

**5/2/2/1 NC RDLR - 0007 (2018/2019)**

**DESCRIPTION: TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A LAND USE MANAGEMENT SYSTEM (LUMS) FOR THE ENTIRE KAI! GARIB LOCAL MUNICIPALITY AREA (WALL-TO-WALL) FOR A PERIOD OF TEN (10) MONTHS.**

**NO BRIEFING SESSION AS FOR THIS BID:**

**CLOSING DATE: 05 APRIL 2019**

Venue: NEW PUBLIC BUILDING (KNOWN AS COURT BUILDING),  
CORNER KNIGHT & STEAD STREET, 6<sup>TH</sup> FLOOR  
**KIMBERLY**  
8301

**TECHNICAL ENQUIRIES:**

Mr G Debruin

TEL: (053) 832 4588

FAX: (053) 832 1482

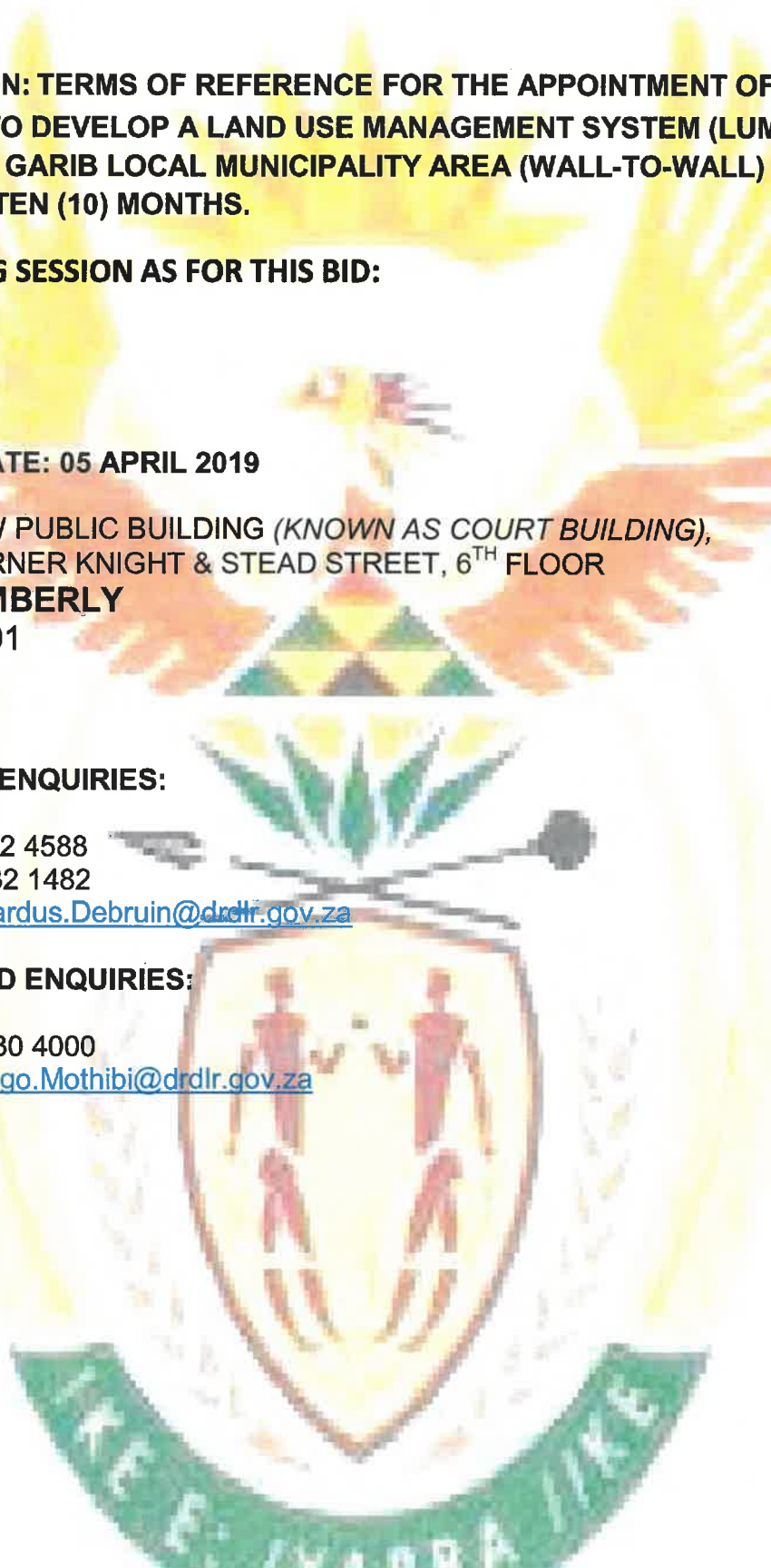
EMAIL: [Gerhardus.Debruin@drdlr.gov.za](mailto:Gerhardus.Debruin@drdlr.gov.za)

**BID RELATED ENQUIRIES:**

Ms K Mothibi

TEL : (053) 830 4000

EMAIL : [Katlego.Mothibi@drdlr.gov.za](mailto:Katlego.Mothibi@drdlr.gov.za)





## rural development & land reform

Department:  
Rural Development and Land Reform  
REPUBLIC OF SOUTH AFRICA

PROVINCIAL SHARED SERVICE CENTRE: NORTHERN CAPE

Directorate: Financial and Supply Chain Management Services: Sub-Directorate: Demand and Acquisition Management Services:  
Enquiries: Ms R Mugwari: Tel: (053) 830 4000

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

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CLOSING TIME: 11H00

CLOSING DATE: 05 April 2019

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**BIDS RECEIVED AFTER THE CLOSING TIME AND DATE ARE LATE AND WILL AS A RULE NOT BE ACCEPTED FOR CONSIDERATION**

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1. Kindly furnish us with a bid for services shown on the attached forms.
2. Attached please find the SBD 1, SBD 2, SBD 4, SBD 6.1, SBD 6.2, SBD 8, SBD 9, GCC and Specification.
3. If you are a sole agent or sole supplier you should indicate your market price after discount to your other clients or if that is not possible your percentage net profit before tax, in order to decide whether the price quoted is fair and reasonable.
4. The attached forms must be completed in detail and returned with your bid. Each bid document must be submitted in a separate sealed envelope stipulating the following information: Name and Address of the bidder, and closing date and time.
5. The bid must be addressed to the Director: Finance and Supply Chain Management, Provincial Shared Service Centre, Department of Rural Development and Land Reform, in order to reach the destination no later than the closing date and time. The bid must be deposited in the bid box situated on the 6<sup>th</sup> floor reception area of the Department of Rural Development and Land Reform, Corner Knight & Stead Street, 6<sup>th</sup> floor Court Building Kimberley 8301. **Bidders must ensure that bids are delivered timeously to the correct address. (failure to comply will disqualify your proposal)**

Yours faithfully

*Signed*

Mr Sibusiso Moloiyane

Deputy Director: Supply Chain Management

Date: 13 March 2019

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**

**July 2010**

## **NOTES**

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 "Day" means calendar day.
  - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
  - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
  - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of

origin and which have the potential to harm the local industries in the RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance,

training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

## **4. Standards**

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

## **5. Use of contract documents and information; inspection.**

5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent rights**

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights



arising from use of the goods or any part thereof by the purchaser.

