



CITY OF CAPE TOWN
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MEMORANDUM OF AGREEMENT

FOR THE

**PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE
MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS
TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL
RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002**

MADE AND ENTERED INTO BETWEEN

CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY

And

KERNEELS LION CACHET INGENIEURS (PTY) LTD

(REGISTRATION NO. [REDACTED])

Contract No 26C/2020/21

PREAMBLE

WHEREAS Tender 26C/2020/21 was awarded to **KERNEELS LION CACHET INGENIEURS (PTY) LTD**, in line with resolution **CM61638** dated **2 August 2021** for the **PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002**, for the period from the date of commencement until 30 June 2027.

AND WHEREAS in line with resolution **CM61638** the conclusion of this Contract between the City of Cape Town and **KERNEELS LION CACHET INGENIEURS (PTY) LTD** is subject to the conclusion of the process prescribed by section 33 of the Local Government: Municipal Finance Management Act 56 of 2003;

AND WHEREAS it is recorded that The General Conditions of Contract are the Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1015), as published by the Construction Industry Development Board, read with the Contract Specific Data ("CSD") annexed hereto marked "**PART 2: CONTRACT SPECIFIC DATA**".

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PARTIES

The Parties to this Contract are:

- 1.1. **The City of Cape Town**, a metropolitan municipality, established in terms of the Local Government: Municipal Structures Act. 117 of 1998 read with the Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000, as amended ("**the Employer**"), herein represented by the **City Manager** or his **sub-delegated nominee**, duly authorised hereto;
- 1.2. **KERNEELS LION CACHET INGENIEURS (PTY) LTD**, a private company duly registered in terms of the laws of the Republic of South Africa with registration no: [REDACTED] and with its principal place of business situated at [REDACTED] (the "**Contractor**"), herein represented by its duly authorised representative, [REDACTED] in his capacity as **Director**.

hereinafter jointly referred to as each a "Parties" and in singular, a "Party" and.

2. INTERPRETATION

- 2.1. In the event of any conflict between the provisions of this Contract, the GCC and any Part attached hereto, or any other document incorporated by reference to this Contract, save to the extent expressly stated to the contrary, such conflict will be resolved by giving precedence to such different parts of this Contract in the following order of precedence:
 - 2.1.1. first, the terms and conditions of the CSD;
 - 2.1.2. second, the terms and conditions of the GCC;
 - 2.1.3. third, Parts and Annexures to this Contract; and
 - 2.1.4. fourth, any other documents incorporated by reference.
- 2.2. The provisions of this Contract supersede and replace the provisions of any previous agreement entered into between the Parties relating to the same subject matter.

3. APPOINTMENT AND DURATION

- 3.1. The Employer hereby appoints the Contractor to perform the Scope of Work for the Employer from the Commencement Date.
- 3.2. Unless terminated earlier in accordance with the provisions as set out in the GCC or any other provision in terms of this Contract, this Contract shall commence on **the date of commencement until 30 June 2027.**

4. MUTUAL GOOD FAITH / CO-OPERATION

- 4.1. The Parties represent and undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give effect to the execution of this Contract.
- 4.2. The Parties shall at all times during the continuance of this Contract observe the principles of good faith towards one another in the performance of their obligations in terms of this Contract.

5. OBLIGATIONS OF THE EMPLOYER

- 5.1. The Employer undertakes to perform its obligations in accordance with the Contract, including but not limited to the Scope of Work (**PART 5: SCOPE OF WORK**), subject to the satisfactory fulfilment of the obligations by the Contractor as set out in this Contract.
- 5.2. The Employer shall monitor and evaluate the Contractor's performance in respect of the Scope of Work.

6. OBLIGATIONS OF THE CONTRACTOR

- 6.1. The Contractor hereby agrees and undertakes to perform the Services to the Employer as set out in Scope of Work (**PART 5: SCOPE OF WORK**).
- 6.2. The Contractor will perform the Works as expeditiously as possible and furthermore agrees and undertakes to perform the services in accordance with the operational requirements of the Employer.
- 6.3. The Contractor will ensure that the Works will be of a satisfactory quality and fit for purpose.
- 6.4. The Contractor shall, ensure that its employees, agents, representatives, sub-contractors and suppliers comply with this Contract and all applicable Laws in the execution of the Works.
- 6.5. The Contractor will not conduct any activity of whatsoever nature which may be detrimental to the Employer's reputation and goodwill.

7. PRICING DATA

- 7.1. The Contract Price for the Works shall be as set out in the Pricing Data annexed marked "**PART 4: PRICING SCHEDULE**".
- 7.2. The Contractor shall not be entitled to any other consideration for the rendering of the Works other than as provided for in this Contract.

DETAILS OF THE TENDERER

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

SCHEDULE 1: COMPULSORY ENTERPRISE QUESTIONNAIRE

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

Section 1: Name of enterprise: [REDACTED]

Section 2: VAT registration number, if any: [REDACTED]

Section 2a: National Treasury Central Supplier Database registration number: [REDACTED]

Section 2b: SARS Tax Compliance Status PIN: [REDACTED]

Section 3: cidb registration number, if any: [REDACTED]

Section 4: Particulars of sole proprietors and partners in partnerships

* 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: [REDACTED]

Close corporation number: [REDACTED]

Tax reference number: [REDACTED]

Section 6: Foreign Bidding Suppliers

Is tenderer the accredited representative in South Africa for the Goods / Services / Works offered? ☐ Yes ☐ No

If yes, enclose proof

Is tenderer a foreign based supplier for the Goods / Services / Works offered? ☐ Yes ☐ No

If yes, answer the Questionnaire to Bidding Foreign Suppliers (below)

Questionnaire to Bidding Foreign Suppliers

a) Is the tenderer a resident of the Republic of South Africa or an entity registered in South Africa? ☐ Yes ☐ No

b) Is the tenderer a resident of the Republic of South Africa or an entity registered in South Africa? ☐ Yes ☐ No

c) Does the tenderer have a permanent establishment in the Republic of South Africa? ☐ Yes ☐ No

d) Does the tenderer have any source of income in the Republic of South Africa? ☐ Yes ☐ No

e) Is the tenderer liable in the Republic of South Africa for any form of taxation? ☐ Yes ☐ No

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

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004 or Database of Restricted Suppliers;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of 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; and
- iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

SIGNED ON BEHALF OF TENDERER:

PART 1 : AGREEMENTS

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

C1.1 Form of Offer and Acceptance

Offer

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

CONTRACT 26C/2020/21: PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

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

By the representative of the tenderer, deemed to be duly authorised, signing this part of this form of offer and acceptance, the tenderer offers to perform all of the obligations and liabilities of the service provider 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.

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 service provider in the conditions of contract identified in the contract data.

Signature(s)

Name(s)

Capacity

for the tenderer

(Name of organization/tenderer)

(Address of organization/tenderer)

Name and
signature
of witness

Date 2020/08/20

For official use

**CONTRACT 26C/2020/21: PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE
MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE
REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002**

ACCEPTANCE (TO BE FILLED IN BY THE CITY)

By signing this part of this form of offer and acceptance, the employer identified below accepts the tenderer's offer. In consideration thereof, the employer shall pay the service provider 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:

Clause 1 to 7, and the sub-clauses therein, cited in pages 1 to 5 above;
Part 1: Agreements and contract data (which includes this framework agreement)
Part 2: Special Conditions to Contract
Part 3: General Conditions of Contract
Part 4: Pricing Schedules
Part 5: Scope of Work
Part 6: Site Information
Part 7: Occupational Health and Safety Agreement
Part 8: Protection of the Environment Declaration
Part 9: Contract of Temporary Employment as Community Liaison Officer

and drawings and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable 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 form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

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

Notwithstanding anything contained herein, this agreement comes into effect on the date the parties have signed the table below and confirms receipt from the employer of one fully completed original copy of this agreement, including the schedule of deviations (if any). The tenderer (now contractor) shall within five working days of the agreement coming into effect notify the employer in writing of any reason why he cannot accept the contents of this agreement as a complete and accurate memorandum thereof, failing which the agreement presented to the contractor shall constitute the binding contract between the parties.



THE PARTIES	EMPLOYER	CONTRACTOR
Business Name	City of Cape Town	KERNEELS LION CACHET INGENIEURS (PTY) LTD
Business Registration	n/a	
Tax number (VAT)	4500193497	
Physical Address	Tower Block, Civic Centre, 12 Hertzog Boulevard Cape Town 8001	
Accepted contract sum including tax	Rates Based	Rates Based
Accepted contract duration	the date of commencement until 30 June 2027.	the date of commencement until 30 June 2027.
Signed – who by signature hereto warrants authority		
Name of signatory		
Signed: Date	2023/08/16	2023/08/03
Signed: Location		
Signed: Witness		
Name of Witness		

FORM OF OFFER AND ACCEPTANCE (Continued)

CONTRACT 26C/2020/21: PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

(TO BE FILLED IN BY THE CITY)

Schedule of Deviations

Notes:

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

1 Subject **TENDER NOTICE 2 - DATED 4 SEPTEMBER 2020 - TENDER NO: 26C/2020/21-PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002**

Details

PART 1: AMENDMENTS TO TENDER DOCUMENTATION:

Amendment 1: Tender Notice and Invitation to Tender'

Replace page ii and 2 with iia and 2a

- All the areas where the document refers to 'Activity Schedule' amended to Schedule of Rates.

Amendment 2: Tender Data

Replace page 9 with 9a

- All the areas where the document refers to 'Activity Schedule' amended to Schedule of Rates.

Amendment 3: Returnable Schedules

Replace page 28-29 and 37 with 28a, 29a and 37a

- All the areas where the document refers to 'Activity Schedule' amended to Schedule of Rates.

Amendment 4: Returnable Schedules

Replace page 52 with 52a. Wording change

- From: The tenderer is referred to clause(s) F.2.1.4.5 of the Tender Data and shall indicate on the schedule below at least three projects in the design, repairs, maintenance, quality control, construction monitoring of rail track infrastructure that have been successfully completed or that are underway at present in their local office.
- To: The tenderer is referred to clause(s) F.2.1.4.5 of the Tender Data and shall indicate on the schedule below at least three projects in the design, repairs, maintenance, quality control, construction monitoring of rail track infrastructure that have been successfully completed.

Amendment 5: Pricing Assumptions

Replace page 87-88 with 87a and 88a

- All the areas where the document refers to 'Activity Schedule' amended to Schedule of Rates.

PART 2: RESPONSE TO REQUEST FOR CLARIFICATION

By the duly authorised representatives signing this agreement, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the returnable 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.

PART 2: CONTRACT SPECIFIC DATA

CONTRACT SPECIFIC DATA

The following contract specific data is applicable to this Contract:

Clause 1:

Add the following to the definition of **Employer**:

The **Employer** is the **CITY OF CAPE TOWN**.

