



MEMORANDUM OF AGREEMENT

MADE AND ENTERED INTO BETWEEN

CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY

And

PREAMBLE

WHEREAS Tender 375C/2018/19 was awarded to the Service Provider on 9 December 2019 in line with resolution SCMB 31/12/19, for Term Tender for The Provision of Professional Services: Spatial Planning, Environment and Transport in Category 4 - Coastal Engineering & Specialist Services, from date the Service Provider receives a copy of the signed report until 30 June 2027.

AND WHEREAS in line with resolution SCMB 31/12/19], council approved the contract in terms of section 33 of the Local Government: Municipal Financial Management Act 56 of 2003 on [insert date] on the same specifications, terms and conditions as advertised in Term Tender for The Provision of Professional Services: Spatial Planning, Environment and Transport.

AND WHEREAS it is recorded that this Contract will be governed by the provisions of the Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1015) as published by the Construction Industry Development Board, which is available from the Construction Industry Development Board Pretoria, Tel. (012) 343 7136 or (012) 481 9030, Fax: (012) 343 7153, e-mail: cidb@cidb.org.za, read with the 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 nominee** and duly authorised hereto;
- 1.2. a private company registered in terms of the laws of the Republic of South Africa with registration no (the "**Service Provider**"), herein represented by its duly authorised

representative,

each A “**Party**” and together the “**Parties**”.

2. INTERPRETATION

2.1. In the event of any conflict between the provisions of this Contract, the Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1015) and any Annexure 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 SCC;

2.1.2. second, the terms and conditions of the Standard Professional Services Contract;

2.1.3. third, Annexures and schedules 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 Service Provider to perform the Scope of Work to the Employer from the date the Service Provider receives a copy of the signed report (signed contract).

3.2. Unless terminated earlier in accordance with the provisions as set out in the Standard Professional Services Contract or any other provision in terms

of this Contract, this Contract shall commence on the Commencement Date and shall endure 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 C3: Scope of Work), subject to the satisfactory fulfilment of the obligations by the Service Provider as set out in this Contract.
- 5.2. The Employer shall monitor and evaluate the Service Provider's performance in respect of the Scope of Work (Part C3: Scope of Work).

6. OBLIGATIONS OF THE SERVICE PROVIDER

- 6.1. The Service Provider hereby agrees and undertakes to perform the Services to the Employer as set out in C3: Scope of Work
- 6.2. The Service Provider 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 Service Provider will ensure that the Works will be of a satisfactory quality and fit for purpose.

- 6.4. The Service Provider shall, ensure that its employees, agents, representatives, sub-Service Providers and suppliers comply with this Contract and all applicable Laws in the execution of the Works.
- 6.5. The Service Provider will not conduct any activity of whatsoever nature which may be detrimental to the Employer's reputation and goodwill.
- 6.6. The Service Provider undertakes to and in favour of the Employer that it –
 - 6.6.1. has the resources, necessary expertise and skill, capabilities and technology to provide the Works to the Employer; and
 - 6.6.2. has effective, efficient and transparent financial management and control systems in place.

7. PRICING DATA

- 7.1. The Contract Price for the Works shall be as set out in Part C2: Pricing Data.
- 7.2. The Service Provider shall not be entitled to any other consideration for the rendering of the Works other than as provided for in this Contract.

Part C1: Agreements and Contract Data

C1.1 Form of Offer and Acceptance

C1.2 Contract Data

OFFER

Category 4 - Coastal Engineering & Specialist Services

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

CONTRACT NO. 375C/2018/19: TERM TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: SPATIAL PLANNING, ENVIRONMENT AND TRANSPORT

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.

The completed Schedules of Rates (excluding VAT), as contained in Part C2.2 Pricing Data, shall form the tender offer. These rates shall be multiplied, as applicable, by the quantities required in respect of relevant items to develop individual Works Projects to be allocated in accordance with the procedures described in Part C1.2 Contract Data in this Framework Contract document.

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.

for the tenderer:

Signature: _____

Name: _____

Capacity: _____

Date: _____

Organisation Name _____

Witness 1: _____

Witness 2: _____

ACCEPTANCE

Category 4 - Coastal Engineering & Specialist Services

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:

Part C1: Agreements and contract data, (which includes this framework agreement)

Part C2: Pricing data

Part C3: Scope of work

Part C4: Site information (N/A)

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 agent (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 when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). The tenderer (now Service Provider) 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 Service Provider shall constitute the binding contract between the parties.

This agreement constitutes a framework contract for the purposes of developing individual Works Projects to be allocated in terms of the procedures described in the contract, the category awarded to the Service Provider in terms of this term tender process being recorded in the schedule of deviations.

EMPLOYER: THE CITY OF CAPE TOWN

Signature:

Name:

Capacity:

Date:

Witness 1:

Witness 2:

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:

- a) the Form of Offer and Acceptance,
- b) the Contract Specific Data within the Contract Data,
- c) the General Conditions of Contract
- d) the Scope of Work, and
- e) the Pricing Data.