**7. Performance security**

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

**8. Inspections, tests and analyses**

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

**9. Packing**

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

**10. Delivery and documents**

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

**11. Insurance**

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

**12. Transportation**

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

**13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual

- (d) for each appropriate unit of the supplied goods; performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

#### **14. Spare parts**

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### **15. Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s)

within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities

or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

**22. Penalties**

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

**23. Termination for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

#### **24. Anti-dumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in

terms of the contract or any other contract or any other amount which may be due to him

**25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination for insolvency**

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

**27. Settlement of Disputes**

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices** In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.



34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

Js General Conditions of Contract (revised July 2010)

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	5/2/2/1 – NC RDLR 0007(2018/2019)	CLOSING DATE:	05 APRIL 2019	CLOSING TIME:	11:00
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A LAND USE MANAGEMENT SYSTEM (LUMS) FOR THE ENTIRE KAI GARI LOCAL MUNICIPALITY AREA (WALL-TO-WALL) FOR A PERIOD OF TEN (10) MONTHS.				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
<b>DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM</b>					
<b>CNR KNIGHT &amp; STEAD STREET</b>					
<b>KIMBERLEY</b>					
<b>8301</b>					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
			TCS PIN:		OR CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]			<input type="checkbox"/> Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT
			<input type="checkbox"/> No		<input type="checkbox"/> Yes
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX			<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)	
			<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)	
			<input type="checkbox"/>	A REGISTERED AUDITOR	
			NAME:		
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?			<input type="checkbox"/> Yes	<input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?
			[IF YES ENCLOSE PROOF]		<input type="checkbox"/> Yes
					<input type="checkbox"/> No
					[IF YES ANSWER PART B:3 BELOW ]
SIGNATURE OF BIDDER			DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
DEPARTMENT/ PUBLIC ENTITY			CONTACT PERSON		
CONTACT PERSON			TELEPHONE NUMBER		
TELEPHONE NUMBER			FACSIMILE NUMBER		
FACSIMILE NUMBER			E-MAIL ADDRESS		
E-MAIL ADDRESS					

## PART B TERMS AND CONDITIONS FOR BIDDING

### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE
- 1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: ( BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.

### 2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

### 3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?  YES  NO
- 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?  YES  NO
- 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  YES  NO
- 3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?  YES  NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

CENTRAL SUPPLIER DATABASE (CSD) NUMBER: .....

## **AUTHORITY TO SIGN THE STANDARD BIDDING DOCUMENTS (SBD) ON BEHALF OF AN ENTITY.**

“Only authorized signatories may sign the original and all copies of the tender offer where required.

In the case of a **ONE-PERSON CONCERN** submitting a tender, this shall be clearly stated.

In case of a **COMPANY** submitting a tender, include a copy of a **resolution by its board of directors** authorizing a director or other official of the company to sign the documents on behalf of the company.

In the case of a **CLOSED CORPORATION** submitting a tender, include a copy of a **resolution by its members** authorizing a member or other official of the corporation to sign the documents on each member's behalf.

In the case of a **PARTNERSHIP** submitting a tender, **all the partners shall** sign the documents, unless one partner or a group of partners has been authorized to sign on behalf of each partner, in which case **proof of such authorization** shall be included in the Tender.

In the case of a **JOINT VENTURE** submitting a tender, include a **resolution** of each company of the Joint Venture together with a resolution by its members authorizing a member of the Joint Venture to sign the documents on behalf of the Joint Venture.”

**Accept that failure to submit proof of Authorization to sign the tender shall result in a Tender Offer being regarded as non-responsive.**



**Application for a Tax Clearance Certificate**

**Purpose**

Select the applicable option ..... Tenders  Good standing

If "Good standing", please state the purpose of this application


**Particulars of applicant**

Name/Legal name (Initials & Surname or registered name)			
Trading name (if applicable)			
ID/Passport no		Company/Close Corp. registered no	
Income Tax ref no		PAYE ref no	7
VAT registration no	4	SDL ref no	L
Customs code		UIF ref no	U
Telephone no		Fax no	
E-mail address			
Physical address			
Postal address			

**Particulars of representative (Public Officer/Trustee/Partner)**

Surname			
First names			
ID/Passport no		Income Tax ref no	
Telephone no		Fax no	
E-mail address			
Physical address			

**Particulars of tender** (If applicable)

Tender number

Estimated Tender amount R

Expected duration of the tender  year(s)

**Particulars of the 3 largest contracts previously awarded**

Date started	Date finalised	Principal	Contact person	Telephone number	Amount

**Audit**

Are you currently aware of any Audit investigation against you/the company?  YES  NO

If "YES" provide details

**Appointment of representative/agent (Power of Attorney)**

I the undersigned confirm that I require a Tax Clearance Certificate in respect of  Tenders or  Goodstanding.

I hereby authorise and instruct  to apply to and receive from SARS the applicable Tax Clearance Certificate on my/our behalf.

Signature of representative/agent  Date

Name of representative/agent

**Declaration**

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

Signature of applicant/Public Officer  Date

Name of applicant/Public Officer

**Notes:**

1. It is a serious offence to make a false declaration.
2. Section 75 of the Income Tax Act, 1962, states: Any person who
  - (a) fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
  - (b) without just cause shown by him, refuses or neglects to-
    - (i) furnish, produce or make available any information, documents or things;
    - (ii) reply to or answer truly and fully, any questions put to him ...As and when required in terms of this Act ... shall be guilty of an offence ...
3. **SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
4. Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
  - the bidder is employed by the state; and/or
  - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
  
2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
  - 2.1 Full Name of bidder or his or her representative: .....
  - 2.2 Identity Number:.....
  - 2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>, member):  
.....
  - 2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:  
.....
  - 2.5 Tax Reference Number: .....
  - 2.6 VAT Registration Number: .....
  - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature; .
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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



2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member: .....  
Name of state institution at which you or the person connected to the bidder is employed : .....  
Position occupied in the state institution: .....

