

# TENDER NO. 24C/2021/22



SCM - 515 | Approved by Branch Manager: 03/04/2020

Version: 4 | Page 76 of 109

## CONTRACT DOCUMENT

FOR THE

**FRAMEWORK TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT**

## VOLUME 3: DRAFT CONTRACT

|   |
|---|
| <b>ISSUED BY:</b>   |
| <b>DIRECTOR: DEPARTMENT<br/>DIRECTORATE CITY OF<br/>CAPE TOWN</b><br>Tower Block, Civic Centre<br>12 Hertzog Boulevard<br>CAPE TOWN<br>8001 |

|   |
|---|
| <b>For official use.</b>                                  |
| <b>TENDER SERIAL No.:</b>                                 |
| <b>SIGNATURES OF CITY OFFICIALS<br/>AT TENDER OPENING</b> |
| 1.  |
| 2.  |
| 3.  |

AUGUST 2021

|   |  |
|---|--|
| <b>NAME OF TENDERING ENTITY</b>                       |  |
| <b>EMAIL ADDRESS OF TENDERING ENTITY</b>              |  |
| <b>FAX NUMBER OF TENDERING ENTITY</b>                 |  |
| <b>NATURE OF TENDER OFFER (please indicate below)</b> |  |
| <b>Main Offer (see clause C.2.12)</b>                 |  |
| <b>Alternative Offer (see clause C.2.12)</b>          |  |

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## Part C1: Agreements and Contract Data

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CITY OF CAPE TOWN

DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT

CONTRACT NO. 24C/2021/22

FRAMEWORK TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT

## 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](http://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**:*

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:

- 1) The Framework appointment is on an ad-hoc basis period for three (3) financial years from commencement date.
- 2) It is the employer's intention to advertise a follow up tender of a similar nature to this one in the first financial year of this appointment, and award it as soon as possible in order to ensure a continuous pipeline of future projects. Once the follow up tender has been awarded, no new work will be issued to the service providers on this contract and the remaining time up till the end of the third financial year will be used only to complete projects already awarded.
- 3) The timeframes for Normal Services for each project are as stated in Section C3.1 Scope of Works, Section 7.3.2. these time frames notwithstanding, all deliverables for work orders for portions of Normal services shall be completed and submitted before the end of the third financial year.

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

The project is the **FRAMEWORK TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT**

*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: DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT.**

The address for receipt of communications is:

Telephone: (021) 444 7619  
E-mail: Hilton.Scholtz@capetown.gov.za  
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 which must be located within the Cape Town Municipal boundaries, and the regions awarded to the service provider situated 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:*

The penalty amount per day is as follows:  
R 500

The maximum penalty amount is as follows:  
R 10 000

*Add the following after 3.12.2*

### 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 3.15.1:

*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 11, 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):*

- 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;
- 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;



- i) 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
- j) The implementation of the contract may result in reputational risk or harm to the City as a result of (inter alia):
  - (i) reports of poor governance and/or unethical behaviour;
  - (ii) association with known family of notorious individuals;
  - (iii) poor performance issues, known to the Employer;
  - (iv) negative social media reports; or
  - (v) 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 **adjudication**.

**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 **South African Council for Project and Construction Management Professionals (SACPCMP)**.

**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.

**Part 2: Data provided by the Service Provider**

The **Service Provider** is: .....

Postal Address: .....  
.....

Physical Address: .....  
.....

Telephone: .....

Facsimile: .....

Email:.....

The **authorised and designated representative** of the Service Provider is:

Name: .....

The address for receipt of communication is:

Address: .....  
.....

Telephone: .....

Facsimile: .....

Email:.....

**SIGNED ON BEHALF OF TENDERER:** .....

CITY OF CAPE TOWN

DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT

CONTRACT NO. 24C/2021/22

PROVISION OF PROFESSIONAL SERVICES : PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT

### C1.3 Occupational Health and Safety Agreement

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

.....,  
(Service Provider/Mandatary/Company/CC Name)

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

I, ....., representing  
....., 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.