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

CONTRACT SPECIFIC DATA

The following contract specific data is applicable to this Contract:

Clause 1:

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

Contract

See **Framework Contract** or **Works Project**, as the context requires

Contract Price

The price to be paid for the performance of the **Services** in accordance with the pricing data as reflected in the accepted amount of each **Works Project**

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**.

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

The period, relating to a **Works Project**, within which the **Services** are to be performed and completed.

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The period(s) of performance for this service is to be agreed in writing between the Project Management official and Service Provider for each individual works project.

This tender covers the period from the date of commencement up to 30 June 2027. All individual orders raised under this Framework Tender is to conclude on or prior to 30 June 2027.

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

The project is the **TERM TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: SPATIAL PLANNING, ENVIRONMENT AND TRANSPORT**

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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.

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).

Start Date of individual Works Projects

The date of the authorisation of the **purchase order** relating to any **Works Project**, and ending on the date when all **Services** are satisfactory rendered on or prior to 30 June 2027.

Framework Contract Manager

The person named as the **Framework Contract Manager** in the **Contract Data** or any other person appointed from time to time by the **Employer** and of whom the **Service Provider** is notified, in writing, to act as the **Framework Contract Manager** for the purposes of the **Contract** as substitute for the **Framework Contractor Manager** so named.

The function of the **Framework Contract Manager** is to administer the **Framework Contract**, in accordance with the provisions of the **Framework Contract**.

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: URBAN PLANNING AND DESIGN**.

The **Framework Contract Manager** is:

Name:

Postal Address:

Physical Address:

Telephone:

E-mail:

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, together with the site of the proposed project or an office owned or leased by the City of Cape Town. Key personnel will be expected to operate out of the local office, or out of the offices of the Employer as the exigencies of this project 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. The offices of the Employer could be any office within the City's boundary owned or leased by the City of Cape Town.

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 3.12.1

Add the following:

The penalty amount per day for not meeting milestones is as follows:

R2000.

Penalties will be levied as above.

The Penalties are linked to the delivery timeframes agreed between the Employer and the Service Provider, at initiation-phase for each project, but revised programmes must be taken into account and agreed upon.

Failure to perform as indicated may result in the Employer levying penalties, at the penalty percentages, as indicated above, which will be levied at the discretion of individual Project Managers.

Clause 3.15.1:

Add the following:

The programme shall be submitted within **7 to 14** days of the Start Date as agreed to with the Project Manager.

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:

Africa.

The Contract Price shall be subject to a fixed escalation value of 5.0% for the period exceeding 12 months to 24 months and 4.5% compounded exceeding 24 months yearly to the end of the tender. The base month is the month that the Contract commences.

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, ABSA, 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 ABSA rate referred to above, then the ABSA 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, ABSA, 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 R30 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) Issuing an instruction or making an award that will result in the approved contract value being exceeded.
- 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 **7 to 14** days of the Start Date as agreed to by the Project Manager.

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):

- f) if the Service Provider has failed to provide the required insurances within the prescribed time;
- g) if the Service Provider has committed a corrupt or fraudulent act during the tender process or the execution of the Contract; or
- h) 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;

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.

Clause 9.1:

Add the following:

Copyright of 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**.

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.

PROCEDURES FOR THE EXECUTION OF A WORKS PROJECTS UNDER THIS TERM TENDER:

The Employers intention is to call upon the professional services as described herein, as and when required. The Employer reserves the right not to order work at all depending on circumstances and subject to operational conditions.

The Employer will undertake the following process when allocating work to the Service Provider:

If the Employer requires work to be executed under this tender, the Employer shall compile a Works Project document. A Works Project document will include a Works Project specific Scope of Work and the proposed period for completion of the work. The Works Project document will generally be emailed to the Service Provider for consideration. If required, a project briefing meeting will be set up by the project Manager. The meeting shall furthermore serve to answer any queries the Service Provider may have in respect of the required work.

The Service Provider will submit a Quotation based on the applicable rates. The Project Manager will then create a Purchase Order to the value of work mutually agreed upon. The Service Provider shall not commence any work until the Purchase Order number has been received. The Project Manager is responsible to ensure that the exigencies of the Framework Contract are adhered to.

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Part C2: PRICING DATA

- C2.1 Pricing Assumptions**
- C2.2 Professional Services Area of Choice Schedule**
- C2.3 Activity Schedule**

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 Activity Schedule 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 Activity Schedule, the following words shall have the meanings hereby assigned to them:

Unit:	The unit of measurement for each item of work.
Quantity:	The number of units of work for each item.
Rate:	The agreed payment per unit of measurement.
Amount:	The product of the quantity and the agreed rate for an item.
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.
Percentage Fee:	The agreed fee for a service, the extent of which is described in the Scope of Work, expressed as a percentage of a construction contract value or part thereof.