Any other particulars:  
.....  
.....  
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....  
.....  
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

.....  
.....  
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.



**4 DECLARATION**

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.  
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS  
DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

This document must be signed and submitted together with your bid

## THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

### INTRODUCTION

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

### 1 PILLARS OF THE PROGRAMME

- 1.1 The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have a NIP obligation. This threshold of US\$ 10 million can be reached as follows:
- (a) Any single contract with imported content exceeding US\$10 million.  
or
  - (b) Multiple contracts for the same goods, works or services each with imported content exceeding US\$3 million awarded to one seller over a 2 year period which in total exceeds US\$10 million.  
or
  - (c) A contract with a renewable option clause, where should the option be exercised the total value of the imported content will exceed US\$10 million.  
or
  - (d) Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US\$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US\$10 million.
- 1.2 The NIP obligation applicable to suppliers in respect of sub-paragraphs 1.1 (a) to 1.1 (c) above will amount to 30 % of the imported content whilst suppliers in respect of paragraph 1.1 (d) shall incur 30% of the total NIP obligation on a *pro-rata* basis.
- 1.3 To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.

1.4 A period of seven years has been identified as the time frame within which to discharge the obligation.

## **2 REQUIREMENTS OF THE DEPARTMENT OF TRADE AND INDUSTRY**

2.1 In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of **R10 million** (ten million Rands), submit details of such a contract to the DTI for reporting purposes.

2.2 The purpose for reporting details of contracts in excess of the amount of R10 million (ten million Rands) is to cater for multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as provided for in paragraphs 1.1.(b) to 1.1. (d) above.

## **3 BID SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF BIDDERS AND SUCCESSFUL BIDDERS (CONTRACTORS)**

3.1 Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the bid on the closing date and time.

3.2 In order to accommodate multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 1.1 (b) to 1.1 (d) above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R10 million (ten million Rands), to contact and furnish the DTI with the following information:

- Bid / contract number.
- Description of the goods, works or services.
- Date on which the contract was accepted.
- Name, address and contact details of the government institution.
- Value of the contract.
- Imported content of the contract, if possible.

3.3 The information required in paragraph 3.2 above must be sent to the Department of Trade and Industry, Private Bag X 84, Pretoria, 0001 for the attention of Mr Elias Malapane within five (5) working days after award of the contract. Mr Malapane may be contacted on telephone (012) 394 1401, facsimile (012) 394 2401 or e-mail at [Elias@thedti.gov.za](mailto:Elias@thedti.gov.za) for further details about the programme.

## **4 PROCESS TO SATISFY THE NIP OBLIGATION**

4.1 Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:

- a. the contractor and the DTI will determine the NIP obligation;
- b. the contractor and the DTI will sign the NIP obligation agreement;

- c. the contractor will submit a performance guarantee to the DTI;
- d. the contractor will submit a business concept for consideration and approval by the DTI;
- e. upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;
- f. the contractor will implement the business plans; and
- g. the contractor will submit bi-annual progress reports on approved plans to the DTI.

4.2 The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid number .....	Closing date:.....
Name of bidder.....	
Postal address .....	
.....	
Signature.....	Name (in print).....
Date.....	

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

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

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

**1. GENERAL CONDITIONS**

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

- a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
<b>PRICE</b>	
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

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

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

## 2. DEFINITIONS

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

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

**80/20                                  or                                  90/10**

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

Where

- $P_s$  = Points scored for price of bid under consideration
- $P_t$  = Price of bid under consideration
- $P_{\min}$  = Price of lowest acceptable bid

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

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



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

## 5. BID DECLARATION

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

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

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

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

## 7. SUB-CONTRACTING

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

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....%

ii) The name of the sub-contractor.....

iii) The B-BBEE status level of the sub-contractor.....

iv) Whether the sub-contractor is an EME or QSE

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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

Designated Group: An EME or QSE which is at least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		

Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

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

8.2 VAT \_\_\_\_\_ registration  
number:.....

8.3 Company \_\_\_\_\_ registration  
number:.....

**8.4 TYPE OF COMPANY/ FIRM**

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....  
 .....  
 .....  
 .....  
 .....

**8.6 COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the  
company/firm, certify that the points claimed, based on the B-BBE status level of  
contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies  
the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as  
indicated in paragraph 1 of this form;

- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

<p>WITNESSES</p> <p>1. ....</p> <p>2. ....</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE: .....</p> <p>ADDRESS .....</p> <p>.....</p> <p>.....</p>
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## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?  <b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b></p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<p>Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.4.1	If so, furnish particulars:
-------	-----------------------------

**SBD 8**

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME).....  
 CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION  
 FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT,  
 ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION  
 PROVE TO BE FALSE.**

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of Bidder**

Js365bW

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
  
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
  
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
  
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
  
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

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

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.



10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js914w 2



## rural development & land reform

Department:  
Rural Development and Land Reform  
REPUBLIC OF SOUTH AFRICA

### **Branch: Spatial Planning and Land Use Management**

30 Du Toitspan Road, Flaxley House Building, 3<sup>rd</sup> Floor, Room 301, Kimberley 8300; Tel: (053) 832 4588; Fax: (053) 832 1482

### **TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A LAND USE MANAGEMENT SYSTEM (LUMS) FOR THE ENTIRE KAI! GARIB LOCAL MUNICIPALITY AREA (WALL-TO-WALL) FOR A PERIOD OF TEN (10) MONTHS.**

#### **1. INTRODUCTION.**

The Department of Rural Development and Land Reform (DRDLR) requires professional services of one (1) firm or a consortium of suitably qualified professionals to develop a land use management system (LUMS) for the entire Kai! Garib local municipal area (wall-to-wall) for a period of 10 months.

#### **2. BACKGROUND.**

- 2.1. The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) referred to as SPLUMA states that municipalities must, within five (5) years from the date of commencement of the Act (01 July 2015), adopt a land use scheme for the whole municipal area.
- 2.2. The Municipality has gazetted the Spatial Planning and Land Use Management Bylaw in the provincial gazette on the 19<sup>th</sup> October 2015 to administrate and facilitate land use and land development applications within the municipal jurisdiction. The compilation of the LUMS must take into consideration and be in-line with the approved bylaw.