COID ACT Registration Number: .....

OR Compensation Insurer: ..... Policy No.: .....

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge him/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.

Signed at .....on the.....day of.....20....

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
**Mandatary**

Signed at ..... on the.....day of.....20 .....

\_\_\_\_\_  
Witness

\_\_\_\_\_  
for and on behalf of  
City of Cape Town

CITY OF CAPE TOWN

DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT

CONTRACT NO. 24C/2021/22

PROVISION OF PROFESSIONAL SERVICES : PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT

## C1.4 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  
8000

Dear Sir

**CONTRACT NO.:** 24C/2021/22

**CONTRACT TITLE:** PROVISION OF PROFESSIONAL SERVICES : PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT

NAME OF CONTRACTOR: \_\_\_\_\_

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned contract have been issued and/or in the case of blanket/umbrella policies, have been endorsed to reflect the interests of the CITY OF CAPE TOWN with regard to the abovementioned 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: \_\_\_\_\_

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## Part C2: Pricing Data

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CITY OF CAPE TOWN

DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT

CONTRACT NO. 24C/2021/22

PROVISION OF PROFESSIONAL SERVICES : PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT

## 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.   |
| No (Number): | The rate per number of a specific item, measured for each item complete  |
| Activity     | Measurement of the completed activity in accordance with the prescribed method   |
| Hr (Hour)    | The agreed rate per hour of work   |
| Prov 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 Activity Schedule. **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 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. 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 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. 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. 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. 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 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, 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. Site Audit 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 Site Audit staff shall be reimbursed for either the return office to site or return alternate site to site journeys, whichever is the lesser. Site Audit 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 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 R3.98/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.
15. Where provisional sums are provided in respect of services, etc., these amounts may be omitted in part or in full should the services, etc. not be required. Where services are to be sub-contracted out by the Service Provider, which do not exceed R300 000,00 (including VAT) in value, the Service Provider will typically be required to invite at least three quotations from suitably qualified sub-consultants/contractors. Where the sub-contracted services are likely to exceed R300 000,00 (including VAT) in value, the Service Provider shall follow an open tender process in respect of this work. 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 not specifically itemized in the Schedule of Rates.

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## Part C3: Scope of Work

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CITY OF CAPE TOWN

DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT

CONTRACT NO. 24C/2021/22

FRAMEWORK TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT

### C3.1 Scope of Work

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#### 1. INTRODUCTION

The City of Cape Town, implement many maintenance construction projects using principle contractors that are appointed on an as and when required basis, known as Framework Tenders. The majority of term tender construction project are managed internally by City Officials, i.e. without the appointment of consulting engineering professional services. In terms of the Occupational Health and Safety Construction Regulations, 2014 the City is obliged to meet its obligations as set out in Clause 5 of the regulations.

In addition to the framework tender construction projects, the City, also acts as a Contractor. The depots undertake small maintenance construction works on a day to day basis and need to, as far as practically possible, and applicable, comply with Clause 7 and Clause 8 of the Construction Regulations, 2014 and as well as with Section 8 of the Occupational Health and Safety Act, 1993..

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, 56 of 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 Contract No **24C/2021/22: PROVISION OF PROFESSIONAL SERVICES : PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT** , which will be evaluated using a financial offer and preferences based system as described in the tender data.

For the purposes of this tender, in order to ensure that the workload stays within manageable limits, the City has been divided into four regions: with the boundaries between them as shown on the map which forms part of this document (see Part C4: Site Information, which contains a map of the regions). It is the Employer's intention to award each region to a different tenderer. Project emanating from the head office will be allocated to the appointed services providers on a regional basis. The Employer; however, reserves the right to award a maximum of two regions to one tenderer if tendered rates are, at the sole discretion of the employer, ruled to be unreasonable, or if there are not enough responsive tenders. In order to be awarded two regions a tenderer will have to show that they have sufficient personnel to make up two independent teams of Key Personnel as described in Clause F.2.1.4.2. A copy of Returnable Schedule 11 can be made and the two teams, marked as "A-Team" and "B-Team", can be

submitted with the tender. If only one region is awarded to a tenderer that has submitted two teams, the "A-Team" will be expected to carry out the duties of this contract. The rates offered shall be deemed to be applicable to any of the regions, and the City shall, in making the tender award, at its sole discretion decide on the allocation of regions to the successful tenderers.