3. A rate, sum, percentage fee and/or price as applicable, is to be entered against each item in the Activity Schedule. If a nil rate (i.e. "nil" or "0.00") is entered against an item, it will be considered that there is no charge for that particular item. **An item against which no rate (or rates, in the case of rate categories if provided) 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.**
4. The rates, sums, percentage fees and prices in the Activity Schedule 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. Time based 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 Activity Schedule, 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 Activity Schedule. In respect of time based services, the allocation of staff must be agreed with the employer before such services are rendered.
6. Tenderers will note that the prices for some items are developed from a tendered fee expressed as a percentage of an estimated contract value (construction cost), or part thereof, which for tendering purposes, are given. Tenderers are required to insert their tendered percentage fee in the space provided. Where prices have been developed from a tendered fee, the final amount due to the Service Provider will be adjusted according to final construction contract values based on the percentage fee tendered.

Only one (flat rate) percentage fee per item may be tendered. A percentage fee tendered on a sliding scale will make the tender non-responsive.
7. Where the estimated construction value is broken up into component parts for the purposes of determining fees in respect of different disciplines, the "make-up" of each component is described in the Scope of Work.
8. The following table shall be used for proportioning the tendered basic fee for normal services, for each discipline, over the various stages of the services:

Stage of Services	Percentage points for each stage
1. Inception	5
2. Concept and Viability	25
3. Design Development	25
4. Documentation and Procurement	15
5. Contract Administration and Inspection	25
6. Close-Out	5

“Close-Out” may be included under the Contract Administration and Inspection Stage of the Service, in which case the Service Provider will then be required, at the time of issue of the Certificate of Completion (to the Contractor) to claim the total fee (100%) for normal services, less a 5% retention amount of the total fee. The retention will be released on successful completion of the contractor’s defects liability period.

If the Contractor is in default which results in delay, or if an extension of time is granted in respect of which there is no adjustment of the contract price/value, then the Service Provider shall be entitled to 25% of the full fee pro-rated for the period in question for Contract Administration and Inspection (in addition to construction monitoring charges) as follows:

Rate per week for additional contract administration and inspections = percentage points for Stage 5 x percentage basic fee tendered x final construction contract price/value / final contract duration up to practical completion/taking-over (including any valid extensions of time), applied to the delay period (in weeks).

9. Tendered time-based fees (where the unit of measurement is time based) shall be adjusted in terms of clause 3.16.2 Page 90 of this document.

All other rates, sums, percentage fees or prices (as applicable) tendered in the Activity Schedule shall be final and binding and shall **not** be subject to any variation throughout the period of the contract. This is due to the fact that the fee for normal services rendered is typically developed from a construction contract value which will be subject to escalation/contract price adjustment, and the Service Provider will benefit from adjustments in this regard. In developing any other rates, (excluding time based), tenderers must make allowance for annual increases.

10. 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 Activity Schedule. In respect of engineering and landscape and architectural services, this provision is for services provided on instruction from the Employer and will be deducted in whole or part if not required. The provision for architectural services is in respect of specific services as described in the Scope of Work. The estimated period of involvement of each category of person must be agreed with the Employer before any work in this regard commences.

11. 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).

12. A higher category person undertaking lower category work will be reimbursed, in respect of time-based fees, at the lower category rate.

13. Where a provisional sum has been provided in respect of additional services, the service provider shall, when called upon to do so by the Employer, submit a proposal in respect of such sums to the Employer for approval. The Service Provider is not entitled to claim the full provision in this regard, but shall rather submit 3 realistic quotes based on the requirements of the project, and as set out in the Scope of Work, which may be accepted, or rejected, at the sole discretion of the Employer.

14. **Where provisional sums are provided in respect of services, these amounts are included for tendering and budgeting purposes only and could increase or decrease or be omitted in full as the exigencies of the tender might require.** Where services are to be sub-contracted out by the Service Provider, the Service Provider will typically be required to invite three quotations from suitably qualified sub-consultants/contractors. A mark up (extra over) in respect of all other costs, overhead charges and profit will be applicable in respect of all sub-contracted services.

15. Tenderers are to note that only those recoverable expenses listed in the Activity Schedule 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, percentage fees and prices for normal and additional services rendered.
16. 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.
17. 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.
18. The per kilometre 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 R3.61/km (excluding VAT).
19. 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,
20. All charges in respect of attendance at meetings (Clause 14, Part C3.1 Scope of Work) and the provision of secretarial services shall be included in the tendered basic fee for normal services.
21. Where fractions of a cent occur in calculations of prices and amounts, they shall be rounded up/down to the nearest whole cent.
22. Clause F.2.13.11 in Part T1.2 Tender Data shall be applicable to the submission of Activity Schedules which have been priced electronically, and which the Tenderer wishes to submit as a printed version with his/her tender in the place of handwritten priced Activity Schedules.
- If there is found to be any variance between the printed version and the original issued document, the original shall stand. However, where Addenda have been issued which amend the Activity Schedule, then the printed Activity Schedule shall take these into account.

The pages of the issued Activity Schedule should not be removed from the tender document.

C2.2 Professional Services Area of Choice Schedule

The Service Provider must complete the Professional Service Area of Choice Schedule to indicate the category of service being tendered for.