Replace the definition of **Key Persons** with the following:

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

Add the following to the definition of **Period of Performance**:

The period(s) of performance for this service is as follows:

Refer to Clause 8 (DELIVERABLES) of the Scope of Work

Add the following to the definition of **Project**:

The project is the **PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002**

Add the following to the definition of **Service Provider**:

The contracting party may be a consortium/joint venture contracting as a formally constituted Joint Venture Partnership, in which all parties are jointly and severally liable. In terms of this definition, the words consortium and joint venture shall be regarded as synonymous.

Delete the definition of **Services** and replace with the following:

The work to be performed by the Service Provider based upon the relevant scope of construction works as described in the Scope of Work.

Add the following to the definition of **Start Date**:

The Start Date is the date when the service provider confirms receipt of one fully completed original copy of this document, including the acceptance part of the form of offer and acceptance, and schedule of deviations (if any).

Replace the words "time for completion" with "Period of Performance".

Add the following definition:

Intellectual Property

Any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

Clause 3

Delete the heading and replace with "**Governing law and policies**"

Add the following after clause 3.1

Clause 3.2

- a) The parties agree that this contract shall also be subject to the Employer's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, **save that if the Employer adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract.** Please refer to this document contained on the CCT's website.
- b) Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by the Employer of any other remedies available to it as described in the SCM Policy.

Clause 3.2

Replace the words "time for completion" with "Period of Performance".

Clause 3.4 and Clause 4.3.2:

Add the following:

The authorised and designated representative of the Employer is the **Director: ROADS INFRASTRUCTURE AND MANAGEMENT**.

The address for receipt of communications is:

Telephone:

E-mail:

Postal Address: PO Box 298
CAPE TOWN
8000

Physical Address: Tower Block
Civic Centre
12 Hertzog Boulevard
CAPE TOWN
8001

Clause 3.4.1:

Add the following to the first sentence:

... , and may be given as set out hereunder and shall be deemed to have been received when:

- a) hand delivered – on the working day of delivery
- b) sent by registered mail – five (5) working days after mailing
- c) sent by email or telefax – one (1) working day after transmission

Clause 3.5:

Add the following:

The location for the performance of the Project will be the **LOCAL OFFICE** of the service provider and on-site locations within the City of Cape Town Municipal area. Key personnel will be expected to work out of the local office as the exigencies of this contract require. The address of the local office will be that as indicated on Schedule 1, Part T2.2: Returnable Schedules, and which will be regarded as the *domicilium citandi et executandi* for the purposes of any contract arising from this tender submission

Clause 3.9.1:

Add the following after f):

- g) a change in the cost of the construction works applicable to the services

Clause 3.9.2:

Replace the words "6 weeks" with "21 days".

Add the following at the end of the clause:

Should any of the event described in clause 3.9.1 occur, the professional fees and disbursement may be adjusted in a fair and reasonable manner. The Service Provider shall, however, not be entitled to an adjustment to the extent that the variation is due to the negligence or default of the Service Provider. The Service Provider is required to provide all necessary substantiating documents required by the employer to evaluate the request for variation.

Clause 3.9.3:

Delete the clause and replace with the following:

The Employer shall assess the changes to the Contract Price proposed by the Service Provider on any fair and reasonable basis. The Employer may assess these changes on the effect of the event on the Services based on the time-based fees as stated in the Pricing Data.

Clause 3.9.2:

Replace the words "6 weeks" with "21 days".

Clause 3.9.3:

Add the following:

The time-based fees used to determine changes to the Contract Price are as stated in the Pricing Data.

Clause 3.12

Delete the heading and replace with "Penalties and fines"

Clause 3.12.1

Add the following:

If due to his negligence, or for reasons within his control, the Service Provider does not deliver the relevant project by the required Delivery Date, the Employer shall without prejudice to his other remedies under the Contract or in law, be entitled to levy a penalty for every Day or part thereof, which shall elapse between the Delivery Date and the actual date of completion, at the rate equal to 25% of the daily rate(s) applicable to the relevant part of the Service, and up to the maximum of 25% of the total price applicable to the contract. Note that this clause 3.12.1 deals with a penalty for late delivery only, and does not permit payment for work not actually performed to the satisfaction of the Project Manager.

Clause 3.12.2

Replace Clause 3.12.2 with the following:

Where the Service Provider is in material breach of a term of the Contract (and whether or not the Employer has become entitled to the maximum penalty in 3.12.1), the Employer may terminate the Contract in terms of clause 8.4 and / or may give notice to the Service Provider that he will have the relevant Services completed in-house or by another service provider.

Clause 3.12.3

The Employer may impose the following additional penalties or fines:

- a) Penalties for breach of conditions of granting preferences in terms of the **Preference Schedule**.
- b) Penalties for failure to meet targeted labour and local enterprises contract participation goals (if applicable)
- c) Any other fines or penalties levied in accordance with any of the specifications.

Clause 3.13.1

Replace Clause 3.13.1 with the following:

Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services (except where such funds are provided only by way of fees payable for time-based work) shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, or at any other time as required by the Project Manager, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.

Clause 3.15.1:

Add the following:

The programme shall be submitted within **14** days of the Start Date.

Clause 3.16.2:

Replace the words "in which the start date falls" with "prior to the closing date of the tender".

Add the following:

The indices are those contained in Table A of the P0141 Consumer Price Index for the **CPI for services** published by Statistics South Africa.

Clause 3.17: Price adjustment due to content imported from outside South Africa

Add the following clause after clause 3.16

3.17.1 General

3.17.1.1 Price adjustment of any resources imported from outside the Republic of South Africa will be permitted **only** in respect of the following variables:

- (a) Variations in Rates of Exchange as detailed in Clause 3.17.2,
- (b) Variations in Customs Surcharge and Customs Duty as detailed in Clause 3.17.3, and
- (c) Labour and material cost variations in the relevant industries of the countries from which the resources are imported as detailed in Clause 3.17.5.

3.17.1.2 The value of any resources imported from outside South Africa inserted in the schedule titled **Price Basis for Imported Resources** and subject to Clause 3.17.2 shall be deducted from the total values to be adjusted by the Contract Price Adjustment Factor. Any resources not inserted in the schedule titled **Price Basis for Imported Resources** shall be deemed not to be imported into South Africa for the purposes of Contract Price Adjustment.

3.17.2 Variations in Rates of Exchange

3.17.2.1 Adjustment for variations in rates of exchange shall be based on the following:

- (a) The Tenderer shall have completed the schedule titled **Price Basis for Imported Resources** for all imported resources intended to be subject to variations in rates of exchange, subject to the following:
 - i. the value in foreign currency inserted in column (A) shall be subject to Clause 3.17.2 (e) when recalculating the Rand value,
 - ii. the rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by Council's main banker, Nedbank, on the Base Date, rounded to the second decimal place, subject to sub-paragraph iii. below,
 - iii. if the rate of exchange inserted by the Tenderer differs from the Nedbank rate referred to above, then the Nedbank rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly, without altering the price in the Pricing Schedule for the relevant items, and
 - iv. if a quotation from a supplier or sub-contractor provides for variations in rates of exchange, the Service Provider may **only** claim for variations in rates of exchange if he binds the supplier or sub-contractor to the same provision to take out forward cover as described in sub-paragraph (b) below.
- (b) The Service Provider (or supplier or sub-contractor) shall within five working days from the date of placing a firm order on an overseas supplier, cover or recover forward by way of a contract with a bank which is an authorised foreign exchange

dealer, the foreign exchange component of the cost of any imported resources inserted by the Tenderer in the schedule titled **Price Basis for Imported Resources**.

- (c) When the Service Provider (or supplier or sub-contractor) so obtains forward cover, the Service Provider shall immediately notify the Employer of the rate obtained and furnish the Employer with a copy of the foreign exchange contract note.
- (d) Based on the evidence provided in sub-paragraph (c) above, the value in Rand inserted in column (C) of the schedule titled **Price Basis for Imported Resources** shall be recalculated using the forward cover rate obtained, and any increase or decrease in the Rand value defined in Clause 3.17.5 shall be adjusted accordingly, subject to sub-paragraph (e) below.
- (e) The adjustments shall be calculated upon the value in foreign currency in the Service Provider's (or supplier's or sub-contractor's) **forward cover contract**, provided that, should this value exceed the value in foreign currency inserted in column (A) of the schedule titled **Price Basis for Imported Resources**, then the value in column (A) shall be used.

3.17.3 Variations in Customs Surcharge and Customs Duty

- (a) Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in the schedule titled **Price Basis for Imported Resources** and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable or to the foreign exchange rate used by the authorities, shall be adjusted accordingly.
- (b) The Tenderer shall state the Customs Duty Tariff Reference applicable to each item and the Service Provider shall advise the Employer of any changes which occur.

3.17.4 Value of Imported resources at Base Date

- 3.17.4.1 The Rand value of imported resources inserted in the schedule titled **Price Basis for Imported Resources** (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by Council's main banker, Nedbank, on the Base Date rounded to the second decimal place (column (B)), to which shall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).

3.17.5 Variation in labour and material costs of imported resources

- 3.17.5.1 If the prices for imported resources are not fixed, the Service Provider shall in his Tender specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices and relative proportions of labour and material on which his Tender prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.

- 3.17.5.2 Failure to specify a formula in the Tender shall mean that the prices are fixed or shall be deemed to be fixed.

Clause 4.7:

Add the following:

Payment of the tendered basic fee for normal services shall be in accordance with Clause 9 in Part C2.1 Pricing Assumptions.

Clause 5.4.1:

Add the following:

The Service Provider is required to take out and maintain, for the full duration of the performance of this contract, the following insurance cover:

- a) Professional Indemnity (PI) insurance providing cover in an amount of not less than R5 000 000 in respect of each and every claim during the period of insurance. Where the entity tendering is a joint venture then the value of the PI insurance cover required may be shared between the joint venture partners in proportion to the percentage contribution of each party to the joint venture.
- b) Public Liability insurance with a limit of indemnity of not less than R20 000 000 for any single claim, the number of claims to be unlimited during the contract period.
- c) Insurance in terms of the provisions of the Compensation for Occupational Injuries and Diseases (COID) Act No. 130 of 1993.

The Service Provider shall ensure that any sub-contractors engaged in construction activities shall, in addition to the Public Liability and COID Insurances as described above, also take out and maintain contractors all risks insurance to the value of the work being undertaken.

Clause 5.4.2

Add the following:

Evidence of insurance or confirmation (warranty) from a reputable Insurance Broker that the required insurances are in place, shall be submitted within 14 days of the Start Date.

