



REQUEST FOR PROPOSALS

RFP No.: MCMz351 of 2024/2025

Selection of Service providers for the: Design, Build (Install), Operate, Maintain and Transfer a Paid Parking System for the Manzini CBD

MUNICIPAL COUNCIL OF MANZINI

ESWATINI

Issued on: 03 July 2024

Invitation for Bids

RFP No. MCMz351 of 2024/2025

Municipal Council of Manzini
P O Box 418
Mbabane

03 July 2024

Dear Madam / Sir:

1. The Municipal Council of Manzini invites reputable and experienced local and international Bids to provide the following services: Design, Finance, Build (Install), Operate, Maintain and Transfer a Paid Parking System for a contract period of 65 months – **A BUILD-OWN-OPERATE-TRANSFER (BOOT) MODEL**. More details on the scope of services and scope of works are provided in the Terms of Reference entailed in Section 3.
2. The tender shall be valid for a period of ninety (90) days after the bid opening and must be accompanied by a bid security of **Twenty Thousand Emalangení only, E20 000.00**.
3. The Bidder will be selected under the competitive procedures described in this Bidding Document and is open.
4. The best evaluated Bidder will be selected under the Most Economically Advantageous Tender (MEAT) selection procedures.
5. The RFP includes the following documents:
 - Section 1 - Letter of Invitation
 - Section 2 - Instructions to Service Providers and Data Sheet
 - Section 3 – Terms of Reference
 - Section 4 – FTP Technical Proposal
 - Section 5 - Financial Proposal - Standard Forms
 - Section 6 – Corrupt and Fraudulent Practices
 - Section 7 - Standard Forms of Contract

6. A complete set of Tendering Documents in English may be purchased by Tenderers upon payment of a non-refundable fee of **E1,500.00**. The method of payment will be physical, at the Municipal Council of Manzini Civic Offices, Rates Hall or EFT

A/C Name: Municipal Council of Manzini

Bank: Ned Bank (Manzini)

Account: 40000431593

Branch Code: 360264 (Manzini)

Type: Current Account

REF: Company name & Tender No: MCMz351 of 2024/2025 Number

7. A Non-Compulsory Tender Pre - Proposal Briefing meeting shall be held on the 16 July 2024 at 10:00am at Manzini Civic Offices along Nkoseluhlaza Street.
8. All Bids must be delivered to and placed in a tender box at the Manzini Civic Offices, between Ngwane & Nkoseluhlaza Streets on or before **Monday, 05th August 2024 12:00noon (Eswatini Time)**. Late Bids will be rejected and returned unopened. Electronic bidding will not be permitted.
9. The tender opening meeting shall be held soon after the submission deadline on Monday, 05th August 2024 at 12:15pm in the presence of the bidders' representatives who choose to attend in person at the address below;

The addresses referred to above is:

Municipal Council of Manzini

CIVIC Offices, P.O. Box 418

Between Ngwane & Nkoseluhlaza Street, Manzini, Eswatini

Municipal Council of Manzini

Chief Executive Officer

Instructions to Service Providers and Data Sheet

A. General Provisions

- 1. Definitions**
- (a) “Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Service Provider.
 - (b) “Applicable Regulations” means the Public Procurement Regulations, 2022 governing the selection and Contract award process as set forth in this RFP.
 - (c) “Applicable Law” means the Laws of Eswatini and any other instruments having the force of law in Eswatini as they may be issued and in force from time to time.
 - (d) “Municipal Council of Manzini” means the Municipal Council of Manzini or implementing agency that signs the Contract for the Services with the selected Service Provider.
 - (e) “Service Provider” means a legally established professional consulting firm or an entity that may provide or provides the Services to the Municipal Council of Manzini under the Contract.
 - (f) “Contract” means a legally binding written agreement signed between the Municipal Council of Manzini and the Service Provider and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
 - (g) “Data Sheet” means an integral part of the Instructions to Service Providers (ITC) Section 2 that is used to reflect specific country and assignment conditions to supplement, but not to over-write, the provisions of the ITC.
 - (h) “Day” means a calendar day.
 - (i) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Service Provider,

Sub-Service Provider or Joint Venture member(s).

- (j) “Government” means the government of the Kingdom of Eswatini, any Municipal Council of Manzini or the relevant approvals authority as defined in the Public Procurement Act of 2011.
- (k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Service Provider where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Municipal Council of Manzini for the performance of the Contract.
- (l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Service Provider’s proposal.
- (m) “ITC” (this Section 2 of the RFP) means the Instructions to Service Providers that provides the Service Providers with all information needed to prepare their Proposals.
- (n) “LOI” (this Section 1 of the RFP) means the Letter of Invitation being sent by the Municipal Council of Manzini to Service Providers through an open tender.
- (o) “Non-Key Expert(s)” means an individual professional provided by the Service Provider or its Sub-Service Provider and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.
- (p) “Proposal” means the Technical Proposal and the Financial Proposal of the Service Provider.
- (q) “RFP” means the Request for Proposals to be prepared by the Municipal Council of Manzini for the selection of service providers, based on the SRFP.
- (r) “SRFP” means the Standard Request for Proposals, which

must be used by the Municipal Council of Manzini as the basis for the preparation of the RFP.

- (s) “Services” means the work to be performed by the Service Provider pursuant to the Contract.
- (t) “Sub-Service Provider” means an entity to whom the Service Provider intends to subcontract any part of the Services while remaining responsible to the Municipal Council of Manzini during the performance of the Contract.
- (u) “TORs” (this Section 3 of the RFP) means the Terms of Reference that explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Municipal Council of Manzini and the Service Provider and expected results and deliverables of the assignment.