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- 2.3. SPLUMA prescribe specific requirements for a land use scheme in Chapter 5. The Act recognize that the key to successful spatial planning, land use management and land development is the establishment of an effective link between forward planning (spatial planning) and development control (now interpreted broadly as land use management).
- 2.5 According to Section 20(1) of SPLUMA a municipality must adopt the Spatial Development Framework (SDF) by notice in the provincial gazette. Section 26 (e) of the Local Government: Municipal Systems Act, No. 32 of 2000 (the "MSA") requires all municipalities to compile SDFs as a core component of the Integrated Development Plans (IDP). Section 26(e) of the Municipal Systems Act states: "municipalities must formulate an SDF which must include the provision of basic guidelines for a land use management system for the municipality".
- 2.6 Kai !Garib Local Municipality compiled its Spatial Development Framework in 2012 and scheme regulations in 2007. In an effort to ensure compliance with the provisions of SPLUMA, the municipality has identified the need to review its Spatial Development Framework, but until such time the current SDF will prevail. The need for a SDF review was triggered by the fact that the municipality has exhausted all the spatial proposals in the SDF, specifically areas that were identified for future settlement development. Unsurprisingly, the need to review the Zoning Scheme for SPLUMA compliance and to ensure clear alignment with the 2012 SDF was also identified.

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**3. PROBLEM STATEMENT**

- 3.1 The current LUS was compiled prior the passing of SPLUMA into law, thus, it is not compliant to SPLUMA and there is currently no alignment between the SDF and zoning scheme. The existing zoning scheme therefore do not reflect the intentions and concerns of recent national land use related legislation such as the Spatial Planning and Land Use Management Act 2013 and its 2015 Regulations, the Municipal Systems Act, 2000 (Act 32 of 2000), the National Environmental Management Act, 1998 (Act 107 of 1998) and the 2010 Regulations (NEMA), the National Heritage Resources Act, 1999 (Act 25 of 1999 (NHRA), the Integrated Coastal Management Act, 2008 (Act 24 of 2008 (ICMA), and the Northern Cape Provincial Spatial Development Framework (NCPSPDF).
- 3.2 The current zoning information does not entirely conform with the actual picture on the ground as a result of internal and external factors such as loss of scheme amendment information.
- 3.3 It is critical that land use management is integrally linked to forward planning and addresses the municipalities' challenges. The SDF covers a wide range of policies dealing with housing, infrastructure, economic development, provision of social facilities and services to ensure that it is placed on a sustainable development pathway. The introduction of the LUMS provides the opportunity to consolidate and integrate the various land use related policies and development control systems and place the municipality on a more efficient, effective and equitable growth pathway.
- 3.4. In most of the municipalities there exists a need to amalgamate and review existing schemes in order to reflect the current law and policy environment. The nature of land use schemes challenges facing the municipalities need to be assessed and then the identification of suitable instruments to tackle those issues need to be undertaken.

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- 3.5 The municipalities embarked on various strategic planning processes in response to developmental challenges facing its people, its economy as well as its natural and built environment for example the integrated development plans (IDPs) and economic development plans and Kai !Garib local municipality is no exception. All of these studies are geared at medium to long-term development process, while the Land Use Management System (LUMS) i.e. credible SDF and LUS in particular would also have an immediate impact.
- 3.6. Municipalities' unique development challenges necessitate more integrated, efficient and effective land use management systems that are appropriate and more proactive in its application. There is, however, no universal definition of what the components of a land use management system should be.

Most municipalities that have embarked on this process have focussed on:

- Establishing a more direct and immediate link between forward/policy planning and day to day land use development control measures; and
- Establishing a system of land use management in its entirety, from the provision of guidelines, to the processing of the applications; the zoning register; development incentives; approval conditions; etc.

The new Land Use Management Systems (LUMS) will have direct impacts on property values, business development and ultimately rates income for each municipality. It would also introduce a more uniform and development facilitation land management system that could form the basis for sustainable development in municipalities for the next 50 years as well as provide a new lease of life to the land use management/development control function which, in the context of Kai !Garib, had been neglected until recently.

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**4. THE OBJECTIVES OF THE PROJECT**

4.1 The main objective is to create an integrated LUMS for the entire Kai !Garib municipal area and to replace the existing scheme and plans to fit within the current legislative framework. It must also fit within the policy parameters established by the national government (Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) and Regulations and provincial government in the Northern Cape and the applicable provincial planning legislation.

i) Legislation, Land Use Policy and Guidelines

*Current Situation:* NEMA requires that instruments such as the LUMS must reflect and strengthen the principles of integrated environmental management.

SPLUMA stipulates that a land use scheme (LUS) must give effect to and be consistent with the municipal spatial development framework and determine the use and development of land within the municipal area to which it relates in order to promote the following:

- economic growth;
- social inclusion;
- efficient land development; and
- minimal impact on public health, the environment and natural resources.

Section 25(2) of the Act establishes the basic contents of a LUS. It must include the scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;

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a map indicating the zoning of the municipal area into land use zones; and a register of all amendments to such a land use scheme.

A key city / town management challenge for the municipalities are that of establishing an effective legal relationship between its SDF and the LUS, to build a strong and direct legal relationship between the forward planning reflected in the SDF and the day-to-day management of development. Currently policies are outdated, a policy vacuum exists for a number of policy arenas and forward planning is not linked to ongoing land use development control. Land use decision-making occurs therefore on an ad hoc basis and in a vacuum. There is very limited evidence that the current LUS were designed to meet any of the above objectives.

Aspects which especially warrant further attention are:

- the relationship between the LUS and the municipal plans (the SDFs) – how does the LUS, which is primarily a static instrument of control, adapt to meet the changing needs of the municipalities' as these are reflected from time to time in the five yearly SDF's;
- linking the allocation of rights to the objectives such as integrating land use and transportation, encouraging (informal) economic development; balancing the needs of flexibility with predictability; and protecting the natural and built environment;
- development of strategic sites; and
- urban renewal;
- Technology (e.g. renewable energy).

**TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A LAND USE MANAGEMENT SYSTEM (LUMS) FOR THE ENTIRE KAI! GARIB LOCAL MUNICIPALITY AREA (WALL-TO-WALL) FOR A PERIOD OF TEN (10) MONTHS.**

- 4.2. This project does not require any environmental impact assessments. However, NEMA will be a key informant of the LUS, while the Spatial Development Framework will also identify key environmental assets and attributes that will inform the policy and guidelines component of the project.
- 4.3. Given the land use management development challenges facing municipalities', the following are critical components of a full LUMS:
- i.) Legislation, Land Use Policy and Guidelines;
  - ii.) Integrated Zoning Scheme and Regulations;
  - iii.) Zoning Maps;
  - iv.) Assessment and Approval Procedures and Application Forms not catered for in the bylaw;
  - v.) Conditions of Approval;
  - vi.) Zoning Register;
  - vii.) Delegation of Decision-Making;
  - viii.) Development Incentives;
  - ix.) Enabling Legislation;
  - x.) Reference Manual.
- 4.4. Credible SDFs through the implementation of the comprehensive SDF and Land Use scheme guidelines developed by the DRDLR in 2017, SPLUMA and its Regulations and the Northern Cape Provincial Spatial Development Framework (NC PSDF) shall enhance the objective of the development of a municipal wide LUS. The Comprehensive SDF and LUS Guidelines, NCPSDF and SPLUMA are therefore components of these Terms of Reference and provide the necessary details thereof. Practical lessons during the implementation process should be well documented with recommendations. Adherence to Chapter 5 and 6 of SPLUMA, 2013 is very critical.



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4.5. The proposed LUS together with the SDF must give effect to the development principles contained in the Spatial Planning & Land Use Management Act, 2013 including:-

- (i) Spatial Justice;
- (ii) Spatial Sustainability;
- (iii) Efficiency;
- (iv) Spatial Resilience; and
- (v) Good Administration

**5. CRITICAL MILESTONES.**

5.1. The following tasks are required:

Assess relevance and implication of existing legislation and proposed policies and guidelines. Once the draft policy directives are in place as derived from the municipal SDF and other strategy interventions / completed studies, the following tasks are envisaged:

<b>List of Activities</b>	
<b>1</b>	<b>Legislation, Land Use Policy and Guidelines:</b>
1.1	Assess relevance and implication of existing legislation, Bylaw, NCPSDF, SPLUMA 2013 policies and guidelines and draft NC SPLUM Bill 2018
1.2	Synthesis and incorporate new policy emerging from the SDF / strategies / studies / IDPs as well as the implications there-off for the Integrated Zoning Scheme and Regulations. Policy gaps should be identified and brief for these should be prepared for further work.
	Integration of relevant legislation (NEMA, ICMA, NHRA, IUDF etc.)
<b>2</b>	<b>Integrated Land Use Scheme and Regulations:</b>
2.1	Assess the existing LUMS and Regulations from a legal perspective as well as consistency with legislation / NC PSDF / SPLUMA / NC SPLUM bill 2018 and compile land use plan if a LUMS do not exist.
2.2	Complete a comprehensive land use survey / indicate land uses / list non-conforming land uses.

2.3	The policies emanating from the SDFs should guide and inform the preparation of the LUMS.
2.4	Evaluate LUMS in terms of its flexibility and pro-activeness with regard to on-going development applications and technology.
2.5	Evaluate appropriateness of the various LUMS definitions.
2.6	Generate extensive graphical illustrations and perhaps tables.
2.7	Draft Document.
<b>3</b>	<b>Zoning Maps:</b>
3.1	Assess and evaluate comparative zones for the different areas. Aspects to be addressed include reaching agreement on notation, techniques and overlays and refinement of the zoning maps.
3.2	Digitise maps, preferable in GIS and link to database e.g. SPISYS
<b>4</b>	<b>Assessment and Approval Procedures and Application Forms not catered for in the Bylaw:</b>
4.1	Evaluate and assess existing procedures impacting on LUMS in terms of their efficiency and effectiveness. Place emphasis on streamlining the required procedures, avoiding publication, shorting approvals periods and delegating decisions to the lowest possible level.
4.2	Evaluate and design application forms that eliminate duplication, easy to complete, comprehensive in terms of the approval requirements and as short as possible
4.3	Amend current land use management bylaw in order to address transgressions and non-conforming land uses.
<b>5</b>	<b>Conditions of Approval:</b>
	Establish model conditions of approval for different uses and circumstances.
<b>6</b>	<b>Zoning Register:</b>
	Assess the status quo regarding the existing Zoning Register and evaluate procedures (in terms of their appropriateness). Consider standardising procedures as well as the implementation of an effective tracking system. Compile a zoning register if not available.
<b>7</b>	<b>Delegation of Decision Making:</b>
	Identify types of applications where and when delegations are necessary, justified and appropriate in order to facilitate greater effectiveness and efficiency in the system. The delegated approvals must be in terms of clear policy environments
<b>8</b>	<b>Development Incentives:</b>
	Identify mechanisms on how to promote appropriate development and proactively facilitate development process in targeted areas. This should be in terms of the municipalities' SDFs, LED and other relevant strategies.
<b>9</b>	<b>Enabling Legislation (Laws):</b>
	Identify/formulate enabling legislation to establish the new zoning scheme; the conversion of maps and the identification of limitations for compensation where parameters are changed. (Alignment with NC SPLUM Bill 2018 and NCPSDF).
<b>10</b>	<b>Reference Manual:</b>
	Prepare advice and reference manual on how new LUMS would function. This must be user friendly with generous use of plain language as well as appropriate graphic and flow chart illustrations.

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**6. OUTCOMES AND DELIVERABLES.**

- 6.1 The LUMS should respond to the government strategic priorities (NDP, draft NSDF, NC PGDP, NC PSDF). It shall demonstrate how job creation in the municipality is facilitated through the LUS. The end product must contribute positively towards local economic development, sustainable livelihoods in rural areas and poverty alleviation.
- 6.2 The LUS must be both a vertical and a horizontal alignment tool for municipal-wide activities, plans and policies. It must be a tool to facilitate structured implementation of programmes, and be an effective decision-making instrument.
- 6.3 The integrated LUS must identify practical, developmental orientated with roles that can be realistically be afforded to communities and other role players with regard to enforcing development control measures considering political interest and strong individual groups.
- 6.4 The LUMS is to formulate a consolidated development orientated LUS for the whole municipal area.
- 6.5 The LUS should also take cognizance of existing strategies such as Local Economic Development strategies intended to alleviate poverty as it is regarded as “second economy” as well as well established businesses which are regarded as “first economy”.