Add the following clause after Clause 5.4.2:

- 5.4.3 The Service Provider shall maintain the insurance policy/ies for the duration of the liability period in terms of Clause 13.4 and shall upon request by the Employer provide periodic proof of such insurance.

Clause 5.5:

Add the following:

The Service Provider is required to obtain the Employer's prior approval in writing before taking any of the following actions:

- a) Replacing any of the key personnel listed at the time of tender.
- b) Occupying any public land or facility for any purpose that will cause disruption and or inconvenience to the users of such land or facility in respect of any construction contract.
- c) Making a material change, addition or omission from the approved designs.
- d) The exercising of any discretion in terms of any terms and conditions in this contract, that results in the utilisation of any of the contingency allowance, increasing the contract value or awarding any additional time as detailed in the relevant contract conditions.
- e) Permitting advance payment for items not listed in the Advance Payment Schedule.
- f) Nominating the Employer's Agent Representative.
- g) Delegation of Employer's Agent authority in terms.
- h) Granting permission to work during non-working times.
- i) Suspend the progress of the works.
- j) The issuing of an instruction to accelerate progress.

Clause 6.4:

Add the following clause after Clause 6.3:

6.4 Conflict of interest

The Service Provider shall immediately disclose any potential conflict of interest or involvement in the project other than a professional interest in terms of this Contract.

Clause 7.1.2

Add the following:

Key Persons shall be those individuals listed under "Key personnel" in Part C3.1 Scope of Work.

Clause 7.2.1:

Add the following:

The Service Provider shall provide appropriate Personnel for such time periods as required and shall enter all data pertaining to Personnel and Key Persons on the Personnel Schedule (comprised of Schedules 9 and 16, Part T2.2 : Returnable Schedules).

Clause 8.1:

Add the following:

The Service Provider is to commence the performance of the Services within 14 days of the Start Date.

Clause 8.4.1:

Delete "or" at the end of Clause 8.4.1(d) and add the following three clauses after Clause 8.4.1(e):

- a) if the Service Provider has failed to provide the required insurances within the prescribed time;
- b) if the Service Provider has committed a corrupt or fraudulent act during the tender process or the execution of the Contract;
- c) if the Service Provider has benefitted from an official or other role player committing any corrupt or fraudulent act during the tender process or in the execution of the Contract;
- d) if a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the Employer follows the processes as described in its SCM Policy; or
- e) The implementation of the contract may result in reputational risk or harm to the City as a result of (inter alia):
 - a. reports of poor governance and/or unethical behaviour;
 - b. association with known family of notorious individuals;
 - c. poor performance issues, known to the Employer;
 - d. negative social media reports; or
 - e. adverse assurance (e.g. due diligence) report outcomes.

Clause 8.4.3(c):

Add the following:

The period of suspension under Clause 8.5 is not to exceed 6 months.

Clause 8.4.4:

Delete the content of this clause and replace with the following:

Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge, including any pro-rata payment for partially completed Services, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

Add the following after clause 8.4.5:

Clause 8.4.6

In addition to anything else contained in this contract, the Employer may make either of the following elections to ensure its rights are protected and any negative impact on service delivery is mitigated in instances where the Service Provider has been liquidated:

- a) accept a contractor's proposal (via the trustee / liquidator) to render delivery utilising the appropriate contractual mechanisms; or

- b) terminate the contract, as the liquidator proposed contractor is deemed unacceptable to the employer, at any time by giving written notice to the contractor (via the trustee / liquidator).

Clause 9:

Delete the clause and replace with the following:

- 9.1 The Service Provider acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Employer.
- 9.2 The Service Provider hereby assigns to the Employer, all Intellectual Property created, developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.
- 9.3 The Service Provider shall, and warrants that it shall:
- 9.3.1 not be entitled to use the Employer's Intellectual Property for any purpose other than as contemplated in this contract;
- 9.3.2 not modify, add to, change or alter the Employer's Intellectual Property, or any information or data related thereto, nor may the Service Provider produce any product as a result of, including and/or arising from any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Employer;
- 9.3.3 not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Employer;
- 9.3.4 comply with all reasonable directions or instructions given to it by the Employer in relation to the form and manner of use of the Employer's Intellectual Property, including without limitation, any brand guidelines which the Employer may provide to the Service Provider from time to time;
- 9.3.5 procure that its employees, directors, members and contractors comply strictly with the provisions of clauses 9.3.1 to 9.3.3 above; unless the Employer expressly agrees thereto in writing after obtaining due internal authority.
- 9.4 The Service Provider represents and warrants to the Employer that, in providing goods, services or both, as the case may be, for the duration of the contract, it will not infringe or make unauthorised use of the Intellectual Property rights of any third party and hereby indemnifies the Employer from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorised use by the Service Provider of any third party's Intellectual Property rights.
- 9.5 In the event that the contract is cancelled, terminated, ended or is declared void, any and all of the Employer's Intellectual Property, and any and all information and data related thereto, shall be immediately handed over to the Employer by the Service Provider and no copies thereof shall be retained by the Service Provider unless the Employer expressly and in writing, after obtaining due internal authority, agrees otherwise.
- 9.6 Copyright of all documents prepared for the project, and the patent rights or ownership in any plant, machine, item, system or process designed or devised, shall be vested with the Employer. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.
- 9.7 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.
- 9.8 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

Clause 11.1:

Add the following:

A Service Provider may not sub-contract any work which he has the skill and competency to perform, unless he has the Employer's prior approval in writing.

Clause 12.1.2:

Add the following:

Interim settlement of disputes is to be by mediation.

Clause 12.2.1:

Add the following:

In the event that the parties fail to agree on a mediator, the mediator is nominated by the **President of the South African Institution of Civil Engineering**.

Clause 12.2.4:

Add the following:

Final settlement is by **litigation**.

Clause 12.3.3:

In the event that the parties fail to agree on an adjudicator, the adjudicator is nominated by the **President of the South African Institution of Civil Engineering**.

Clause 13.1:

Add the following clause after Clause 13.1.3:

13.1.4 The Employer and the Service Provider shall enter into an agreement to complete the Services required for the Project in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act No. 85 of 1993 and the Construction Regulations, 2014 promulgated thereunder.

An agreement is included in the Contract Document (C1.3 of Contract Data) and shall be completed and submitted to the Employer together with a letter of good standing from the Compensation Commissioner (if not insured with a licenced compensation insurer) within fourteen (14) days of the Start Date. The Service Provider shall ensure that any letter of good standing shall be timeously renewed in order that it remains in full force for the duration of the Contract.

Clause 13.4:

Delete the content of this clause and replace with the following:

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within a liability period of five years, which period shall commence on the earlier of:

- (a) Final completion of the construction contract.
- (b) Suspension, postponement, expiry or termination of all construction contracts.
- (c) Cancellation or termination of this Contract.

Clause 13.7.3:

Add the following clause after Clause 13.7.2:

13.7.3 The Service Provider hereby indemnifies the Employer against all claims by third parties which arise out of or in connection with the Services rendered under this Contract and where such claims are the consequence of breach by the Service Provider to exercise reasonable professional skill, care and diligence in the exercising of its obligations.

Clause 14.5:

Add the following new clause after Clauses 14.4:

Clause 14.5: Tax Invoices

Section 20(1) of the Value Added Tax Act No. 89 of 1991 requires that a supplier (person supplying goods or services) who is registered as a VAT vendor issue to the recipient a tax invoice within 21 days of the date of a supply whether requested or not.

The Service Provider shall provide a tax invoice (VAT invoice) which shall be included with each account delivered to the Employer in terms of Clause 14. Failure by the Service Provider to provide a tax invoice (VAT invoice) timeously may delay payment by the Employer and no interest shall accrue.

Clause 14.6: More frequent payments

The Service Provider may submit a fully motivated application regarding more frequent payment to the Employer's Project Manager to be submitted to the Employer for consideration. Requests for more frequent payments will be considered at the sole discretion of the Employer and is not a right in terms of this contract.

Clause 15:

Add the following:

The interest rate will be the prime interest rate of the Employer's Bank at the time the amount is due.

Clause 16: Periodic review

This Agreement is valid from the commencement date outlined herein and is valid until further notice. This Agreement shall be reviewed once every three years; however, in lieu of a review during any period specified, the current Agreement will remain in effect. The purchaser reserves the right to reduce or increase the scope of works according to the dictates of the budget, to terminate this contract, and/or to review and terminate this contract as is contemplated in Section 116(1)(b)(iii) of the Local Government: Municipal Finance Management Act 56 of 2003, without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge in this regard. The supplier shall however be entitled to pro-rata payment for all services carried out in terms of any adjustment to the Scope of Work or, in the case of termination, payment for good delivered.

Clause 17: Protection of Personal Information

The supplier acknowledges that it will be processing personal information as defined in the Protection of Personal Information Act No. 4 of 2013 relating to City customers, on behalf of the City. Accordingly, it undertakes to ensure compliance with the Act in respect of its processing activities. In particular, it undertakes to keep such information confidential and not to disclose it unless required by law or in the course of the proper performance of its duties. Furthermore, it undertakes to maintain security measures as envisaged in Sections 19 and 21 of the Act. The requirements of this clause apply to all agents and subcontractors acting on behalf of tenderers and must be included in all contracts between tenderers and their agents or subcontractors."

Clause 18. Performance Monitoring

As required by section 116(2)(b) of the Local Government: Municipal Financial Management Act 56 of 2003, the City shall monitor the performance of the contractor/supplier on at least a monthly basis, and the supplier agrees to provide the City with its full cooperation in this regard.

PART 3: GENERAL CONDITIONS OF CONTRACT

C1.2 Contract Data

Part 1: Contract Data provided by the Employer

GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract are the **Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1015)**, as published by the Construction Industry Development Board.

Copies of these General Conditions of Contract may be obtained from the Construction Industry Development Board's website www.cidb.org.za. Copies of the General Conditions of Contract are also available for inspection and scrutiny at the offices of the Employer.

The pro-formas attached to the Standard Professional Services Contract (July 2009) on pages 17 to 24 shall not apply to this Contract and shall be replaced with the documentation bound into this Contract Document.

The General Conditions of Contract make several references to the Contract Data for specific data, which together with the standard contract collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the General Conditions of Contract.

The General Conditions of Contract shall be read in conjunction with the variations, amendments and additions set out in the Contract Specific Data below. Each item of data given below is cross-referenced to the clause in the General Conditions of Contract to which it mainly applies.

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- f) the Form of Offer and Acceptance,
- g) the Contract Specific Data within the Contract Data,
- h) the General Conditions of Contract
- i) the Scope of Work, and
- j) the Pricing Data.

If an ambiguity or discrepancy is found in the documents, the Employer shall issue any necessary clarification or instruction.