Note: Tenderers are not allowed to tender in more than one category unless it can be proved that all the expertise required in the additional work categories is in the permanent employ of the company tendering.

Category 1 - Engineering, Survey and CAD / GIS Services

Tick box

Category 2 – Planning, Architectural and Property Specialist Services

Tick box

Category 3 - Environmental Services

Tick box

Category 4 – Coastal Engineering & Specialist Services

Tick box

SIGNED ON BEHALF OF TENDERER:

CITY OF CAPE TOWN

Contract
Part C3: Scope of Work
Reference No. 375C/2018/19

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C3.1
Scope of Work

C2.3 Activity Schedule

Category 4: Coastal Engineering & Specialist Services			
Item 1: Time-Based Fee for Planning, Studies, Investigations and Assessments			
Provide time-based services on the instruction from the Employer in respect of services required as described in the Scope of Work:			
Item No.	Activity Description	Unit	Rate Year 1 (Excl. VAT)
4.1.1	Provide time-based COASTAL STRUCTURAL ENGINEERING services on the instruction from the Employer as described in the Scope of Work: - Category A staff - Category B staff - Category C staff - Category D staff	hr hr hr hr	
4.1.2	Provide time-based COASTAL ENGINEERING (SEDIMENT PROCESSES & BEACH MORPHOLOGY) services on the instruction from the Employer as described in the Scope of Work: - Category A staff - Category B staff - Category C staff - Category D staff	hr hr hr hr	
4.1.3	Provide time-based COASTAL ENGINEERING (METEOCEAN & NEARSHORE HYDRODYNAMICS) services on the instruction from the Employer as described in the Scope of Work: - Category A staff - Category B staff - Category C staff - Category D staff	hr hr hr hr	
4.1.4	Provide time-based MARINE SCIENTIST services on the instruction from the Employer as described in the Scope of Work: - Category A staff - Category B staff - Category C staff - Category D staff	hr hr hr hr	

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Scope of Work

4.1.5	Autocad Draughtsperson	hr
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Item 2: Basic Fee for Engineering Services - Normal

Item No.	Activity Description	Tendered basic fee as a percentage of the estimated contract value below	Unit	Amount
4.2.1	Provide engineering services as described in the Scope of Work in respect of: Basic Fee for Normal Services including the Electrical Engineering Component , Stage 1 – Inception Stage 2 – Concept and Viability Stage 3 – Design Development Stage 4 – Documentation and Procurement Stage 5 – Contract Administration and Inspection Stage 6 – Close-Out	Estimated Contract Value (Engineering component) inclusive of contingencies but exclusive of VAT (Construction Cost) R0 to R13 000 000	%	

Item 3: Additional Services - Engineering Services

Item No.	Activity Description	Unit	Rate Year 1 (Excl. VAT)
4.3.1	Provide a level 1 construction monitoring service - Category A staff - Category B staff - Category C staff - Category D staff	Month Month Month Month	
4.3.2	Provide a level 2 construction monitoring service - Category A staff - Category B staff - Category C staff - Category D staff	Month Month Month Month	
4.3.3	Provide a level 3 construction monitoring service - Category A staff - Category B staff - Category C staff - Category D staff	Month Month Month Month	
4.3.4	Act as Project Leader of the professional team	Month	

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Scope of Work

Item No. 4: Provisional Cost Sums - all disciplines

The Service provider will procure these items on a three-quote basis to the client's approval. These provisional sums are included for tendering and budgeting purposes only and could increase or decrease as the exigencies of the tender might require. The service provider must tender his mark up for each item below and then calculate the sum for all items:

Item No.	Activity Description	Unit	Quantity	Rate
	Laboratory services for preliminary and detailed design and construction monitoring stages.			
4.4.1	Costs of Laboratory testing	Prov Sum	-	
4.4.2	Mark-up, Profit and handling costs on item 1.4.1 above.	%	()	
	Geotechnical investigation services for preliminary and detailed design and construction monitoring stages.			
4.4.3	Costs of Geotechnical investigation services	Prov Sum	-	
4.4.4	Mark-up, Profit and handling costs on item 1.4.3 above.	%	R \$	
	Bathymetry surveys			
4.4.5	Cost of bathymetry surveys	Prov Sum	-	
4.4.6	Mark-up, Profit and handling costs on item 1.4.1 above.	%	()	

Item No. 5: Recoverable Expenses (Disbursements) – all disciplines

Item No.	Activity Description	Unit	Rate Year 1 (Excl. VAT)
4.5.1	Printing / plotting / copying (colour): Size A0	Each	
4.5.2	Printing / plotting / copying (black and white): Size A0	Each	
4.5.3	Printing / plotting / copying (colour): Size A1	Each	
4.5.4	Printing / plotting / copying (black and white): Size A1	Each	
4.5.5	Printing / plotting / copying (colour): Size A2	Each	
4.5.6	Printing / plotting / copying (black and white): Size A2	Each	
4.5.7	Printing / plotting / copying (colour): Size A3	Each	
4.5.8	Printing / plotting / copying (black and white): Size A3	Each	
4.5.9	Printing / copying (colour): Size A4	Each	
4.5.10	Printing / copying (black and white): Size A4	Each	
4.5.11	Recoverable expenses in respect of traveling distance per km	Sum per km	