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- 6.6 All objectives of the project as stipulated in this Terms of Reference should be met. A document with clear deliverables is expected together with a comprehensive zoning register, and should be moulded around what is stipulated under Section 5.
- 6.7 Submissions should be in the form of both hard and electronic versions of the LUS. All zoning information collected should be submitted in GIS capable file format (shapefiles, layer files, mxd files) for use in a GIS environment. The shape-files must have clear attribute information that differentiates each LUS construct and its purpose, for example a service node shape file should have an attribute called "description" with the value "service node". The project steering committee will comment on the LUS and send them to the service provider for amendment purposes.
- 6.8. It is recommended that more visual representation (maps, graphics and photographs) form the bulk part of the LUS together with the conceptual framework section of the completed / approved SDF. A text box or other mechanisms may be used to provide an explanation, relevant information or analysis.
- 6.9. Required copies of the LUS document for consultation purposes shall be prepared by the service provider. The copies shall be distributed a week prior to the meeting taking place.
- 6.10 The service provider would be expected to submit a final consolidated report which consists of:
- LUMS document including zoning register, maps, bylaw, tables and figures in both hardcopy (printed) and softcopy (electronic as MS word document);
  - All maps contained in LUMS textual document as electronic image files (eg. JPEG, windows Bitmap, GIF, etc.);
  - All zoning information used to generate the LUMS maps in shape file (GIS Metadata) format together with correct and descriptive attribute information as to what each LUMS construct represents;

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- An indication of human resource capacity. This will comprise of a list of TRP and GIS professionals, with their full contact details, as well as the Provincial and Local Government officials who had a role in providing information (spatial or otherwise) for inclusion in the LUMS to be developed; accompanied by a short CV to capture their qualifications and experience with regard to LUMS and spatial planning;
- The LUMS must clearly be aligned with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and the Provincial Spatial Development Framework.

**7. PROJECT DURATION AND COST**

- 7.1 It is expected that the project be completed in a period of 10 months effective from the date of appointment. The target dates for each milestone (as well as the associated deliverable) and the amount of financial compensation for the work done is scheduled under Table 2.
- 7.2 Due to the urgency of the project it is critical that timeframes are strictly adhered to. Financial penalties will be imposed for any delay or non-compliance with time and quality requirements.

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**TABLE 2: PROJECT COST AND TIME FRAME**

<b>PHASES</b>	<b>% PAYABLE</b>	<b>TIME FRAMES</b>	<b>SUBMISSION/ OUTPUT</b>
<b>Phase 1: Legislation, land use policy and guidelines (Inception report format indicating specific actions and date specific timeframes)</b>	10%	1 month	FINAL REPORT
<b>Phase 2: Integrated zoning scheme and regulations</b>	20%	3 months	FINAL REPORT
<b>Phase 3: Zoning maps</b>	20%	2 months	FINAL REPORT
<b>Phase 4: Assessment and approval procedures and application forms / conditions for approvals.</b>	30%	1 months	FINAL REPORT
<b>Phase 5: Zoning register / delegation of decision making / development incentives / enabling legislation.</b>	10%	2 months	FINAL REPORT
<b>Phase 6: Reference manual</b>	5%	1 month	FINAL REPORT
<b>RETENTION</b>	<b>5%</b>		Gazette LUMS
<b>Total</b>	<b>100%</b>		

7.3 An amount for the final LUMS is payable upon ratification by the Municipality as well as by the mayoral committee /EXCO of the affected municipality.

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- 7.4 5% retention will be paid once proof of the Gazetted LUMS has been submitted. The service provider may apply to the department for the retention fee payment in the event that the municipality's council is not functional in that council meetings are not taking place. A formal letter from the municipality that confirms this situation will have to be presented to the department by the service provider.
- 7.5 Monthly reports (per phase) will be forwarded by the service provider to the Northern Cape DRDLR –Spatial Planning and Land Use Management unit situated in the Kimberley. The service provider will be required to report via a written and electronic report.

**8. RELEVANT SKILLS AND EXPERIENCE.**

8.1 Below is a summary of requirements:

- Project team leader must be registered with SACPLAN with 10 years post registration experience as a professional Planner in terms of the Planning Profession Act, 2002. (a Copy of valid certificate and proof of payment of fees and good standing is to be attached).

8.2 Skills and abilities required in the team to execute the project include the following:

- Town and Regional Planning;
- Thorough understanding of SDFs, LUMS and strategic planning process with proven examples of work done (verification contact details of previous work done to be included);
- Knowledge of GIS and software packages (Geography and hands on GIS (at least at Technologist / Practitioner Level);
- Strong knowledge of LUMS processes, municipal rates and zoning;
- Understanding of Title Deed restriction conditions;
- Understanding of all national legislative objectives;

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- In depth knowledge of Land Reform, National and Northern Cape legislative objectives for e.g Northern Cape Spatial Development Framework and the impacts thereof within the urban environment and other municipal development processes such as Integrated Development Plan (IDP);
- Understanding of Spatial Development Framework and its influence in the Land Use Management System.

8.3 It is therefore recommended that the service provider ensures that people with relevant skills are part of the project. A list of people containing, among other things, names, qualifications and experience who will be directly involved in the project must be submitted. This should clearly indicate what roles each team member will play. A company/team profile containing, among other things, names, qualifications and experience of persons who will be **directly** involved in the project must be included.

8.4 All team members that will be directly involved in the project will be expected to attend all progress report meetings as scheduled and agreed upon by both parties. The selected team members shall remain the same for the duration of the project and cannot be changed without prior discussions with and approval from DRDLR.

**9. CAPACITY BUILDING AND SKILLS TRANSFER**

9.1. DRDLR considers skills development as an integral part of the out sourcing process. The process should ensure that skills development and transfer is achieved within the municipality. Proposals should indicate how skills development and transfer would be achieved in the municipality / district municipality.

9.2 Progress on skills transfer to be part of the monthly progress report.



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**10. INFORMATION GATHERING**

- 10.1 The successful Service Provider is expected to make contact with all the relevant GIS, Planning and required officials and units within the local and provincial spheres of government to obtain relevant information that is required for the project. Existing information on LUMS/SDFs which are available within the Northern Cape Spatial Planning and Land Use Management Office will be made available to the successful service provider.
- 10.2 In the light of the event that the service provider needs a letter to confirm the motive for requesting information from the different spheres of government or parastatals, DRDLR will provide the requested letter.