PART 4: PRICING SCHEDULE

1. C2.1 Pricing Assumptions

Pricing Assumptions mean the criteria as set out below, read together with all Parts of this contract document, which it will be assumed in the contract, that the tenderer has taken into account when developing his prices.

1. The short descriptions given in the Schedule of Rates below are brief descriptions used to identify the activities for which prices are required. Detailed descriptions of the activities to be priced are provided in the Scope of Work.
2. For the purpose of the Schedule of Rates, the following words shall have the meanings hereby assigned to them:
 - Unit: The unit of measurement for each item of work.
 - Rate: The agreed payment per unit of measurement.
 - Sum: An agreed lump sum payment amount for an item, the extent of which is described in the Scope of Work, but the quantity of work which is not measured in any units.
3. A rate, sum, and/or price as applicable, is to be entered against each item in the Schedule of Rates. **An item against which no rate is/are entered, or if anything other than a rate or a nil rate (for example, a zero, a dash or the word "included" or abbreviations thereof) is entered against an item, it will also be regarded as a nil rate having been entered against that item, i.e. that there is no charge for that item.** The Tenderer may be requested to clarify nil rates, or items regarded as having nil rates; and the Employer may also perform a risk analysis with regard to the reasonableness of such rates.
4. The rates, sums, and prices in the Schedule of Rates are to be fully inclusive prices for the work described under the several items. Such prices and rates are to cover all costs and expenses that may be required in and for the execution of the work described in accordance with the provisions of the Scope of Work, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract Data, as well as overhead charges and profit. The rates, sums and prices rates shall include for all payments to administrative, clerical and secretarial staff used to support professional and technical staff.
5. Where quantities are given in the Schedule of Rates, these are provisional and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in the Schedule of Rates. In respect of time based services, the allocation of staff must be agreed with the employer before such services are rendered.
6. Provision for time-based services which fall beyond the scope of normal services as described in the Scope of Work has been made in the Schedule of Rates. This provision is for services provided on instruction from the Employer and will be deducted in whole or part if not required. The estimated period of involvement of each category of person must be agreed with the Employer before any work in this regard commences.
7. The categories of persons (A, B, C, D) in respect of time-based fee rates for professional services shall be as defined in the relevant guideline scope(s) of services (as referenced in the Specifications).
8. A higher category person undertaking lower category work will be reimbursed, in respect of time-based fees, at the lower category rate.
9. Tenderers are to note that only those recoverable expenses listed in the Schedule of Rates will be reimbursed to the Service Provider. No reimbursement of costs for subsistence, typing, printing/copying (other than reports and/or tender documents), communications or computer hardware and/or software will be made and these costs will be deemed to be included in rates, sums, and prices for normal and additional services rendered.
10. Items for printing/copying shall be for specified contract documents, reports, manuals and drawings, excluding general correspondence, minor reports, progress reports, etc. which shall be deemed to be included in the professional fees. Payment will only be made for copies of reports and drawings submitted to the Employer or issued, as specified or requested by the Employer, and all drafts shall be for the Service Provider's account.
11. Full time construction monitoring staff shall be reimbursed for travelling expenses, for either the return office to site or return home to site journeys, whichever is the lesser. Part time construction monitoring staff shall be reimbursed for either the return office to site or return alternate site to site journeys, whichever is the lesser. Construction monitoring staff engaged in work outside of normal working hours shall be reimbursed for the return home to site journey. Staff other than construction monitoring staff shall only be reimbursed for travelling expenses in respect of trips exceeding 40km per journey (round trip). Payment shall only be made for that portion of the distance that exceeds 40 km.

12. The per kilometer rate for the reimbursement of travel expenses shall be limited to the ad-hoc duty transportation allowance for the Employer's own staff as adjusted from time to time. This rate is currently R3.98/km (excluding VAT).
13. Tenderers are to note that the planning for this contract is based on a three-year budget which is subject to change. While the Employer has every intention to complete the full scope of works, the Employer reserves the right to reduce or increase the scope of works according to the dictates of the budget, or to terminate this contract, without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge in this regard. The Service Provider shall however be entitled to pro-rata payment for all services carried out in terms of any adjustment to the Scope of Work or, in the case of termination, remuneration and/or reimbursement as described in Clause 8.4.4 of the Standard Professional Services contract as amended by the Contract Data.
14. All charges in respect of attendance at meetings and the provision of secretarial services, shall be included in the tendered basic fee for normal services.

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

C2.2 Schedule of Rates

Item No. 1: Engineering Services

1.1: Basic Fee for Normal Services

Item No.	Activity Description	Unit of Measure	Rate (R/hr) excluding VAT
1.1.1	Provide services as described in the Scope of Work in respect of: KEY PERSONNEL Project Leader Civil Engineering Technologist/Technician Occupational Health and Safety Officer Environmental Management Officer	 hr hr hr hr	 <i>R100.00</i> <i>R100.00</i> <i>R450.00</i> <i>R450.00</i>
1.1.2	ADDITIONAL PERSONNEL CAD Operator Administration Support Track Inspector	 hr hr hr	 <i>R100.00</i> <i>R220.00</i> <i>R291.50</i>

1.2: Provision for Time-Based Services including Planning, Studies, Investigations and Assessments

Item No.	Activity Description	Unit	Rate
1.2.1	Provide time-based services on the instruction from the Employer in respect of services that fall beyond the scope of normal services as described in the Scope of Work:		
1.2.1.1	- Category A staff	hr	R710.00
1.2.1.2	- Category B staff	hr	R100.00
1.2.1.3	- Category C staff	hr	R500.00
1.2.1.4	- Category D staff	hr	R400.00
1.2.2	Act as Employers agent in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and the Construction Regulations, 2014.	hr	R450.00
1.2.3	Provide an Environmental Officer (EO) as described in the Scope of Work	hr	R450.00
1.2.4	Provide a level 3 construction monitoring service as described in the Scope of Work	Month	R63 331.85

Item No. 1.3: Recoverable Expenses (Disbursements) – all disciplines

Item No.	Description	Unit	Rate
1.3.1	Recoverable expenses in respect of printing/copying as specified below:		
1.3.1.1	Printing: size A0.	No	R30.00
1.3.1.2	Printing: size A1.	No	R20.00
1.3.1.3	Printing: size A2.	No	R15.00
1.3.1.4	Printing/copying: size A4 (reports and tender documents only).	No	R150
1.3.1.5	Compilation and binding of reports/tender documents, books of drawings	No	R35.00
1.3.1.6	Electronic Data provided on Memory stick	No	R80.00
1.3.2	Recoverable expenses in respect of travelling.	Provisional Sum	500 000
1.3.3	Other costs incurred on behalf of and with the approval of the Employer.	Provisional Sum	600 000
1.3.4	Extra over item 1.3.3 above in respect of all other costs, overhead charges and profit.	10%	R80 000.00

PART 5: SCOPE OF WORK

1. INTRODUCTION

The City of Cape Town owns and maintains six (6) rail freight sidings, totalling 53 kilometres of railway service lines which provide vital rail lines to industry. Recent legislation promulgated under the auspices Department of the Rail Safety Regulator (RSR) requires railway network owners and train operators in the Republic of South Africa to comply with certain stringent safety requirements and further, may only operate rail services subject to the issuing of a Rail Safety Permit by the Railway Safety Regulator.

In terms of Regulations promulgated under the South African Railway Safety Regulator Act (Act 16, 2002), the Department of the Rail Safety Regulator requires that all railway network owners and train operators in the Republic of South Africa comply with certain stringent safety requirements and hold a valid Rail Safety Permit to permit rail services operations.

City of Cape Town's railway siding network consists of the following private sidings:

- Private Siding No. 147737 (Atlantis)
- Private Siding No. 145416 (Vissershok)
- Private Siding No. 141844 (Athlone Refuse Transfer Site)
- Private Siding No. 145432 (Epping 1 & 2)
- Private Siding No. 140457 (Sacks Circle)
- Private Siding No. 142441 (N'Dabeni)

The City of Cape Town currently holds a rail safety permit that is valid until 31 July 2027.

A professional service provider is required to provide the professional services necessary to implement this project, which, in terms of the Municipal Finance Management Act, 2003 and the Municipal Supply Chain Management Regulations, 2005, must be procured through a competitive bidding process. The purpose of this document is therefore to invite tenders from suitably qualified and experienced consulting firms for Tender No **26C/2020/21: PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002**, which will be evaluated using a financial offer and preferences based system as described in the tender data. |

2. BACKGROUND

All current repairs and maintenance work being undertaken on the City rail sidings is either managed by Departmental staff and by contractor service providers. The department is investigating an option to outsourcing professional services to assist with the implementation of the City's Railway Safety Management System and in doing so ensuring compliance with Railway Safety Management Act.

Rail Safety Permit

In terms of regulations promulgated under the South African Railway Safety Regulator Act (Act 16, 2002), the Department of the Rail Safety Regulator(RSR) requires that all railway network owners and train operators in the Republic of South Africa comply with certain stringent safety requirements and hold a valid Rail Safety Permit.

The City of Cape Town currently holds a rail safety permit which is valid until 31 July 2022. It is a requirement that a new application is submitted to RSR at latest three months before closing. In this instance it will be required of the Service Provider to complete the application form each year and compile the supporting documentation for the City of Cape Town to submit to RSR on request.

Railway Safety Management System (RSMS)

In order to be issued with a Rail Safety Permit the City has been required to develop a Railway Safety Management System. This comprehensive management system outlines various roles and responsibilities as well as procedures that need to be carried out to ensure that rail safety is being adequately addressed in terms of the regulations governing rail safety. The Director: Planning has been designated the Nominated Manager responsible for rail safety and hence is required to ensure the Permit conditions and Rail Safety Management System requirements are carried out. This has imposed an additional workload on Transport and the outsourcing of this specialized work is being sought through this contract.

Agreements with Transnet & Spoornet

Transnet Freight, as the train operator, controls the movement and management of rail rolling stock on the City's private siding networks. Interface agreements are in place between City of Cape Town and Transnet to manage this arrangement.

A Transnet Rail Inspector inspects the City's sidings on a regular basis and reports on any defects and advises on the need for any repairs or maintenance. It is a requirement of this tender that the Service Provider liaise with Transnet with regard to the site visits and the reporting of incidents.

Railway Safety Regulator National Information Monitoring System (RSRNIMS) and Safety Permit Conformity Assessment Methodology (SPCAM)

The NIMS and SPCAM has been established for the generation of appropriate and effective information to enable safety performance to be monitored and measured, for benchmarking, for maintaining institutional memory, and for use as a tool for decision-making by both the RSR and the railway industry.