Part C3.1: SCOPE OF WORK

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TENDERERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADE MARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS 'OR EQUIVALENT'

1. INTRODUCTION

Professional Services providers are required to provide the professional services necessary to implement various projects within the Spatial Planning, Environment and Transport Directorates which, in terms of the Municipal Finance Management Act, 56 of 2003 and the Municipal Supply Chain Management Regulations, 2017, must be procured through a competitive bidding process. The purpose of this document is therefore to invite tenderers from suitably qualified and experienced consulting firms for Contract No 375C/2018/19: **TERM TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: SPATIAL PLANNING, ENVIRONMENT AND TRANSPORT**, for a period of seven years from the commencement date.
(Please note that this tender covers the period from the date of commencement to 30 June 2027)

The works envisaged to be performed resulting from this tender would be related to Spatial Planning, Environmental, Transport and Developmental related services within the built environment.

This is a Framework tender and the intention of the employer is to use the successful service providers on an ad-hoc basis as and when required. The successful appointment under this contract does not guarantee any amount of work to be executed hereunder.

As this project will exceed the current budget cycle, it is subject to Section 33 of the Municipal Finance Management Act, 56 of 2003, and consequently the Employer must follow the required processes in terms of Section 33. These will run concurrently with the procurement process for this tender/contract

The description of the Scope of Work is merely an outline of the Contract Works and shall not limit the work to be carried out by the vendor under this Contract. Descriptions of some of the major items are given in this section and each type of work to be carried out in accordance with the Contract Documents is included in the Activity Schedule.

Please Note: Only 1 (one) tenderer will be appointed per category. Tenderers are not allowed to tender in more than one category unless it can be proved that the expertise required in the additional categories is in the permanent employ of the company tendering. In this case the same tenderer could be awarded more than 1 (one) category. The employer reserves the right to award only a portion of this tender.

2. EMPLOYER'S OBJECTIVE

The employer's objective is to procure the services of Consultants with the necessary expertise for a period of seven years to assist in the various tasks inclusive of and related to the following:

- Local Area Development Frameworks and Precinct Planning.
- To prepare statutory applications (EIA, HIA, TIA etc)
- Planning Services
- Implementation frameworks
- Bulk services and reticulation investigations
- Engineering, Architectural, Survey and Draughting/GIS Services
- Property Specialist Services
- Public and Community engagement
- Construction Design and Implementation of new developments, repairs, renovations, alterations and additions to facilities and infrastructure.
- Economics and Property Analysis

3. DESCRIPTION OF THE SERVICES REQUIRED

The Service Provider is required to provide specialist consulting services in the following category;

Category 4 - Coastal Engineering & Specialist Services

These services are required in order to provide assistance with project management and tasks related but not limited to the descriptions tabled below.

Category 4 – Coastal Engineering & Specialist Services Item 1: Time-Based Fee for Planning, Studies, Investigations and Assessments Provide time-based services on the instruction from the Employer in respect of services required as described in the Scope of Work:			
Professionals	(Local area) Spatial Development Frameworks / Precinct Plans	Site development pre-feasibility / feasibility studies	Preparation of development applications
Coastal Structural Engineer	- Assisting in providing services associated with the URBAN INTEGRATION processes including (but not limited to) establishing project feasibility, conducting engineering studies and/or processes to determining feasible development options. - Assisting in preparing engineering designs including (but not limited to) conceptual designs, urban development frameworks, engineering development plans, engineering drawings, etc. - Services related to coastal structural elements of the building of coastal infrastructure and protection		
Coastal Engineer: Sediment Processes and Beach Morphology	Services related to assessing coastal sediment dynamics and numerical modelling of coastal processes.		
Coastal Engineer: Metocean and Nearshore Hydrodynamics	Services related to assessing metocean conditions, nearshore hydrodynamics and associated numerical modelling of coastal processes.		
Marine Scientist	- Services related to assessing biochemical processes (water column and sedimentation), marine ecology and microbiological factors (marine and estuarine). - Services related to assessing urban impacts on ecosystems (marine and estuarine)		
Autocad Draughts person	Assisting in providing draughting services.		

Item 2: Basic Fee for Engineering Services - Normal Services

Stage 1 – Inception

The Service Provider shall provide those services as described in the relevant section of the aforementioned Guideline in **Clause 4.1.1** above, as are necessary to establish the Employer's requirements and preferences, assess user needs and options and confirm the project brief moving forward.

Ongoing public and stakeholder participation will be required during this stage of the project.