To ensure that the workload stays within manageable limits, the Employer will award projects that fall within a district only to the service provider allocated to that district. Should a project span more than one district the Employer reserves its right to decide which of the services providers in the affected districts to allocate the project to. Should a service provider in a district decline a project awarded to them, the Employer reserves its right to allocate to any of the other successful service providers of its choice.

The process for award of projects will be as follows:

- 1 The Employer's project manager identifies a project and scope of services required
- 2 The Employer's project manager, through the framework project manager, will, in writing, award the project and scope of services required to the service provider in the applicable district.
- 3 This service provider will, in writing, either accept for refuse the project.
- 4 If the project is refused, the Employer's project manager, through the framework project manager will award the project to any of the other successful service provider of its choice.
- 5 Once accepted the project will commence as per the Scope of Works and the scope of services required as outlined in the award letter.

Each project that has been awarded and accepted will have its own order number raised by the Employer's project manager and invoicing for each project will be carried out separately against each project order number.

All deliverables for works orders that are for specific stages of normal services only shall be completed and submitted to the relevant project manager prior to the end of the third financial year. It is the employer's intention to award a follow up tender of a similar nature to this one in the first financial year of this appointment to be appointed as soon as possible in order to ensure a continuous pipeline of future projects.

## **2. BACKGROUND**

The City of Cape Town carry out a large proportion of their maintenance works through Framework Tenders. Framework tenders appoint contractors to carry out specific types of work on an as-and-when required basis for a specified period of time, usually not longer than 36 MONTHS. Every time a contractor undertakes work on a framework tender an individual Works Project is created. In terms of the Construction regulations 2014, The City is required to carry out all the duties of the Client (as per Clause 5 of the regulations) for every Works Project that is created through the Framework Tenders.

The City's depot construction teams also carry out minor construction works on a day to day basis and it is currently the City's view that the City and the depot teams needs to carry out the Duties of the Principle Contractor, as stipulated in the regulations, to carry out these.

## **3. EMPLOYER'S OBJECTIVE**

The employer's objective is to comply with the OHS Construction Regulations 2014, for all construction works managed in house by City Officials and carried out on framework tenders projects and all works carried out by the City's depot construction teams.

## **4. DETAILS OF CONSTRUCTION WORKS**

Not Applicable

## **5. DESCRIPTION OF THE SERVICES REQUIRED**

The service provider will be required to carry out the work required as a Construction Health and Safety Agent and as a Construction Health and Safety Officer in order to ensure that the City of Cape Town complies with the Occupational Health and Safety Act, 1993 and the Construction Regulations, 2014.

### **5.1 Extent of the Services**

The extent of the services required will be as per the item descriptions in the Schedule of Rates. Should other unforeseen services be required, the hourly rates, as allowed for, will be used, as agreed with the Employer.

The quantities assigned to each of the items in the Schedule of Rates are for tendering and tender evaluation purposes only. The Tender will be evaluated as described in the tender data, where the price portion will be the tender sum submitted. The tender will be awarded on a rates only basis and the tender sum will not constitute an appointment budget. Final amounts payable will be measured according to the actual work carried out.

## **6. USE OF REASONABLE SKILL AND CARE**

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

## **7. GENERAL / TERMS OF REFERENCE**

In terms of the OHS Construction Regulations, 2014, Regulation 5, the Employer has numerous duties to fulfil when engaging with a primary contractor. In terms of Regulation 5(6), the Client may appoint an Agent to act as their Representative to fulfil the duties imposed by the regulations.

This tender aims to appoint suitably qualified and registered agents, as described in regulation 5(7) in order for the City of Cape Town's to ensure that the duties are fulfilled

### **7.1 Time Frames/Milestones**

Milestones set by the Employer in the Contract Data 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 cognisance 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.

