the PMU, all project data and information such the Preliminary Design Report, Feasibility Study Report, Priced Bill of Quantities, Submitted Tender Documents by Contractors, and other relevant information. The Engineer is to submit all this information in the original format with which they were created (i.e. dwg,xsl.doc,etc.)

Conflict of Interest and Corruption

Unless otherwise agreed in writing by the Client, the Consultant and his personnel shall have no interest in nor receive remuneration in connection with the Project except as provided for in the Agreement. The Consultant shall not engage in any activity, which may conflict with the interests of the Client under the Agreement.

Notwithstanding any damages that may be claimed against the Consultant in law, the Client will be entitled to terminate the Agreement in accordance with Clause 4.4, if it is shown that the Consultant is guilty of:

- 1) Offering, giving, receiving or soliciting anything of value with a view of influencing the behavior or action of anyone, whether a public official or otherwise, directly or indirectly in the selection process or in the conduct of the Agreement; or
- 2) Misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client, including the use of collusive practices intended to stifle or reduce the benefits of fee and open competition.

7.5 Notices

Notices under this Agreement shall be in writing and will take effect from date of receipt at the address stated in the Specific Provisions. Delivery may be by registered letter or by hand and against written confirmation of receipt or by facsimile.

7.6 Publicity and Publication

Unless otherwise specified in the Specific Provisions the Consultant shall not release public or media statements or publish materials related to the Services or Project within two (2) years of completion of the Services without the written approval of the Client, which approval by the Client shall not make premeditated public or media statements relating to the Services provided by the Consultant without the prior and full knowledge of the Consultant.

7.7 Confidentiality

Both parties shall keep all commercially sensitive information obtained by them in the context of the Agreement confidential and shall not divulge it without the written approval of the other party.

7.8 Variations

- a) The Client may order variations to the Services in writing or may request the Consultant to submit proposals, including the time and cost implications, for variations to the services;

- b) The reasonable cost of preparation and submission of such proposals and the incorporation into the Agreement of any variations to the Services ordered by the Client, including any increase in the Consultant's fees and reimbursable costs, shall be agreed between the Consultant and the Client.

7.10 Sole Agreement

This Agreement together with the attachments and appendices detailed in the Agreement and the Specific Provisions constitutes the sole Agreement for the Services between the parties and no representation not contained herein shall be of any force or effect between the parties. No amendments will be of any force and effect unless reduced to writing and signed by both parties as expressly intended to form part of the Agreement.

8. SETTLEMENT OF DISPUTES

8.1 Settlement

The parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to this Agreement and may not initiate any further proceedings until either party has, by written notice to the other, declared that such negotiations have failed.

8.2 Mediation

Any such dispute or claim, which cannot be settled between the parties, may be referred by the parties, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the parties and, failing such agreement, shall be nominated by the President of the South African Association of Consulting Engineers in conjunction with the Provincial Director General of Local Government. The costs of the mediation shall be borne equally between the parties.

8.3 Arbitration/Litigation

If either party were unwilling to agree to mediation or be dissatisfied with the opinion expressed by the mediator or should the mediation fail then such party may:-

- 8.3.1 Serve process instituting action arising out of such dispute or difference in a competent civil court; or
- 8.3.2 With the consent of the other party refer the dispute to arbitration by a single arbitrator to be mutually agreed upon or, failing agreement, to be nominated by the President of the South African Association of Consulting Engineers in conjunction with SALGA. The arbitration shall be in accordance with the provisions of the Arbitration Act of 1965 as amended and shall be conducted in accordance with the Rules for the Conduct of Arbitration's published by the Association of Arbitrators current at the date the arbitrator is appointed.
- 8.3.3 Service of process under Clause 8.3.1 or referral to arbitration under Clause 8.3.2 shall take place within three calendar months of the date of notice from either party declaring that the settlement negotiations under Clause 8.1 have failed, or, if mediation is agreed on, within three calendar months of the date of the mediator's opinion or the date upon which the mediator declares that the mediation has failed. Claims not brought within the time period set out herein will be deemed to be waived.

9. Project Progress Reporting and Scope Definition

10.1 Project Progress Reporting

The Consultant is expected to attend project progress meeting (construction progress meetings, and consultants report on progress to Midvaal) held by the client every month. Over and above these meetings the consultant is expected to co-ordinate and arrange stakeholder's meetings (i.e. Project Steering Committee meetings-PSC), which are to be aligned to the activities or schedule of all meetings relating to this project. The PSC meeting are to be held atleast once a month for the contractual period of this project. The consultant is to produce minutes for these meetings within 7 days after such a meeting is held.

10.2 Scope Definition

The Engineer is appointed to provide Professional Services as defined by the ecsa guidelines. The brief description of the sections above and the extent of the work to be done is given in **Appendix A**.