Deliverables required include, but are not limited, to:

- Agreed scope of services
- Signed agreement
- Report on project, site and functional requirements
- Schedule of required surveys, tests, analyses, site and other investigations
- Schedule of consents and approvals

Stage 2 - Concept and Viability (Preliminary Design)

In addition to the services as detailed in the guideline scope of services, **the Service Provider** must be aware that public and stakeholder participation will be required during this stage of the project and that it is deemed to be included in the rates tendered.

Deliverables required include, but are not limited, to:

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

The Service Provider shall submit a conceptual design report to the Employer for comment and approval, including details of investigations and studies undertaken, concept development and rationale, outline specifications and recommendations.

Stage 3 - Design Development (Detail Design)

The **Service Provider** is appointed to provide technical expertise which informs the specifications and **advice to the deliverable of the tenders** and where the technical knowledge is not available in-house within the **Employer's team**. The Bid Specification and Evaluation Committees are responsible for their functions as per the **Rules of Order and the SCM Policy**.

The Service Provider shall provide those services necessary to finalise the design, specifications, cost plan, financial viability and programme for the project, and shall co-ordinate the input from all members of the professional team in this regard.

The Service Provider shall be responsible for all service enquiries, wayleave applications and obtaining the necessary authority or permission from the relevant service authorities to carry out all work in terms of all individual works projects. All applications in this respect must be carried out timeously.

In addition to the services as detailed in the guideline scope of services, service providers must be aware that public and stakeholder participation will be required during this stage of the project and that it is deemed to be included in the rates tendered.

Deliverables required include, but are not limited, to:

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

Stage 4 – Documentation and Procurement

The Service Provider shall provide those services necessary, where the technical expertise is not available in-house within the **Employer's team**, for the preparation of procurement documentation. 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 and in compliance with the City of Cape Town's Supply Chain Management Policy. The construction contract document shall be based on the City of Cape Town's latest example CIDB document for Civil Contracts (SCM 509), which is based on the SAICE General Conditions of Contract for Construction Works, 3rd Edition, 2015. The Service Provider shall liaise with the Employer during the preparation of the construction contract document to determine any other specific requirements that the Employer may have in this regard.

The Service Provider shall ensure that all of the requirements, limitations and/or restrictions on construction as may be imposed by the rail authority and Water Services Departments are incorporated into the specification and that, where necessary, tenderers are given the opportunity to price for the impact of such requirements/limitations/restrictions.

Specifications shall include, inter alia, a Health and Safety Specification, and a Construction Environmental Management Programme (refer to Clause 7.2.1.3 Environmental Officer).

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 R200 000 (incl. 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 contractor. This will include the preparation of a tender document, advertising and receiving tenders, and evaluating same on behalf of the contractor, at no extra cost to the Employer.

The Service Provider's attention is drawn to the fact that Preferential Procurement Regulations, 2017 (Regulation 8) makes provision for the promotion of local production and content. Regulation 8(1) prescribes that in the case of designated sectors, where in the award of tenders where local production and content is of critical importance, such tenders must be advertised with the specific condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content, will be considered.

The services described in the two preceding paragraphs are additional to normal services, and are provided for in Clause 7.2.1.3 below.

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 tender clarification meeting, and provide Supply Chain Management with a response to all queries of a technical nature received during this period.

Once approved by the Employer, the Service Provider shall, in consultation with the relevant Employer's nominated representative, facilitate the signing up of the construction contract.

In addition to the services as detailed in the guideline scope of services, service providers must be aware that targeted procurement, EPWP programmes, inclusion of local labour and enterprises targets, labour returns, etc. must be included into the tender document and that it is deemed to be included in the rates tendered.

The Service Provider shall have no influence in relation to the evaluation of the tender as this is the sole responsibility of the relevant appointed bid committee members. The Service Provider shall have no input in the drafting of evaluation reports and tender recommendations to the Bid Adjudication Committee.

Deliverables required include, but are not limited, to:

- Recommendations on Specifications
- Services co-ordination
- Working drawings
- Budget construction cost
- Tender documentation
- Priced contract document
- Local and other authority approvals

Stage 5 – Contract Administration and Inspection

Post the award, the Service Provider assists the appointed line official during the duration of the contract by providing guidance in terms of the technical aspects however, the evaluation of the performance of the contract is performed by the **Employer's nominated representative** on a monthly basis as contained in the **Contract Management Guide - Draft 0.2, August 2019.**

The Service Provider shall provide those services as required to manage, administer and monitor the construction contract, including co-ordination of the inspection of the works by the other members of the professional team (the architect and landscape architect) as and when necessary.

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.

The Service Provider shall not issue any variations that will exceed the amount approved by the Employer's Bid Adjudication Committee.

In addition to the services as detailed in the guideline scope of services, service providers must be aware that targeted procurement, EPWP programmes, inclusion of local labour and enterprises targets, labour returns, etc. must be monitored, managed and administered and that it is deemed to be included in the rates tendered.

Deliverables required include, but are not limited, to:

- Schedules of predicted cash flow
- Construction documentation
- Drawing registers
- Estimates for proposed variations
- Contract instructions
- Financial control reports
- Valuations for payment certificates
- Progressive and draft final accounts
- Completion inspections and defects lists
- Compliance certificates

Stage 6 – 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 (dwg plus ctb table) as well as one complete set of paper prints. All As-Built drawing Xrefs must be bound.