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.

The specific duties envisioned include, but are not necessarily limited to, the following:

- Compiling Baseline Risk assessments;
- Compiling site specific health and safety specifications for the works, based on the baseline risk assessment for every works project;
- Supplying the designer (in this case the City Official that will manage the project) with the safety specification to be included in the project/tender document;
- Auditing and approving the contractor's health and safety plan and health and safety file;
- Carrying out health and safety audits, compiling audit reports, attend site meetings and managing the health and safety on construction sites. Each Audit report must contain a performance score to be able to evaluate contractor performance; and
- Ensuring proper and compliant close out of projects.

This appointment will predominantly be for work carried out through construction Framework Tenders that do not involve the appointment of a Civil Engineering Consultant. The projects are designed and managed by City Officials.

Contractors for Framework Tenders are appointed on an as-and-when required basis. Each time a new project is established on a term tender, a simple project document, including scope of works, Bill of Quantities and other contractual agreements is compiled. It is envisaged that the successful service providers for this tender will carry out the duties described above for each and every works project emanating from the Framework Tenders as required by the regulations. Each works project will therefore require a baseline risk assessment, site specific health and safety specification, safety file

approval, site audits and close out. A separate record file containing all the work for each project will be created and kept on record.

Tenderers being awarded a region will be required to work closely with the officials in each region to ensure that each works project meets the requirements in terms of the regulations. All the regions use the same Framework Tenders, each with approved contractors to carry out their required works.

Where a works project emanated from head office, the appointed service provider in the region in which the project takes place will be utilised. If a project from head office takes place in more than one region, the Employer reserves the right to choose which service provider will be used.

Approximately 600 separate works projects, or on average, about 150 projects per regions were carried out in the 2014/2015 financial year. These are indicative of the potential work load expected, however the City cannot guarantee any number of projects nor can it guarantee an equitable split of the work between regions.

### **Deliverables**

The specific deliverables required for each project in order to claim for the work done are as follows:

- Baseline Risk Assessment – full compensation for all work carried out and expenses incurred in this regard will be covered by Item 1.1 of the Schedule of Rates;
- Site Specific health and safety specification - full compensation for all work carried out and expenses incurred in this regard will be covered by Item 1.2 of the Schedule of Rates;
- Approval of Health and safety file - full compensation for all work carried out and expenses incurred in this regard will be covered by Item 1.3 of the Schedule of Rates;
- Site health and safety audit reports, including scores - full compensation for all work carried out and expenses incurred in this regard will be covered by Item 1.4 of the Schedule of Rates; and
- Site close out Report - full compensation for all work carried out and expenses incurred in this regard will be covered by Item 1.5 of the Schedule of Rates.

All travel expenses to the Site Audits and Site Meetings will be paid for separately under item 3.3 in the Schedule of Rates.

## **7.2 Places for the Performance of Specific Tasks**

It is anticipated that the majority of the work involved in the report writing will be undertaken at the Service Provider's local office.

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.

## **7.3 Time frames for deliverables and penalties**

The following time frames shall be adhered to with regards to deliverables:

|                                  |  |
|----------------------------------|--|
| Baseline risk assessment:        | 1 calendar week after notification by Employer |
| Site specific H&S Specification: | 1 calendar week after Baseline risk assessment |
| H&S File evaluation/approval:    | 1 working day after submission by contractor   |
| Submission of site audit report: | 2 working days after audit                     |
| Site close out:                  | 1 week after project completion                |

### **Site Audit Regularity**

Project durations will vary in length and as such the following minimum site audit regularity criteria will apply (excluding the checking and approval of the health and safety file):

Projects with a duration of:

- 4 calendar weeks or less: Minimum one site audit
- 4 to 8 calendar weeks: Minimum two site audits
- Greater than 8 calendar weeks: Monthly

The Service Provider will furthermore be required to procure, on instruction from the Employer, any other specialist services as may be required for the successful implementation of this project, in terms of a sub-consultancy or sub-contract agreement.