The NIMS online system allows operators (permit holders) to:

- Receive instant feedback from the RSR regarding applications;
- Communicate directly with RSR staff dealing with the permit application;
- Reduce the time it takes to complete and submit applications;
- Simplify the permit application process by updating only necessary information;
- Reduce the operator's administration burden on all rail related administrative operations;
- Store all the operators' documents and permit information in one central repository, and view and track the entire application history for all Permit types from any computer.

NIMS and SPCAM comprise the following modules:

- Permit management
- Occurrence management
- Penalties management
- Audit management
- Asset management

Interface and Intraface Agreements

City of Cape Town railway networks consists of private sidings that is utilized by themselves or serving as exchange yards, allowing access for the physical flow of railway traffic en-route to or from private sidings splitting from it and belonging to another party/operator.

An updated signed Private Siding agreement between Transnet Freight Rail and City of Cape Town is to be implemented or revised annually or as and when required.

Furthermore, agreements to manage interfaces between the City of Cape Town and Operators of the private sidings that splits off from its private siding networks, is in place and is to be signed and updated on an annual basis. Intraface agreements are to be drawn up, signed by the relevant operators and updated on annual basis.

Repairs and Maintenance of the City's Railway Sidings

Contracted repairs and maintenance services

The City's railway siding repair and maintenance function is currently sub-contracted to a competent contractor. These services are contracted on a three-yearly cycle as the Department does not have the necessary resources to undertake this work. The work needs to be carried out in accordance with various codes and standards in order to comply with the technical and safety standards set in terms of South African Railway Safety Regulator Act (Act 16, 2002). It will be expected from the Service Provider to monitor the contractor's quality of workmanship, measure works and process invoices.

3. EMPLOYER'S OBJECTIVE

The objectives of this appointment are as follows:

- The implementation and execution of a Rail Safety Management Plan (RSMP)
- The application for a valid Rail Safety Permit as and when required by South African Railway Safety Regulator
- Day to day management of the repairs and maintenance (R&M) to sidings and site monitoring of the Repairs and Maintenance contract
- Addressing land use management issues affecting the railway sidings
- Reporting to the South African Rail Regulator (NIMS and SPCAM) on behalf of the City of Cape Town
- Management of the Interface and Intraface Agreement process

4. PROJECT BRIEF

The Service Provider is required to provide the following services:

4.1 Engineering Services

The purpose of this contract is to procure the professional services necessary to implement the Employers objective of:

4.1.1 Management of the RSMS and SMSR

Assist the City of Cape Town in meeting their obligation with regards rail safety management as contained in their Safety Management System Report (SMSR) and Report to Railway Safety Regulator on a regular basis and meet safety targets as set out in the SMSR.

Furthermore, it will be a requirement of this contract that the service provider, provides services in terms of the City of Cape Town's Railway Safety Management Report which will be provided to the service provider on successful appointment.

4.1.2 Condition Assessment

The service provider will measure all the City of Cape Town's railway sidings, revised the existing Transnet's drawings in conjunction with Transnet. It is expected of the Service provider to produce/review and or update an asset register of the City of Cape Town's railway sidings in both hard copy and electronically.

4.1.3 Additional Services

- (a) The provision of additional services pertaining to all stages of the project as described below and amplified upon in the project brief.
 - (i) The provision of all services in respect of wayleave applications and approvals.
 - (ii) The provision of all services related to preferential procurement and targeted participation.
 - (iii) Acting as leader of a professional team.
- (b) The provision of a level 4 construction monitoring service as described in Clause 3.3.2 of the aforementioned Guideline in Clause 4.1.1 above, as amended or amplified upon in the project brief below.
- (c) The provision of all services in respect of acting as the Employer's Agent in terms of the Occupational Health and Safety Act, 85 of 1993 and the Construction Regulations, 2014 as described in Clause 3.3.3 of the aforementioned Guideline in Clause 4.1.1 above.
- (d) The provision of an Environmental Officer (EO) as described in this project brief below.

4.2 Engineering Services

4.2.1 Planning, Studies, investigations and Assessments

The service provider is required to provide an experienced and competent Professional Registered Engineer or Technologist, Civil Engineering Technologist/Technician and Rail Track Inspector whose duties include (but not limited to):

- Implement and manage the Railway Safety Management System of the City of Cape Town for the duration of the contract
- Provide Project Management Services to the City with regards to the Railway Safety Management System
- Provide Specialised Technical advice with regards to the management of the City of Cape Town railway sidings

Provide Contract Administration and Management with respect to the City's Repairs and Maintenance Contract

4.2.2 Repairs and Maintenance Contract

- (a) The provision of additional services pertaining to all stages of the project as described below and amplified upon in the project brief.
 - (i) The provision of all services in respect of wayleave applications and approvals.
 - (ii) The provision of all services related to preferential procurement and targeted part

(ii) Acting as leader of a professional team.

(b) The provision of all services in respect of acting as the Employer's Agent in terms of the Occupational Health and Safety Act, 85 of 1993 and the Construction Regulations, 2014 as described in Clause 3.3.3 of the aforementioned Guideline in Clause 4.1.1 above.

(c) The provision of an Environmental Officer (EO) as described in this project brief above.

5. EXTENT OF THE SERVICES

5.1 Procurement in terms of Repairs and Maintenance Contract

The Service Provider shall provide those services necessary for the preparation of procurement documentation, advertising of tenders, and the evaluation of tenders received. The service Provider shall confirm the Employer's procurement (Supply Chain Management) policies and procedures prior to the preparation of any procurement documentation.

The construction contract document shall be prepared in the Construction Industry Development Board's (CIDB) format. The General Conditions of Contract shall be the General Conditions of Contract for Construction Works, 3rd Edition 2015, published by the South African Institution of Civil Engineering. The Service Provider shall liaise with the Employer during the preparation of the contract document to determine any other specific requirements that the Employer may have in this regard.

Specifications shall include, inter alia, a Health and Safety Specification, and an Environmental Management Plan.

The Service Provider should note that it is the Employer's preference that all payment items be measured out in the Bills of Quantities, as opposed to the use of provisional sums or prime cost items. Should provisional sums or prime cost items of greater value than R 300 000 (excl. VAT) be included in the Bills of Quantities, the Service Provider will be expected to follow an open competitive process in respect of these items, on behalf of the client. This will include the preparation of a tender document, advertising and receiving tenders, and evaluating same on behalf of the Employer, at no extra cost to the Employer.

It is furthermore noted that the creation of employment within the communities adjacent to the site of the proposed railway siding is an important consideration and wherever practicable labour intensive technologies shall be incorporated into the design and specified in the contract document. The Service Provider shall establish the requirements of the Employer in this regard.

The Service Provider shall attend a Bid Specification Committee meeting prior to the finalisation of the contract document and the advertising of tenders. All comments of the committee shall be incorporated into the final contract documents. A draft contract document shall be submitted to the Employer for scrutiny at least one week prior to the Bid Specification Committee meeting taking place.

Once the contract document has been finalised, the Service Provider shall supply the Employer with an electronic copy of the document.

The Service Provider shall be responsible for providing the Employer with the required number of copies of plans and tender documents for tender purposes (both hard copy and on compact disc).

The Service Provider shall, during the tender period, attend and preside over a tender clarification meeting, and respond to all queries received during this period.

Once tenders close, the Service Provider shall evaluate all valid tenders received and shall prepare a tender evaluation report (which shall include a recommendation) for consideration by the Employer's Bid Evaluation Committee (BEC). The Service Provider shall present his evaluation to the BEC, respond to any queries the committee may raise, and follow up on any issues requiring the Service Provider's attention/action.

Once approved by the Employer, the Service Provider shall facilitate the signing up of the construction contract.

5.2 Site Monitoring: Repairs and Maintenance Contract

It is expected of the service provider to:

Supervise the Repairs and Maintenance Contract on the City's behalf and to make sure that the contractor performs their duties in terms of OHS Act, Transnet Provision and Construction of Private Sidings (March 2001), South African Rail Commuter Corporation (SPK7/2) standards and SANS 3000 - 1:200x specifications.

The services to be provided in terms of this contract include, site supervision inspections with Transnet Inspector. The duties will be carried out in terms of the following Standard documents: (1) Transnet Limited Provision and Construction of Private Sidings (March 2001), (2) South African Rail Commuter Corporation LTD. SPK7/2. These documents will be provided to the successful Service Provider.

5.3 Contract Administration and Inspection

The Service Provider shall provide those services as required to manage, administer and monitor the repairs and maintenance contract in respect of the City of Cape Town railway sidings contract, including co-ordination of the inspection of the works by the other members of the professional team (the Occupational Health and Safety Officer) as and when necessary.

The service to be provided shall include, where necessary the detailed checking of shop drawings prepared by the contractor for manufacture and installation.

The Service Provider shall also, in particular, ensure that all payment certificates, preferential procurement and labour returns, and contract participation expenditure reports are timeously submitted.

5.4 Close-Out

The Service Provider shall complete the project close-out as described in the guideline scope of services.

As-built plans/drawings shall be submitted to the Employer in electronic format (preferably .dwg, otherwise .dxf) as well as one complete set of paper prints.

The Service Provider shall also compile a project close-out report for submission to the Employer, which includes, *inter alia*, technical details of the project, the project team, project cost, completion dates, contract monitoring details and design changes, delays and the reasons thereof, problems encountered and the solution thereof, conclusions and recommendations.

5.5 Services pertaining to the Repairs and Maintenance Contract

Service Enquiries/Wayleave Applications

The Service Provider shall be responsible for all initial service enquiries/wayleave applications from any authority and various other service authorities, the requirements of whom shall be carried through into the designs and tender documentation as necessary.

Act as Leader of the Professional Team

Where other sub-contractors provide services to the Service Provider, the Service Provider shall assume leadership of the professional team and be responsible for the overall administration, co-ordination and financial control of all works included in the services.

Contract Monitoring

Contract monitoring is considered to be a vitally important part of this project, requiring the part time input of an experienced individual (Track Inspector) on site.

The Service Provider is required to identify the Track Inspector at the time of tender, and will require the Employer's approval to replace such individual, which shall not be given unless it can be shown that the replacement has the same, or better, level of qualification and experience.

Act as the Employer's agent in terms of the Occupational Health and Safety Act

The Service Provider, in submitting a tender for this professional services contract, shall be deemed to have acknowledged acceptance of the appointment as the client's agent in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993) and the Construction Regulations, 2014, should the Employer accept the tender. The Service Provider shall, as such, execute all of the duties of the client as contemplated in the Construction Regulations.

If the Service Provider considers it necessary to employ the services of a safety specialist in order to execute the abovementioned duties, the cost thereof must be included in the fee tendered for this aspect of the project.