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, construction details and design changes, delays and the reasons thereof, problems encountered and the solution thereof, conclusions and recommendations.

Deliverables required include, but are not limited, to:

- Valuations for payment certificates
- Final completion inspections and defects lists
- Operations and maintenance manuals, guarantees and warranties
- As-built drawings and documentation
- Final Accounts

Item 3: Additional Services - Engineering Services

Service Enquiries/Wayleave Applications

The Service Provider shall be responsible for all initial service enquiries/wayleave applications from the various service authorities, the requirements of whom shall be carried through into the designs and tender documentation as necessary. The cost hereof to be covered under item 2 tendered percentage fees.

Act as Leader of the Professional Team

Where other disciplines have sub-contracted their 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 programming of design and financial control of all works included in the services.

Construction Monitoring

Construction monitoring is considered to be a vitally important part of all projects. For this reason, a determination would be made at the outset of a project as to the category of construction monitoring required as well as the time required.

The Service Provider shall, when called upon to do so by the Employer, submit a fully motivated proposal for such construction monitoring to the Employer for approval, and in respect of which a provisional sum has been allowed in the Activity Schedule.

The Engineer's Representative shall be a qualified Engineer/Technologist/Technician with at least five years' verifiable post graduate experience in construction monitoring relevant to the individual works project. The Service Provider's proposal may be accepted or rejected at the sole discretion of the Employer.

4. EXTENT OF THE SERVICES

The services to be provided in terms of this tender are inextricably linked to the Employer's budget for consulting services. All services to be provided and executed shall therefore be programmed in order to make full use of, but not exceed, the budget provision in any given financial year/s.

The work that is to be carried out under the contract is as provided for in the Activity Schedule. However, if during the course of the project circumstances are found to differ from those anticipated, the Employer reserves the right to modify the scope of the work to suit the prevailing circumstances.

Tasks or Work Orders will be raised for each project undertaken by the Employer. Such Tasks or Work Orders will be based on the Activity Schedule. An estimated construction cost or time based quotation shall be submitted by the Service Provider and accepted by the Employer if in agreement. Final fees payable will however be adjusted according to final construction costs.

The Employer may not require a full team on each project and thus reserves the right to appoint team members individually, for the service is required and identified on the Employers Agreement. This Agreement may be amended during the project if the needs for additional services are required.

The services to be provided in terms of this contract are inextricably linked to the Employer's budget, and it should be noted that while the Employer has every intention of completing the full Scope of Work making full use of the budget allocation, the Employer's budget is subject to periodic review. Should it become necessary to vary the scope of work or even suspend or terminate this contract, such variation, suspension or termination shall be dealt with in accordance with the provisions of the Standard Professional Services Contract as amended by the Contract Data.

The Service Provider's attention is drawn to the fact that it is the Employer's intention to appoint ONE professional Service Provider for each discipline listed in this document. Tenderers are not allowed to tender in more than one category unless it can be proved that the expertise required in the additional categories is in the permanent employ of the company tendering.

The Service Provider should also note that he/she will be precluded from any further downstream work at a later stage that may be related to any specific project that he/she has provided services on.

5. PROJECT BRIEF

5.1 Time Frames/Milestones

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, which takes cognisance of the budgets available and the budget cycles.

The time frame must allow for best practice and due process, but completion of the above scope of work in the shortest time possible. Work product must be delivered in accordance with the time frames agreed with the project manager.

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.

5.2 Reporting Requirements

The Service Provider may be required to prepare, or contribute to, ad hoc reports on specific aspects of any specific project as and when required by the Employer.

All material (graphics, documents drawings, designs or any other intellectual property) produced by the consultants belongs to the City of Cape Town.

5.3 Reference Data

Reference data will be made available per individual project undertaken.

6. APPLICABLE NATIONAL AND INTERNATIONAL STANDARDS

The Service Provider shall ensure that cognisance of all applicable national and international standards are 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.

7. APPROVALS

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

- (a) Approval of the implementation programme from the Employer,
- (b) Approval of the conceptual and preliminary designs from the Employer,
- (c) Approval of the project from Heritage Western Cape (*if required*),
- (d) Approval (authorisation) of the project from the Department of Environmental Affairs and Development Planning (*if required*),
- (e) Approval of the detail design, drawings and contract document from the Employer,
- (f) Wayleave approval from all service authorities,
- (g) Approval of the accommodation of traffic plans from the Traffic Manager,
- (h) Approval of the construction monitoring proposal from the Employer,
- (i) In respect of time based services, approval of the allocation of staff from the Employer.
- (j) Approval for the employment of specialist sub-consultants from the Employer.
- (k) Building Plans approvals
- (l) Construction work permits
- (m) Demolition permits
- (n) Waste management plan
- (o) Other necessary permits for construction work
- (p) Land use Approvals

8. MONITORING THE USE OF SUB-CONSULTANTS AND JOINT VENTURES

In order to ensure that not more than 25% of the value of the contract is not sub-contracted to sub-contractors that do not qualify for at least the preference points that the Service Provider qualified for, the Service Provider shall submit to the Employer, as and when required, a B-BBEE Sub-Contract Expenditure Report. The format of this report is provided in Annex 1 attached.