Failure to adhere to these time frames above without valid agreed upon reasons will result in the implementation of penalties of R 500.00 per calendar day until the required deliverable is submitted. Deliverables that are more than two calendar weeks late will result in the issuing of a Notice of Dissatisfactory Service. If a service provider receives a Third Notice of Dissatisfactory Service, it will be considered a Final Warning. If a fourth Notice is issued, Employer may terminate the contract in terms of Clause 8.4.1 i) of the Contract Data. Penalties will be deducted from payment certificates.

#### 7.4 Terms of Reference for Occupational Health and Safety Officer

Typical civil engineering construction works such as road-, electrical-, stormwater-, building-, and water works are carried out by the depots.

The appointed service provider is required to go to each depot in their allocated region to carry out an audit on occupational health and safety compliance in terms of the Occupational Health and Safety Act 1993 and Construction Regulations, 2014 and compile a report including recommendations on how to ensure and maintain compliance to the regulations. **The tendered rate for Item 2.1 in the Schedule of Rates will include full compensation for all work carried out and expenses incurred in this regard.**

After the initial audit and recommendation report is completed, the service provider will carry out quarterly audits to ensure that the recommendations are implemented and that compliance is maintained. **The tendered rate for Item 2.2 of the Schedule of Rates will include full compensation for all work carried out and expenses incurred in this regard.**

The construction teams at the depots carry out routine and emergency maintenance construction works on a daily basis throughout the City and as such need to comply with the Construction Regulations, 2014. The appointed service providers will be required to meet with the Depot supervisors to discuss the types of construction work that are carried out on a day to day basis and compile a generic Risk Assessment to cover all the work carried out. **The tendered rate for Item 2.3 of the Schedule of Rates will include full compensation for all work carried out and expenses incurred in this regard.**

The Employer will divide up a list of typical work activities carried out by the depot construction teams between the appointed service providers. Each service provider will be required to review any existing safe working procedures relating to each work activity and compile new safe working procedures for each activity that has been given to each specific service provider. **The tendered rate for Item 2.4 of the Schedule of Rates will include full compensation for all work carried out and expenses incurred for each individual activity for which a safe working procedure is compiled.**

One of the service providers will be chosen, at the sole discretion of the Employer, to incorporate all the safe working procedures compiled for Item 2.4 into a generic health and safety plan. This plan must be included in generic construction health and safety, file, also compiled by the chosen service provider, which will be distributed to all depots. **The tendered rate for Item 2.5 of the Schedule of Rates will include full compensation for all work carried out and expenses incurred in this regard.**

Once the construction health and safety file, safe working procedures and risk assessments are in place the appointed service provider for each region will be required to act as the OHS Construction teams: a pothole team, lines and signs team, large asphalt patching team, small asphalt patching team, stormwater team and guardrail/handrail team. This is a typical depot structure but the structure and number of teams and type of teams will vary from depot to depot. The OHS construction officer is to carry out one site inspection and audit per construction crew per depot per month to ensure that the specification is being complied with. This typically means, but is not limited to, between 24 and 36 inspections and audits per month. This will also include a compliance report and score for each audit. **The tendered rate for Item 2.6 of the Schedule of Rates will include full compensation for all work carried out and expenses incurred in this regard.**

All travel expenses to the depots and to the sites will be paid for separately under item 3.3 in the Schedule of Rates.

#### 8. REFERENCE DATA

Tenderers will need to be familiar with and have copies of the Requirements for the Occupational Health and Safety Act, 1993, and more specifically, the requirements of the OHS Construction Regulations, 2014.

## 9. APPLICABLE NATIONAL AND INTERNATIONAL STANDARDS

N/A

## 10. APPROVALS

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

- (a) Approval of the allocation of staff in respect of time based services;
- (b) 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.