The Service Provider shall, apart from conducting his own activities in compliance with the Occupational Health and Safety Act, 1993 (Act No 85 of 1993) and Construction Regulations, 2014, ensure that any sub-consultants/sub-contractors employed by the Service Provider also comply with the requirements of

the Act and Regulations. The Service Provider shall enter into an agreement with the Employer in this regard before the commencement of any work related to this contract (Form C1.3, Part C1, refers).

Act as the Employer's agent in terms of the Environmental Management Conditions

The Service Provider shall provide from within its own organisation or, if necessary, appoint as a sub-consultant, a suitably experienced Environmental Officer (EO) whose responsibilities shall be as follows:

- (a) to prepare a project specific Construction Environmental Management Programme (specification) (C-EMP) for inclusion into the construction tender/contract document.
- (b) to assist the Engineer in ensuring that any necessary permits are obtained.
- (c) to convey the contents of the C-EMP to the Contractor's site team, and discuss the contents in detail with the Contractor, as well as to conduct induction and environmental awareness training sessions to the Contractor's and sub-contractor's workforces, as and when necessary.
- (d) to monitor and verify that the C-EMP is adhered to at all times, and to inform the Engineer if the specifications are not followed.
- (e) to review construction method statements for approval by the Engineer.
- (f) to assist the Engineer and Contractor in finding environmentally responsible solutions to problems.
- (g) to provide a report on environmental compliance issues (with photographic evidence, if applicable) at the monthly site meetings or any other meetings that may be called regarding environmental matters.
- (h) to ensure that all activities/incidents concerning the environment are recorded in the site records, to monitor and review such records and advise the Engineer of any action necessary.
- (i) to inspect the site and surrounding areas with regard to compliance with the C-EMP.
- (j) to advise the Engineer on the imposition of penalties or fines specified in the C-EMP, or the removal of person(s) and/or equipment not complying with the specifications.

The person appointed as EO may be the Engineer, Engineer's Representative, or any other individual, provided that the person appointed has appropriate/relevant environmental training and experience.

The frequency of site visits/inspections shall be as and when necessary, but not less than at monthly intervals.

6. USE OF REASONABLE SKILL AND CARE

All key personnel shall perform the described services from date of commencement until the completion of contract which is 30 June 2027. The mentioned services will be provided while working on a part-time basis from the offices of the service provider.

Safety of persons and property is of paramount importance, as is the minimization of disruption and inconvenience to the general public, Transnet private siding owners.

The Service Provider is therefore required to provide all aspects of the Service with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

7. DURATION OF THE WORKS

The duration of the contract is subject to the City's continuing to own/operate rail sidings. The contract expiry date is 30 June 2027.

Milestones set by the Employer typically revolve around budget cycles and the need to spend the budget in any given financial year. The important milestones are therefore the financial year ends (30 June each year) and the Service Provider will be expected to establish a project programme, in consultation with the Employer, that takes y of the budgets available and the budget cycles. Once agreed, the Service Provider is expected to ensure that the programme is adhered to, and to intervene timeously if necessary.

The Service Provider shall submit a revised programme as and when required by the Employer.

8. DELIVERABLES

Based on the description of works required, the Service provider shall deliver the following outputs during the performance of the contract:

Performance goals for The duration of contract	Actions to achieve for each goal	Deliverables	Due date
Develop Action Plans			
Railway Safety Management System(RSMS) in compliance with Railway Safety Regulator Act, Act 16 of 2002; Railway Safety Management Regulations, 2004 & SANS 3000- 1: 2009	Establish RSMS implementation/ Management committee on behalf of the Nominated Manager(NM)		
	Perusal of existing agreements with Repairs and maintenance contractors and implementation of corrective action to ensure it reflect the requirements in terms of railway safety positions (in structures) and have Standard Operating Procedures in place for guiding their actions to ensure safe rail operations (SANS element 8.2)	Report to Nominated Manager on the Service Provider's engagements with all stakeholders	Aug/Sep 2023
	Amend existing long-term contracts not in compliance, to reflect the City's Supply Chain Management Policy & procedures (SANS 9.2)		Sep/Oct 2023
	Implementation of systems to assess and monitor the condition of railway safety-related systems and infrastructure (SANS 10.5)		Sep/Oct 2023
	Implementation of procedures to include rail safety specific items in Corrective Action Requests (SANS 10.6)	Report in electronic and hard copy format	May 2024 and thereafter Annually
	Perform an adequacy audit on RSMS	Formal Report to RSR	July 2024 and thereafter Annually
Improve the standard of existing network infrastructure	Perform an Annual condition assessment, audit of infrastructure railway siding network, produce asset register	Asset Register in electronic format as well as hard copy	
	Produce planned maintenance program	Program the activities required in Microsoft Projects	Within 2 weeks from commencement and thereafter Annually
	Assist with implementation planned maintenance programs(i.e. preparation of specifications)		

Repair & Maintenance contract documentation	Review the existing contract documentation, specification, quantities, drawings and where required amend documentation to comply with the City's SCM Policy & Procedure, CIDB Regulations and Standard Transnet Specification Assist the City with advertising of tenders for R & M contract Tender Evaluation Assist with the supervision of the works executed into the City's current R&M contract	Produce a tender document in line with the City's Procurement policy and CIDB legislation Produce tender evaluation report Project Management monitoring programme	September 2025
RSR Safety Permit Application, Quarterly Reports etc.	Revise, amend and complete the application and/or any other reports in terms of RSR requirements not mentioned elsewhere on behalf of the COCT	Report to RSR and CoCT	As and when required by RSR on behalf of Client

8.1 Places for the Performance of Specific Tasks

It is anticipated that the majority of the work involved be undertaken at the Service Provider's local office. The construction monitoring service will take place at the following sites:

- Private Siding No. 147737 (Atlantis)
- Private Siding No. 145416 (Vissershok)
- Private Siding No. 141844 (Athlone Refuse Transfer Site)
- Private Siding No. 145432 (Epping 1 & 2)
- Private Siding No. 140457 (Sacks Circle)
- Private Siding No. 142441 (N'Dabeni)

The Service Providers personnel will however be required to attend meetings elsewhere in the Cape metropolitan area as and when required, and it may be necessary to carry out inspections at the contractor's (or sub-contractor's) yard(s) wherever they may be.

8.2 Reporting Requirements

Aside from the particular reports required in terms of the brief above the Service Provider may be required to prepare, or contribute to, ad hoc reports on specific aspects of the project.

Furthermore, the Service Provider shall submit monthly cost reports to the Employer showing expenditure in respect of both the Service Provider's appointment and the construction contractor's contract, together with the anticipated spend to the end of the financial year in question.

The Tender Evaluation Report shall be submitted to the Employer within two weeks of tenders for the repairs and maintenance works having been received.

9. REFERENCE DATA

A copy of the Contract Document for the Period Tender for the Repairs and Maintenance of the City of Cape Town's Railway Sidings for Epping 1 and 2, Sacks Circle, Atlantis Industrial, Vissershok Landfill Site, Athlone Refuse Transfer Station and N'Dabeni is available at the offices of the Employer during the tender period. A copy of this Contract will be made available to the appointed Service Provider for reference purposes.

10. APPLICABLE NATIONAL AND INTERNATIONAL STANDARDS

The Service Provider shall ensure that cognisance of all applicable national and international standards is taken in the execution of his/her own work and that of his/her sub-consultants in the design and compilation of specifications for this project. International standards should only be used where no national standards exist, or where it is the norm to use or refer to international standards.

11. APPROVALS

The Service Provider shall be responsible for obtaining the following approvals:

- a) Approval of the implementation programme from the Employer,
- b) Wayleave approval from all service authorities,
- c) Approval of the Rail Track Inspector from the Employer,
- d) Approval for the employment of specialist sub-consultants from the Employer.

Notwithstanding any approval received from the Employer, the Service Provider shall remain responsible for all work carried out by the Service Provider and its sub-consultants in terms of this contract.

12. PROCUREMENT

12.1 Preferential Procurement

The Works shall be executed in accordance with the conditions associated with the granting of preferences detailed in the **Preference Schedule** where preferences are granted in respect of B-BBEE contribution.

Financial penalties, as described in the **Preference Schedule**, shall be applied in the event that the Contractor is found to have breached and of the conditions contained in the **Preference Schedule** (unless proven to be beyond the control of the Contractor).

Notwithstanding the application of penalties, the Contractor's attention is drawn to other sanctions that may be applied by the Employer (listed in the **Preference Schedule**) with due consideration to the circumstances.

12.2 Monitoring the use of sub-contractors/sub-consultants and joint ventures

Notwithstanding the restriction on sub-contracting as described on the **Preference Schedule**, it is recognised that sub-contracting is an integral part of construction, which the conditions of contract make provision for.

In order, however, to comply with the requirements of the **Preference Schedule**, the Contractor shall submit to the Employer's Agent, on a monthly basis, a **B-BBEE Sub-contract Expenditure Report**. The format of this report is provided in Annex 2 attached.

The Contractor shall submit to the Employer's Agent documentary evidence in accordance with the applicable codes of good practise, of the B-BBEE status level of every sub-contractor employed by the Contractor. Until such time as documentary evidence as described above has been submitted to the Employer's Agent, a sub-contractor shall be deemed to be a non-compliant contributor.

The Contractor shall furthermore, on the written request of the Employer's Agent, provide documentary evidence showing the value of work sub-contracted to any or all of the sub-contractors employed by the Contractor.

12.3 Forms for contract administration

The Service Provider shall complete, sign and submit with each monthly statement for payment, the following updated returns (the format of which are attached in C3.2 Annexes as amended from time to time):

- B-BBEE Sub-contract Expenditure Report (Annex 1)
- Joint Venture Expenditure Report (Annex 2)

The **B-BBEE Sub-contract Expenditure Report** is required for monitoring the prime contractor's compliance with the sub-contracting conditions of the **Preference Schedule**.

The Joint Venture Expenditure Report is required for monitoring the joint venture's compliance with the percentage contributions of the JV partners as tendered, where the joint venture has been awarded preference points in respect of its consolidated B-BBEE scorecard.

In respect of Annexes 1 and 2, the Employer shall, in addition to any other sanctions available to it, apply the financial penalties applicable to breach of preferencing conditions in the **Preference Schedule** in Part T2.2 Returnable Schedules. In the case of joint ventures (Annex 2), the contractor shall prove his compliance with item 6) in Section 2 of the Preference Schedule by providing a consolidated scorecard at his own cost on instruction from the Employer's Agent.

13. FORMAT OF COMMUNICATION

All requests for formal approval from the Employer, or any other body, shall be submitted in writing in hardcopy format. Interim payment claims shall be submitted in the same format, accompanied by an original tax invoice. Ad-hoc communication between the Employer and the Service Provider may be conducted per facsimile or in electronic format (e-mail).