***However, the responsibility for collecting information necessary for the successful execution of the project remains entirely with the service provider.***

## **11. TERMS AND CONDITIONS OF THE BID**

### **11.1 General**

- 11.1.1 Awarding of the bid will be subject to the Service Provider's expressed acceptance of the DRDLR Supply Chain Management general contract conditions.
- 11.1.2 The DRDLR and Service Provider will sign a Services Level Agreement upon appointment.
- 11.1.3. Staffing requirements will be identified on the onset of the project and shall remain unchanged for the duration of the project, unless prior written consent has been granted by the Department of Rural Development and Land Reform.
- 11.1.4 No material or information derived from the provision of the services under the contract may be used for any other purposes except for those of the DRDLR, except where duly authorized to do so in writing by the DRDLR.
- 11.1.5 Copyright in respect of all documents and data prepared or developed for the purpose of the project by the Service Provider shall be vested in DRDLR.
- 11.1.6 The successful Service Provider agrees to keep all records and information of, or related to the project confidential and not to disclose such records or information to any third party without the prior written consent of DRDLR.
- 11.1.7 The department reserves the right to terminate the contract in the event that there is clear evidence of non-performance and non-compliance with the contract.
- 11.1.8 The short-listed service providers may be required to do a presentation in person to the department; at their own cost should it be deemed necessary to do so.

### **11.2 Format of Proposal.**

- 11.2.1 All proposals are to respond to requirements as per the Terms of Reference
- 11.2.2 All proposals should be clearly indexed and easy to read

## **12. FINANCIAL PENALTIES.**

- 12.1 Financial penalties shall be imposed for agreed upon milestones, targets, and deadline not met without providing:
- Timely notification of such delays.
  - Valid reasons for the delays.
  - Supporting evidence that the delays were outside of the influence of the service provider.
- 12.2 Payments will be made only for work performed to the satisfaction of the Department of Rural Development and Land Reform (DRDLR). The Project Steering Committee will need to take a resolution concerning the work undertaken by the service provider.
- 12.3 Financial penalties will be imposed if the outputs produced do not meet the agreed upon deliverables criteria as stipulated in the General Conditions of Contract.

## **13. UNDUE DELAY REMEDIES.**

- 13.1 Should it be found that the delay of the project in terms of the agreed time period is unreasonable then for every 5 (five) days or other stipulated time frame there shall be a penalty in terms of percentages which will be deducted from the payment as indicated below:

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<b>Milestone</b>	<b>% Payment</b>	<b>5 days overdue</b>	<b>10 days overdue</b>	<b>15 days overdue</b>	<b>30 days overdue</b>	<b>More than 30 days overdue</b>
<b>Phase 1: Legislation, land use policy and guidelines</b>	10%	10%	25%	50%	75%	100%
<b>Phase 2: Integrated zoning scheme and regulations</b>	20%	10%	25%	50%	75%	100%
<b>Phase 3: Zoning maps</b>	20%	20%	40%	60%	80%	100%
<b>Phase 4: Assessment and approval procedures and application forms / conditions for approvals.</b>	30%	20%	40%	60%	80%	100%
<b>Phase 5: Zoning register / delegation of decision making / development incentives / enabling legislation.</b>	10%	10%	25%	50%	75%	100%
<b>Phase 6: Reference manual</b>	5%	10%	25%	50%	75%	100%
<b>Retention</b>	<b>5%</b>					
<b>Total</b>	<b>100%</b>					

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**14. RETENTION.**

- 14.1 The Department of Rural Development and Land Reform shall retain 5% of the total project cost in the case of late or non-delivery of the council Gazetted LUMS.
- 14.2 The service provider shall forfeit the total payment per milestone in the case of the project being delayed for longer than 30 days after milestone due date.
- 14.3 The service provider may apply to the Department for an extension on the delivery date on any milestone – provided that the service provider gives valid reason(s) to the sole satisfaction of the Department.

**15. EXTRA WORK.**

- 15.1 Any costs for extra work by the service provider, incurred over and above this bid which, in the sole opinion of the DRDLR NC Director: Spatial Planning and Land Use Management are due to reasons attributable to the service provider during any phase of the project shall be borne by the service provider.

**16. REPORTING AND ACCOUNTABILITY.**

- 16.1 During the execution of the project, the service provider must submit regular progress reports and attend meetings at intervals as determined by the project team or steering committee managing the service provider.
- 16.2 All information captured and or used to generate the outputs of the project remains the property of the municipality and the DRDLR, and must be handed over in its totality when the project is closed. The municipality and the DRDLR will retain copyright and all associated intellectual rights thereof. This document together with all agreements to be or reached during the course of the project become part of

the contract. The information must be captured and provided in a digital format as agreed (in writing) between the service provider and the Municipality. This agreement must be reached and signed off together with the project plan before the project commences.

- 16.3 The project will be signed off by the Director: Spatial Planning and Land Use Management, Northern Cape when:
- all the end products (refer to list) have been delivered and (***all deliverables per phase to be approved by the Project Steering Committee***)
  - a formal presentation has been made to the Northern Cape Director: Spatial Planning and Land Use Management, and
  - the Northern Cape Director: Spatial Planning and Land Use Management is satisfied that all requirements have been met.

## **17. MANDATORY REQUIREMENTS.**

**NB: Failure to submit and comply with the following requirements of the proposal will disqualify the bidder's proposal.**

- i. **Compliance with all Tax Clearance requirements:** Attach Valid Tax Clearance Certificate/ Compliance Tax Status Pin, Central Supplier Database Number, where consortium/joint ventures/ sub-contractor are involved, each party to the association must submit separate Tax Clearance requirements.
- ii. A resolution authorizing a particular person to sign the bid documents (Full completion and signing of LA 1.6 or resolution on company letter head).
- iii. An EME or QSE which is at least 51% owned by black people,

## **18. EVALUATION PROCEDURE.**

- 18.1 This bid shall be evaluated in two stages. On first stage bids will be evaluated on functionality, second stage evaluation will be in accordance with 80/20 preference points system as stipulated below. (This should also not be seen as an indication of total cost)

First Stage -Evaluation of Functionality

- 18.2 The evaluation of the functionality will be done individually by Members of Bid Evaluation Committee in accordance with the following functionality criteria and values.
- 18.3 All service providers who scored less than 70 out of 100 points for functionality will not be considered further.
- 18.4 The applicable values that will be utilized when scoring each criteria ranges from: **1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent.**

CRITERIA	GUIDELINES FOR CRITERIA APPLICATION	WEIGHT	
<b>1. RESOURCES</b>	1.1 Team leader qualification, registration as a Professional Town Planner, minimum 10 years of post-registration experience as a Professional Planner and expertise in managing and coordinating a multi - disciplinary project (Project Management skills within the spatial planning environment);	20	30
	1.2 Composition of technical team to be utilized in the execution of the project; (CV's clearly indicating relevant skills, knowledge, a minimum of three (3) years post qualification experience, qualifications and registration up to date and in good standing must be attached) in Town and Regional Planning, GIS and project management. (SACPLAN, PLATO). Proof of payment of fees and good standing to be attached.	10	
<b>2. CAPABILITY</b> (Proof of experience must be clearly and distinctly indicated)	2.1 Recent experience of Company / Consortium, <b>with proof attached</b> , in:	25	45
	2.1.1 Land use management systems (LUMS) , land use schemes (LUSs) and the application of GIS within the LUMS environment.		