11. Signatures

THIS DONE AND SIGNED AT **MEYERTON** on this _____ day of _____ 2018

Witnesses:

1. _____

2. _____

On behalf of the Consultant

(XXXXXXX Consulting)

THIS DONE AND SIGNED AT _____ on this _____ day of _____ 2018

Witnesses:

1. _____

2. _____

On behalf of the Client (MLM – MM)
(XXXXXXX Consulting)

APPENDIX A

Financial Model & TERMS OF REFERENCE

APPENDIX B

(LIST RESOURCES OR STAFF TO BE APPLIED TO REQUIRED SERVICES)

List of staff

Name	Time	Qualifications	Roles	category
	%			A
	%			B
	%			C
	%			D
	%			D

APPENDIX C

(ORGANISATIONAL STRUCUTRE)

Proposed Organization Structure for Project

Consultant must provide organizational working structure

APPENDIX D

(TIMEFRAMES) Project Programme

GANTT CHART

TO BE PROVIDED BY THE SERVICE PROVIDER/CONSULTANT

APPENDIX E

(MONITORING AND REPORTING)

- **RECORDS**
- **SCHEDULE OF REPORTS**
- **TIMESHEET TEMPLATES**
- **REPORT FORMATS**

- **Records**

Both Parties shall be responsible for keeping independent records of activities, time outputs, reports, claims and payments. The formats for such records shall be agreed by the parties

- **Schedule of Reports**

-

- -
 -
 -
 -
 -
 -

Report Types
Standard Technical Reports
Service Project Reports
progress reports
AD hoc reports
Report times
Monthly (Month ends)
Ad hoc report: as and when required.

- **Report formats**

The formats for all reports will developed by the consultant and agreed with the client before used

- **Lessons Learnt and recommendations**

Lessons learnt will document in the report. However it will be the clients responsibility to implement or authorize the implementation of all the consultants recommendations arising from the lessons learnt.

APPENDIX F

[DETAILED SCOPE OF WORK – SEE CONTRACT DOCUMENT]

ANNEXURE 2 : TERMS OF REFERENCE TEMPLATE



MIDVAAL LOCAL MUNICIPALITY
25 MITCHELL STREET
MEYERTON
1961

RFQ NUMBER: xxxx/13/01/22

DATE: 13/01/2022
2023)

CONTRACT NUMBER: 8/x/x/x (2022-

BID DESCRIPTION: BID FOR CONSULTANT TO RENDER PROFESSIONAL ENGINEERING SERVICES FOR THE xxxxxxxxxxxx IN MIDVAAL LOCAL MUNICIPALITY

Project description

Terms of Reference (Tor)

Midvaal Local Municipality (MLM) isGive background of project

.

This scope follows the normal services as defined by ECSA guidelines, and is as outlined below

Background

The Project construction costs is estimated to be **R xxxx 000 (VAT Excl.)**

The applicable scope of Work for this phase includes the following:

Design Development

- Design Development drawings
- Outline specifications

- Local and other authority submission drawings and reports
- Detailed estimates of construction costs
- Survey
- Geotechnical Investigations

Documentation and Procurement

- Specifications
- Services co-ordinations
- Working Drawings
- Budget Construction cost
- Tender Documentation
- Priced contract documentation

Contract Administration and Inspection

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

Close-Out

- Valuations for payments certificates
- Works and final completion lists
- Operations and maintenance manuals, guarantees, and warranties
- As-built drawings and documentation
- Final accounts

DELIVERABLES AND TIMEFRAME

The entire contract is for the duration not exceeding **end of contract** and is subject to budget availability.

All deliverables, as defined above, are to be submitted electronically and as hard copies as detailed below:

- The Reports to be submitted in a USB and or a Cloud drive for downloading, and two hard copies for each report
- The drawings to be submitted electronically in separate USB and or Cloud drive for downloading, and three (3) hard copies of each drawing in A0 size.

Note: all work to be submitted in the original format from which they were created, e.g. .xls, .doc, .dwg, etc

PRICING SCHEDULE

Stages of Services	Typical % points for each stage	Percentage (%) Claimable	Amount Claimable
Inception	5	100	
Concept and Viability	25	100	
Design Development	25	100	
Documentation and Procurement	15	100	
Contract Administration and Inspection	25	100	
Close Out	5	100	
Total for Basic Fees			
Discount Offered in %			
Sub-Total			
Occupational Health and Safety per month			R x 000
Supervision per month			R x 000
Surveying			R x 000
Geotechnical Investigation			R x 000
Total Amount for Excl. VAT			
VAT @ 15%			
Total Engineering Fees			

Note: The Supervision component includes all Disbursement and Supervision cost.
Additional Important Information:

Excessive **discounts** are not encouraged as it may compromise time spent to ensure service of quality of the Professional Service Provider and therefore **limited to a maximum of 15%**.

For **any clarification**, please contact Mr. XXX @ [016 360xxx](tel:016360xxx)

All communication must be in writing and emailed to xxx@midvaal.gov.za.

Note!!!! quotations@midvaal.gov.za must be copied at all times.

The submitted quote **must** indicate/include the following:

- Your Company Letter Head, which also includes the Full Name of the Business;
- Details of the contact person;
- Company registration number;
- Company CSD number;
- Valid BBBEE Certificate;
- Proof of locality(Proof of business address/ Proof of rates and taxes) (Page 22)
- Midvaal Local Municipality's vendor number;
- Contract Number as per the panel award;
- Company VAT number (*if VAT vendor*);
- Price/s must include VAT(*for VAT vendors*);
- Delivery Period, i.e. delivery to the municipality after receipt of an official order;
- Offer validity (minimum of 21 working days from the closing date).

Please send your quotation as per the above to this Email: engquotes@midvaal.gov.za

KINDLY PUT THE RFQ NUMBER ON THE SUBJECT LINE.

CLOSING DATE: [07-10-2022](#)

NB: ONLY QUOTATIONS WHICH FULLY ADHERE TO THE ABOVE WILL BE CONSIDERED AND PROCESSED.

Use this number **086 XXXX**, The Municipality's hotline to whistle blow, report fraud and corruption. You don't have to disclose your identity if you don't wish to.

Kind Regards,

[xxxx](#)

Director: [xxx](#)