All plans and contract documents submitted for approval shall be in hardcopy format.

14. KEY PERSONNEL

The Service Provider shall maintain the involvement of the following key personnel as the exigencies of this contract require:

Role	Qualification / Professional Registration Requirements	Experience	Responsibilities / Reporting
Project Leader	ECSA registration as Pr Eng/Tech Eng	Project Leadership. 10 years' verifiable experience (list projects) in project facilitation and management in the rail engineering sector. Working knowledge of the South African Railway Safety Regulator Act, SANS 3000-1 and experience to manage processes to ensure the City's compliance with the above which will include risk condition assessment etc. A list of projects on which the Project Leader has acted as the Engineer must be clearly ascertainable from the <i>curriculum vitae</i> submitted.	Contact between the Nominated Manager of the City of Cape Town, the Railway Safety Regulator and Transnet. The Project Leader must also have acted as the "Engineer" in terms of the General Conditions of Contract, within the last five years. Ultimate responsibility to ensure that all work is completed to correct standards and within stipulated time frames. Reports to Employer or Employer's identified agent.
Civil Engineering Technologist/Technician	ECSA registration as Pr Tech Eng/Pr Tech	Railway Engineering: 8 years' verifiable experience within rail engineering sector, performed inspections work on railway tracks. Trained to recognise track defects and failures. Proof of Track Inspector training to be attached to the applicable schedule	Assumes technical responsibility for work. Provides solution orientated specialist advice to Employer. Supervises lower level personnel. Reports to Project Leader but may interact directly with Employer.
Occupational Health and Safety Officer	Tertiary qualification and registration with the SACPCMP	5 years verifiable experience H&S experience in the civil engineering construction industry (preferably in rail construction industry)	Reports to Project Leader.
Environmental Management Officer	Tertiary qualification and Certified Professional Natural Scientist (Pr. Sci. Nat.) with South African Council for Natural Scientific Professions (SACNASP)	5 years verifiable experience Environmental management experience in the civil engineering construction industry (preferably in rail construction industry)	Reports to Project Leader.

Should it become necessary to replace any of the key personnel listed at the time of tender during the course of this contract, they may only be replaced by individuals with similar or better qualifications and experience, who satisfy the minimum requirements and then only with the approval of the Employer.

15. MANAGEMENT MEETINGS

15.1 Management Meetings

During the initial stages of this project (Planning, Investigations and Assessments; Inception; Concept and Viability and Design Development) the Service Provider will be expected to attend monthly management meetings with the Employer's project management team (PMT), convened for the purpose of managing this project. The Service Provider will present its proposals and these meetings, and take direction from the PMT in this regard.

15.2 Community/Stakeholder Meetings

The Service Provider will also be expected to contribute to and attend community/stakeholder meetings, presenting proposals at these forums, and taking cognisance of input from the various interested and affected parties in the conceptual and detail design development, where possible. It is not anticipated that it will be necessary to continue with community/stakeholder participation through the construction period, other than to respond to any individual queries/concerns that may be raised.

15.3 Supply Chain Management (SCM) Committee Meetings

During the course of the Documentation and Procurement stage, the Service Provider shall attend and participate in the SCM Bid Specification and Bid Evaluation Committee meetings in order to present the contract document and tender evaluation report to the Employer.

15.4 Site/Technical Meetings

During the Contract Administration and Inspection stage of this project, the Service Provider shall convene and run monthly site meetings at which the Employer and contractor will be present, as well as any technical meetings with the contractor as may be required to ensure the successful implementation of this project.

15.5 Ad-hoc Meetings

The service Provider will be expected to attend ad hoc meetings from time to time, with the Employer, stakeholder groups, or service or other authorities, in order to address specific issues as and when the need arises.

15.6 General

The Service Provider shall be represented at all meetings by at-least one of the key personnel, preferably the project leader. The service provider shall provide secretarial services (for record keeping purposes) at all management, site/technical, and ad-hoc meetings.

All charges in respect of attendance at meetings and the provision of secretarial services shall be included in the tendered basic fee (Item No . 1.1: C2.2 Schedule of Rates).

CITY OF CAPE TOWN

TRANSPORT: ROADS INFRASTRUCTURE AND MANAGEMENT

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

C3.2 Annexes

Annex 1: B-BBEE Sub-contract Expenditure Report

Annex 2: Joint Venture Expenditure Report

ANNEX 1

CITY OF CAPE TOWN

CONTRACT NO. AND NAME: _____
CONTRACTOR (SERVICE PROVIDER): _____

B-BBEE SUB-CONTRACT EXPENDITURE REPORT BASED ON PAYMENT NO.

Value of the contract (as defined in Schedule 24: Preferencing Schedule) (P*)	R	B-BBEE Status Level of Prime Contractor	
---	---	---	--

Name of Sub-contractor (list all Sub-contractors)	B-BBEE Status Level of Sub-contractor ¹	Total Value of Sub-contract (excl VAT) ¹	Value of Sub-contract work to date (excl VAT) ¹	Value of Sub-contract work to Sub-contractors with a lower B-BBEE Status Level than Prime Contractor
Sub-contractor A		R	R	R
Sub-contractor B		R	R	R
Sub-contractor C		R	R	R

¹Documentary evidence to be provided

Total:	R
Expressed as a percentage of P*	%

Signatures

Declared by Contractor (Service Provider) to be true and correct: _____ Date: _____

Verified by Employer's Representative: _____ Date: _____



ANNEX 2

CITY OF CAPE TOWN

CONTRACT NO. AND NAME: _____

CONTRACTOR (SERVICE PROVIDER): _____

JOINT VENTURE EXPENDITURE REPORT BASED ON PAYMENT NO.

Value of the contract (as defined in Schedule 19: Preferencing Schedule) (P*)		R		B-BBEE Status Level of Joint Venture	
Name of Joint Venture partner (list all)	B-BBEE Status Level of each JV partner as at contract award	Percentage contribution of JV partner per JV Agreement ¹ A	Total value of JV partner's contribution (excl. VAT) ¹ B = A% x P*	Value of JV partner's contribution to date (excl. VAT) ¹ C	Value of JV partner's contribution as a percentage of the work executed to date D = C/P* x 100
JV Partner A		%	R	R	%
JV Partner B		%	R	R	%
JV Partner C		%	R	R	%

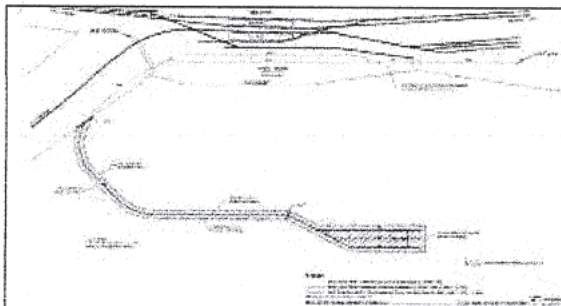
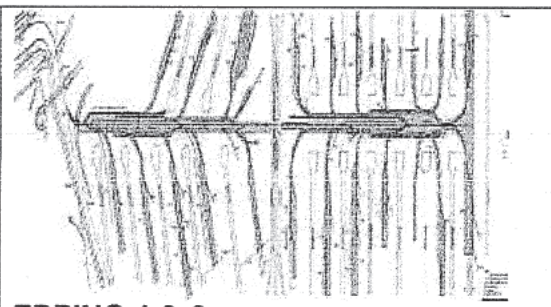
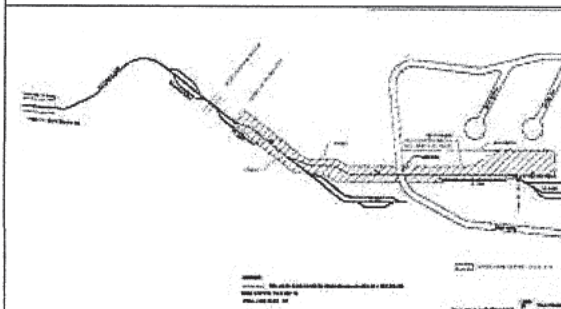
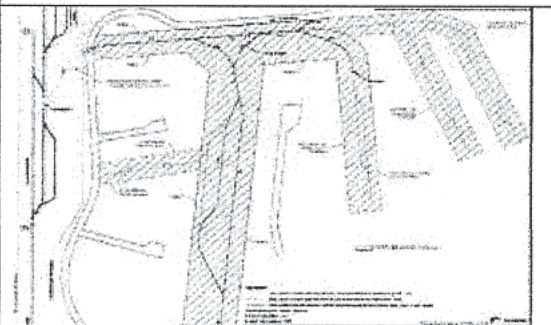
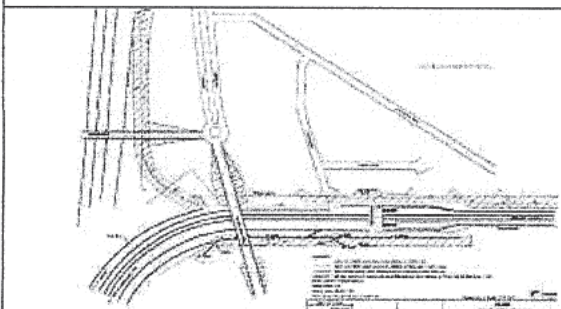
¹Documentary evidence to be provided**Signatures**

Declared by
Contractor (Service
Provider) to be true
and correct:

Date: _____

Verified by Employer's
Representative:

Date: _____

PART 6: SITE INFORMATION**ATHLONE / LANGA****EPPING 1 & 2****SACKS CIRCLE****ATLANTIS****N'DABENI**

PART 7: OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 15 OF 2002

C1.3 Occupational Health and Safety Agreement

AGREEMENT MADE AND ENTERED INTO BETWEEN THE CITY OF CAPE TOWN (HEREINAFTER CALLED THE "EMPLOYER") AND

IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 85 OF 1993 AS AMENDED

I, [REDACTED], representing [REDACTED] as an employer in its own right, do hereby undertake to ensure, as far as is reasonably practicable, that all work will be performed and all equipment, machinery or plant used in such a manner as to comply with the provisions of the Occupational Health and Safety Act (OHSA) and the Regulations promulgated thereunder.

I furthermore confirm that I am/we are registered with the Compensation Commissioner and that all registration and assessment monies due to the Compensation Commissioner have been fully paid or that I/We are insured with an approved licensed compensation insurer.

CCID ACT Registration Number: [REDACTED]

OR Compensation Insurer: [REDACTED]

Policy No. [REDACTED]

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge them with the duty of ensuring that the provisions of OHSA and Regulations as well as the Council's Special Conditions of Contract, Way Leave, Lock-Out and Work Permit Procedures are adhered to as far as reasonably practicable.