	2.1.2	Proof of three (3) projects as indicated above that have been successfully completed with contactable references - List names, addresses, telephone numbers, fax numbers and e-mail of contactable references).	20	
<b>3. METHODOLOGY AND PROJECT MANAGEMENT</b>	3.1	Proposed and appropriateness of methodology and the implementation plan to be attached (with milestones and timeframes).The linkage between spatial planning and IDPs must be indicated.	15	25
	3.2	Proposed skills transfer within the municipality.(as per section 9 of this TOR).	5	
	3.3	The degree to which the methodology proposed is sound, professional, realistic and logical. Method and clarity regarding presentation of the final outputs of the project.	5	
<b>TOTAL POINTS ON FUNCTIONALITY MUST ADD TO 100</b>			<b>100</b>	

18.5 The Bids that fail to achieve a minimum of 70 points for functionality will be disqualified.

#### Second Stage - Evaluation in terms of 80/20 Preference Points System

18.6 The 80/20 preference points system as prescribed in the Preferential Procurement Policy Framework Act (PPPFA) will be applied to evaluate this bid. The lowest acceptable bid will score 80 points for price and maximum of 20 points will be awarded for attaining the Broad-Based Black Economic Empowerment (B-BBEE) status level of contribution.

Only bids that achieve the minimum qualifying score for functionality will be evaluated further in accordance with the 80/20 preference points system.

Calculation of points for price



The PPPFA prescribes that the lowest acceptable bid will score 80 points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis. Thus, bidders who provide the lowest management fee will get full 80 points for price

#### Calculating of points for B-BBEE status level of contribution

Points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

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

Bidders must submit original and valid B-BBEE Status Level Verification Certificate or certified copies thereof, issued by accredited Verification Agencies by SANAS or Registered Auditor approved by Independent Regulatory Board of Auditor (IRBA), together with their bids, to substantiate their B-BBEE claims. The Exempted Micro Enterprise must submit a letter from the Accounting Officer who is appointed in terms of Close Corporation Act.

NB: Bidders who do not submit B-BBEE Status Level Verification Certificate or are non-compliant contributors to be B-BBEE do not qualify for preference points for B-BBEE

- 18.7 The Department of Rural Development and Land Reform reserves the right not to award the bid, or to various Service Providers.

## 19. Contact Persons

Technical Enquiries:

Mr Gerhard de Bruin

(053) 832 4588; Fax: (053) 832 1482

Email: [gerhardus.debruin@drdlr.gov.za](mailto:gerhardus.debruin@drdlr.gov.za)

Supply Chain Management Enquiries:

Mr Sibusiso Moloinyane

(053) 830 4000/4028

Email: [Sbu.Moloinyane@drdlr.gov.za](mailto:Sbu.Moloinyane@drdlr.gov.za)

**20. SIGNATORIES**

These Terms of Reference have been checked and approved as follows:

APPROVED / NOT APPROVED

.....

Mr G.de Bruin

Chairperson BID Specification & Evaluation Committee

Date:

ENDORSED / NOT ENDORSED

.....

Ms G. Soci

Director: Financial and Supply Chain Services Northern Cape

Date:

**RDLR ..... 2018-2019**

**TERMS OF REFERENCE FOR  
THE APPOINTMENT OF A  
SERVICE PROVIDER TO  
DEVELOP A LAND USE  
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GARIB LOCAL MUNICIPALITY  
AREA (WALL-TO-WALL) FOR  
A PERIOD OF TEN (10)  
MONTHS.**

Name of Bidder: .....

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**PRICING SCHEDULE**  
**(Professional Services)**

NAME OF BIDDER: .....	BID NO.:
CLOSING TIME	

**OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF QUOTATION.**

1. The accompanying information must be used for the formulation of proposals.
  2. Bidders are required to indicate rates based on the total cost to the department for completion of each stage and including Expenses for the project.
- 3. TOTAL OFFER PRICE (INCLUSIVE OF VAT)**  
R.....

**NB: PAYMENT TO BE MADE AT THE COMPLETION OF EACH DELIVERABLE**

DELIVERABLES	TIME FRAMES	RATES PER HOUR	TOTAL
<b>Phase 1:</b> Legislation, land use policy and guidelines (Inception report format indicating specific actions and date specific timeframes)			R.....
<b>Phase 2:</b> Integrated zoning scheme and regulations			R.....
<b>Phase 3:</b> Zoning maps			R.....
<b>Phase 4</b> Assessment and approval procedures and application forms / conditions for approvals.			R.....
<b>Phase 5:</b> Zoning register / delegation of decision making / development incentives / enabling legislation.			R.....
<b>Phase 6:</b> Reference manual			R.....
<b>SUB TOTAL COST (EXL VAT)</b>			R.....
<b>VAT</b>			R.....
<b>TOTAL COST OF THE PROJECT (Including VAT)</b>			R.....

Bid Initials .....  
Bid's Signature.....  
Date:.....

Name of Bidder: .....

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Are the rates quoted firm for the full period of contract?

.....

If not firm for the full period, provide details of the basis on which Adjustments will be applied for, for example consumer price index.

.....

Any enquiries regarding bidding procedures may be directed to the –

RURAL DEVELOPMENT AND LAND REFORM  
PRIVATE BAG X 5007, KIMBERLEY, 8301

Bid related enquiries

**SUPPLY CHAIN ENQUIRIES**

Ms Katlego Mothibi  
Supply Chain Practitioner: Supply Chain and Facilities Management  
Directorate: Finance & Supply Chain Management  
Contact Number: (053) 830 40000

Bid Initials .....  
Bid's Signature.....  
Date:.....