## 11. PROCUREMENT

### 11.1 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.

### 11.2 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.

### 11.3 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** 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.

## 12. **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.

## 13. **KEY PERSONNEL**

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

### a) Professional Construction Health and Safety Agent..

- The proposed candidate must be registered as a Construction Health and Safety Agent or Manager (CHSA or CHSM) with the South African Council for Project and Construction Management Professions (SACPCMP).
- A list of projects on which the proposed Health and Safety Agent/Manager has acted as CHS Agent must be clearly ascertainable from the curriculum vitae submitted.
- Must be able to provide evidence, with signed employer reference letters in the form of the pro forma provided in Schedule 11, of being the CHSA/CHSM on minimum of three successfully completed (up to Issue of Certificate of Completion) construction projects. Separate letters must be provided for each project submitted in schedule 11. A minimum of three letters that prove the project requirements for the proposed CHSA/CHSM are met are required for the CHSA/CHSM to be responsive. Failure to provide at least three letters with the original tender submission will result in the CHSA/CHSM, and hence the tender, being non-responsive

### b) A Construction Health and Safety Officer.

- The proposed candidate must be registered as a Construction Health and Safety Officer / Agent or Manager (CHSO, CHSA or CHSM) with the SACPCMP.
- A list of projects on which the proposed CHSO/CHSA/CHSM has acted as the CHSO must be clearly ascertainable from the curriculum vitae submitted.
- Must be able to provide evidence, with signed employer reference letters in the form of the pro forma provided in Schedule 11, of being the CHSA/CHSM/CHSO on minimum of three successfully completed (up to Issue of Certificate of Completion) construction projects. Separate letters must be provided for each project submitted in schedule 11. A minimum of three letters that prove the project requirements for the proposed CHSA/CHSM/CHSO are met are required for the CHSA/CHSM/CHSO to be responsive. Failure to provide at least three letters with the original tender submission will result in the CHSA/CHSM/CHSO, and hence the tender, being non-responsive

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.

## 14. **MANAGEMENT MEETINGS**

### 14.1 **Management Meetings**

During the initial stages of this project (Planning, Studies, 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.

#### **14.2 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.

#### **14.3 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.

#### **14.4 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.

#### **14.5 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.

#### **14.6 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 Activity Schedule).

**CITY OF CAPE TOWN**

**DIRECTORATE: TRANSPORT: ROADS INFRASTRUCTURE & MANAGEMENT**

**CONTRACT NO. 24C/2021/22**

**FRAMEWORK TENDER FOR THE PROVISION OF PROFESSIONAL SERVICES: PROVISION OF AD-HOC OCCUPATIONAL HEALTH AND SAFETY SERVICES FOR FOUR REGIONS, IN TERMS OF THE CONSTRUCTION REGULATIONS 2014, FOR A PERIOD OF THIRTY-SIX (36) MONTHS FROM DATE OF COMMENCEMENT**

## **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: Prefencing 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 <sup>1</sup> | Total Value of Sub-contract (excl VAT) <sup>1</sup> | Value of Sub-contract work to date (excl VAT) <sup>1</sup> | Value of Sub-contract work to BBEE Status Level than Prime Contractor |   |
| Sub-contractor A  |  | R   | R  | R   |   |
| Sub-contractor B  |  | R   | R  | R   |   |
| Sub-contractor C  |  | R   | R  | R   |   |
|   |  |   |  |   |   |
|   |  |   |  |   |   |
|   |  |   |  | Total:  | R |
|   |  |   |  | Expressed as a percentage of P*                                       | % |

<sup>1</sup>Documentary evidence to be provided

**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 <sup>1</sup> A | Total value of JV partner's contribution (excl. VAT) <sup>1</sup> B = A% x P* | Value of JV partner's contribution to date (excl. VAT) <sup>1</sup> C | Value of JV partner's contribution as a percentage of the work executed to date D = C/P*x100 |
| JV Partner A  |   | %   | R   | R   | %  |
| JV Partner B  |   | %   | R   | R   | %  |
| JV Partner C  |   | %   | R   | R   | %  |
|   |   |   |   |   |  |

<sup>1</sup>Documentary evidence to be provided

**Signatures**

Verified by Employer's Representative:

Date:

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

Date:

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## Part C4: Site Information

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