I further undertake to ensure that any subcontractors employed by me will enter into an occupational health and safety agreement separately, and that such subcontractors comply with the conditions set.

I hereby declare that I have read and understand the appended Occupational Health and Safety Conditions and undertake to comply therewith at all times.

I hereby also undertake to comply with the Occupational Health and Safety Specification and Plan.

Signed at [REDACTED] on the 24 day of AUGUST 2020

Witness

Mandatory

Signed at [REDACTED] on the [REDACTED] day of [REDACTED] 20[REDACTED]

Witness

for and on behalf of
City of Cape Town

PART 8- SCHEDULE OF SUB-CONTRACTORS

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

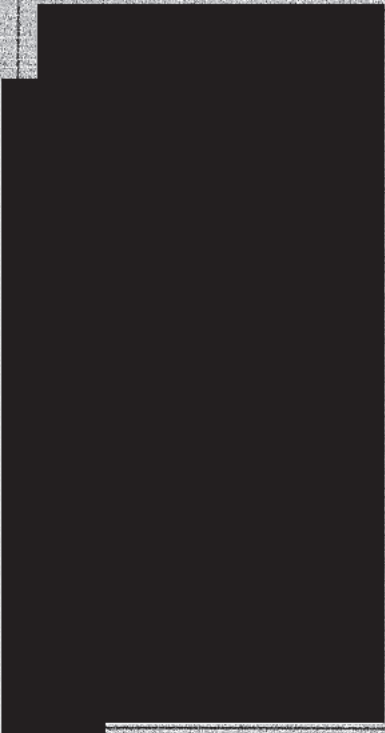
CONTRACT NO. 28C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

SCHEDULE 15: SCHEDULE OF SUB-CONTRACTORS

We notify you that it is our intention to employ the following sub-contractors for work (excluding work covered by provisional sums and contingencies) in this contract.

Acceptance of this tender shall not be construed as approval of all or any of the listed sub-contractors. Should any of the sub-contractors not be approved subsequent to acceptance of the tender, this shall in no way invalidate the contract, and the tendered unit rates for the various items making up the work activities shall remain final and binding.

SUB-CONTRACTORS		
Sub-contractor's name	Work activities to be undertaken by the Sub-contractor	Estimated value of work (Rand)
	CIVIL ENGINEER TECHNOLOGIST (as and when required)	RATE ONLY TENDER
	OCCUPATIONAL HEALTH AND SAFETY OFFICER	RATE ONLY TENDER
	ENVIRONMENTAL MANAGEMENT OFFICER	RATE ONLY TENDER
	CAD (as & when req)	RATE ONLY TENDER
	ADMINISTRATION (as & when req)	RATE ONLY TENDER
	TRACK INSPECTOR	RATE ONLY TENDER

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

SIGNED ON BEHALF OF TENDERER: 

PART 9- SUPPORT RESOURCES

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 18 OF 2002

SCHEDULE 12: SUPPORT RESOURCES

The tenderer is referred to clause(s) F.2.1.4.3 of the Tender Data and shall state below the availability of the required CAD, Administrative and other support resources available for use on this project and whether or not they are currently owned/licensed by the tenderer, or are available through other means.

NAME	ROLE	QUALIFICATIONS EXPERIENCE	NO. OF SPECIFIED EXPERIENCE	YEARS
[REDACTED]	CAD	[REDACTED]	[REDACTED]	[REDACTED]
	Administration	[REDACTED]	[REDACTED]	[REDACTED]

The tenderer is referred to clause F.2.1.4.3 of the Tender Data and shall confirm below that at least the specified software packages & reference documents will be available for use throughout the contract and whether they are currently owned/ licensed by the tenderer, or are available through other means.

SOFTWARE PACKAGE/S AVAILABLE FOR USE		
NAME OF PACKAGE	DESCRIPTION	CURRENTLY OWNED/ LICENSED OR OTHER
MS OFFICE	WORD EXCEL	LICENSED
Auto CAD	Civil 3D	LICENSED
IOAS	Infrastructure Design Automation Suite	LICENSED OWNER
SIDRA	Intersection & Network	OWNER

SIGNED ON BEHALF OF TENDERER: [REDACTED]

PART 10- KEY PERSONNEL

CITY OF CAPE TOWN

TRANSPORT: TRANSPORT PLANNING

CONTRACT NO. 26C/2020/21

PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR ACT NO. 16 OF 2002

SCHEDULE 11: KEY PERSONNEL

The tenderer is referred to clause(s) F.2.1.4.2 of the Tender Data and shall insert in the spaces provided below details of the key personnel required to be in the employment of the tenderer or a specialist consultant firm in order for the tenderer to be eligible to submit a tender for this project. The Curriculum Vitae of each individual must be appended to this schedule.

PROJECT LEADER				
NAME	JOB TITLE	QUALIFICATIONS	ECSA REGISTRATION NO.	NO. OF YEARS SPECIFIED EXPERIENCE
	DIRECTOR			
	ENGINEERING TECHNOLOGIST/TECHNICIAN			
	JOB TITLE			
	SENIOR CONSULTANT			
	HEALTH AND SAFETY OFFICER			
	JOB TITLE			
	SENIOR CONSULTANT			
	MANAGEMENT OFFICER			
JOB TITLE				
	SENIOR CONSULTANT			

SIGNED ON BEHALF OF TENDERER



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

CALL CENTER NO: [REDACTED]

CF REG NO
REG NO :
ISSUE DATE
CERTIFICATE

A LETTER OF GOOD STANDING

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT 130 of 1993 (AS AMENDED).

With reference to sections 80, 82, 86 and 89 of Compensation for Occupational Injuries and Diseases Act 130 of 1993 (As amended), I hereby certify that:

[REDACTED]
has complied with the requirement of the above Act and is at present in good standing with the Compensation Fund.

IMPORTANT NOTICE:

Any fraudulently obtained Letter of Good Standing shall constitute a criminal offence.

The Compensation Commissioner shall institute criminal proceedings against any perpetrators who unlawfully alter or deface this letter with intend to defraud or misrepresent facts contained therein.

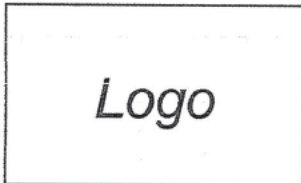
PLEASE, use the Below link (Website Address) to check if the Letter of Good Standing is valid:



Compensation Fund

ANNEXURE A: INSURANCE BROKER'S WARRANTY

Pro Forma



Letterhead of Contractor's Insurance Broker

Date _____

CITY OF CAPE TOWN
City Manager
Civic Centre
12 Hertzog Boulevard
Cape Town
8001

Dear Sir

CONTRACT NO.: 26C/2020/21

CONTRACT TITLE: PROVISION OF PROFESSIONAL SERVICES IN RESPECT OF THE
MANAGEMENT OF THE CITY OF CAPE TOWN RAILWAY SIDINGS TO COMPLY
WITH THE REQUIREMENTS OF THE NATIONAL RAILWAY SAFETY REGULATOR
ACT NO. 16 OF 2002

NAME OF CONTRACTOR: _____

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned term tender contract have been issued and, in the case of blanket/umbrella policies, will be endorsed to reflect the interests of the CITY OF CAPE TOWN with regard to each Works Project contract, and that all the insurances and endorsements, etc., are all in accordance with the requirements of the contract.

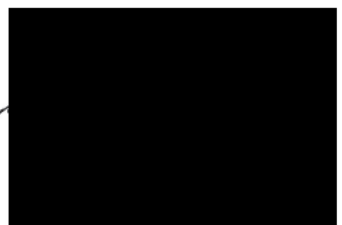
I furthermore confirm that all premiums in the above regard have been paid.

Yours faithfully

Signed: _____

For: _____

SEE ATTACHED PI
INSURANCE, PI-A of 58





Signed and approved by



and in consideration of the payment of the premium by the Insured or on his behalf and having agreed that any proposal or other information supplied by the Insured or on his behalf shall be the basis of this contract of Insurance, the Insurers agree to indemnify the Insured subject to the terms, Exclusions and Conditions of this Insurance.



Schedule

Insured:

1. [REDACTED] (being the first named Insured) and/or subsidiary, controlled, managed, administered and member companies, joint ventures, medical aid, pension, provident and employee funds, savings funds, sports, social and recreational clubs and societies and any other persons or entities for whom they have authority to insure jointly or severally all for their respective rights and interests;
2. in the event of the death or legal incompetency of the Insured, the estate, heirs, legal representatives or assignees of the Insured;
3. in the event of the bankruptcy or insolvency of the Insured, any legal representative of the Insured; and, at the option of the first named Insured;
4. the officers, committees and members of the Insured's canteen and social, sports, fire fighting, security and welfare organisations and visiting sports teams and members thereof and the like in their respective capacities as such;
5. the personal representatives of any person indemnified in respect of liability incurred by such person;
6. the occupier, being an Employee of the Insured, in his personal capacity, of residential property owned by or leased to the Insured;
7. directors, officers or Employees of the Insured in their private capacity arising out of their temporary engagement of the Insured's employees;

provided always that all such persons, parties or entities shall observe, fulfil and be subject to the terms, Exclusions and Conditions of this Policy as though they were the Insured and no greater indemnity is available to any of the aforesaid than would have been to the first named Insured.

The company: The named Insured, if a company registered under the Companies Act, Act No. 71 of 2008.

[REDACTED]

Business: Structural, Civil, Geotechnical, Chemical and Mining Engineering - Project Management, Water treatment, Civil Engineering. Including all past, present and future similar activities of the Insured and where appropriate, property owners and tenants, the provision of canteen, social, sports, first aid, fire fighting and welfare facilities for the benefit of the Insured's staff

Postal Address:



Primary Physical
Address:





Insurers



Broker:

Broker VAT No.:

Broker Contact:

Broker Commission:



Policy No:



TERRITORIAL LIMITS All Sections:

Worldwide but not in connection with any business carried on by the Insured at or from premises within or any contract for the performance of work within North America.

	Limit Of Indemnity		Deductible	Retroactive Date	Premium
	Each Occurrence	Annually Aggregated	Each Occurrence		
Professional Indemnity and Extensions					
Professional Indemnity					
Liability Following Employee Dishonesty					
Loss of Documents					
Fee Recovery					
Sub Contracted Duties					
Claims Preparation Costs					





Limit Of Indemnity		Deductible	Retroactive Date	Premium
Each Occurrence	Annually Aggregated	Each Occurrence		



Other Covers				
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Personal Accident (schedule of compensation)				
Limit Of Indemnity		Deductible		Premium
Circumstance	Maximum Compensation Per Person	Compensation Per Claim	Each Occurrence	