The Service Provider shall submit to the Employer documentary evidence (either an original valid B-BBEE status level verification certificate in terms of the Construction Sector Charter on Black Economic Empowerment, or an Exempted Micro Enterprise certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 69 of 1984) or an accredited verification agency, or certified copies thereof) in terms of the Preferential Procurement Regulations, 2011) of the B-BBEE status level of every sub-contractor employed by the Service Provider. Until such time as documentary evidence as described above has been submitted to the Employer, a sub-contractor shall be deemed to be a non-compliant contributor.

In order to ensure a 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, the Service Provider shall submit to the Employer, as and when required, a Joint Venture Expenditure Report. The format of this report is provided in Annex 2 attached.

In respect of Annexes 1 and 2 referred to above, the Employer shall, in addition to any other sanctions available to it, apply the financial penalties applicable to breach of preferencing conditions in Schedule 19 Preferencing Schedule in Part T2.2 Returnable Schedules. In the case of a joint venture (Annex 2), the Service Provider shall prove its compliance with item 6) in Section 2 of the Preferencing Schedule by providing a consolidated scorecard at its own cost on instruction from the Employer.

9. 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.

10. KEY PERSONNEL

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

Category 4 – Coastal Engineering and Specialist Studies		
Professional Services Required	Minimum Staff Compliment	Qualification and Experience
Project Leader of the professional team	1	Project Leader - Professional Engineer with the Engineering Council of South Africa (ECSA), who has a minimum of ten (10) years verifiable experience in Coastal Engineering and who will be responsible as the Project Engineer/ Project Leader for all work carried out in terms of the tender. A list of projects on which the Project Manager/Project Engineer has acted as the Engineer must be clearly ascertainable from the detailed curriculum vitae submitted.
Coastal Structural Engineer	1	An ECSA registered professional (Pr.Eng / PrTechEng) with at least 10 (ten) years verifiable experience in the port and coastal engineering environment.
Coastal Engineer: Sediment Processes & Beach Morphology	1	An ECSA registered professional (Pr.Eng / PrTechEng) with at least 7 (seven) years verifiable experience in coastal sediment and beach morphology studies.
Coastal Engineer: Metocean and Nearshore Hydrodynamics	1	An ECSA registered professional (Pr.Eng / PrTechEng) with at least 7 (seven) years verifiable experience in metocean and nearshore hydrodynamics Recommended, MEng (Port and coastal Engineering). Or A registered professional with the South African Council for Natural & Scientific Professions (SACNASP) with at least 7 (seven) years verifiable experience in metocean and nearshore hydrodynamics Recommended, Master of Science degree in Oceanography or Applied Mathematics.
Marine Scientist	1	A registered professional with the South African Council for Natural & Scientific Professions (SACNASP) with at least 7 (seven) years of verifiable experience in marine ecology studies/assessments.
Autocad Draughtsperson	1	Relevant Draughting qualification with 5 (five years) verifiable experience to undertake design sketches and produce professional graphic representations.

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

11. MANAGEMENT MEETINGS

Management meetings will be arranged by the individual project managers as the exigencies of the project requires.

The Service Providers 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.

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.

12. CLAIMS FOR PAYMENT

The Service Provider may submit interim claims for payment (invoices) as the work in terms of this contract progresses, but not more frequently than at monthly intervals. All interim claims must be accompanied by an original tax invoice. Payment will be effected within 30 days of the date on the tax invoice.

13. EMPLOYER'S RIGHT TO RECOVER COSTS

The Employer reserves the right to recover, by way of a deduction from any amount due to the Service Provider, any additional cost which the Employer incurs arising out of non-performance/negligence of the Service Provider.

14. PROCEDURES FOR THE EXECUTION OF A WORKS PROJECTS UNDER THIS TERM TENDER:

The Employers intention is to call upon the professional services as described herein, as and when required. The Employer reserves the right not to order work at all depending on circumstances and subject to operational conditions.

The Employer will undertake the following process when allocating work to the Service Provider:

If the Employer requires work to be executed under this tender, the Employer shall compile a Works Project document. A Works Project document will include a Works Project specific Scope of Work and the proposed period for completion of the work. The Works Project document will generally be emailed to the Service Provider for consideration. If required, a project briefing meeting will be set up by the project Manager. The meeting shall furthermore serve to answer any queries the Service Provider may have in respect of the required work.

The Service Provider will submit a Quotation based on the applicable rates. The Project Manager will then create a Purchase Order to the value of work mutually agreed upon. The Service Provider shall not commence any work until the Purchase Order number has been received.

Part C4: SITE INFORMATION

Not applicable to this contract.