2. Introduction

2.1 The Client named in the **Data Sheet** intends to select a Service Provider from those listed in the Letter of Invitation, in accordance with the method of selection specified in the **Data Sheet**.

2.2 Service Providers are invited to submit a Technical Proposal and a Financial Proposal, , as specified in the **Data Sheet**, for consulting services required for the assignment named in the **Data Sheet**. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Service Provider.

2.3 The Service Providers should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a tender pre-proposal briefing meeting as specified in the **Data Sheet**. Attending any such tender pre-proposal briefing meeting is optional and is at the Service Providers’ expense.

2.4 The Municipal Council of Manzini will timely provide, at no cost to the Service Provider, the inputs, relevant project data, and reports required for the preparation of the Service Provider’s Proposal as specified in the **Data Sheet**.

2.1 Throughout this RFP documents, the terms “Consultant” and “Service Provider” and their derivatives are synonymous;

3. Conflict of Interest

3.1 The Service Provider is required to provide professional, objective, and impartial advice, at all times holding the Municipal Council of Manzini’s interest’s paramount, strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.

3.2 The Service Provider has an obligation to disclose to the Municipal Council of Manzini any situation of actual or potential conflict that impacts its capacity to serve the best interest of the municipality. Failure to disclose such situations may lead to the disqualification of the Service Provider or the termination of its Contract and/or sanctions by Eswatini Pubic Procurement Regulatory Agency (ESPPRA).

3.2.1 Without limitation on the generality of the foregoing, and unless stated otherwise in the **Data Sheet**, the Service Provider shall not be hired under the circumstances set forth below:

a. Conflicting activities

(i) Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Municipal Council of Manzini to provide goods, works, or non-consulting services for a project shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

b. Conflicting assignments

(ii) Conflict among consulting assignments: a Service Provider (including its Experts and Sub-Service Providers) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Service Provider for the same or for another Municipal Council of Manzini.

c. Conflicting relationships

(iii) Relationship with the Municipal Council of Manzini’s staff: a Service Provider that has a close business or family relationship with a professional staff of the Municipal Council of Manzini (or of the Municipal Council of Manzini, or of implementing agency, or of a recipient of a part of the Government’s financing) who are directly involved in any part of (i) the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Government throughout the selection process and the execution of the Contract.

4. Unfair Competitive Advantage

4.1 Fairness and transparency in the selection process require that the Service Providers or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Municipal Council of Manzini shall indicate in the **Data Sheet** and make available to all shortlisted Service Providers together with this RFP all information that would in that respect give such Service Provider any unfair competitive advantage over competing Service Providers.

5. Fraud and Corruption

5.1 The Client requires compliance with the Clients Country Anti-Corruption Laws and its prevailing sanctions policies and procedures.5.2 In further pursuance of this policy, Service Provider shall permit and shall cause its agents, (where declared or not), Experts, Sub-Service Providers, sub-contractors, services providers, or suppliers to permit the Client to inspect all accounts, records, and other documents relating to the submission of the Proposal and contract performance (in case of an award), and to have them audited by auditors appointed by the Client .

6. Eligibility

6.1 The Client permits Service Providers (individuals and firms, including Joint Ventures and their individual members) from all countries to offer consulting services for Client -financed projects.

6.2 Furthermore, it is the Service Provider’s responsibility to

ensure that its Experts, joint venture members, Sub-Service Providers, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements as established by the Client.

6.3 As an exception to the foregoing Clauses 6.1 and 6.2 above:

a. Restrictions for State-Owned Enterprises

6.3.1 State-owned enterprises or institutions in the may be eligible to compete and be awarded a contract only if they can establish, in a manner acceptable to the Client, that they: (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not under supervision of the Client.

b.Restrictions for Public Employees

6.3.2 Government officials and civil servants of the Client's country are not eligible to be included as Experts, individuals, or members of a team of Experts in the Service Provider's Proposal unless:

- i) the services of the government official or civil servant are of a unique and exceptional nature, or their participation is critical to project implementation; and
- ii) their hiring would not create a conflict of interest, including any conflict with employment or other laws, regulations, or policies of the Client.

B. Preparation of Proposals

7. General Consideration

7.1 In preparing the Proposal, the Service Provider is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.

8. Cost of Preparation of Proposal

8.1 The Service Provider shall bear all costs associated with the preparation and submission of its Proposal, and the Municipal Council of Manzini shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection

process. The Municipal Council of Manzini is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Service Provider.

9. Language

9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Service Provider and the Municipal Council of Manzini, shall be written in **English**.

**10. Documents
Comprising the
Proposal**

10.1 The Proposal shall comprise the documents and forms listed in the **Data Sheet**.

10.2 If specified in the **Data Sheet**, the Service Provider shall include a statement of an undertaking of the Service Provider to observe, in competing for and executing a contract, the Municipal Council of Manzini country's laws against fraud and corruption (including bribery).

10.3 The Service Provider shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal submission form (Section5).

**11. Only One
Proposal**

11.1 The Service Provider (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Service Provider, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude a Sub-Service Provider, or the Service Provider's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the **Data Sheet**.

12. Proposal Validity

12.1 **The Data Sheet** indicates the period during which the Service Provider's Proposal must remain valid after the Proposal submission deadline.

12.2 During this period, the Service Provider shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.

12.3 If it is established that any Key Expert nominated in the Service Provider's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation and may be subject to sanctions in accordance with ITC 5.

**a. Extension of
Validity Period**

12.4 The Municipal Council of Manzini will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Municipal Council of Manzini may request, in writing, all Service Providers who submitted Proposals prior to the submission deadline to extend the Proposals' validity.

12.5 If the Service Provider agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.

12.6 The Service Provider has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

**b. Substitution of
Key Experts at
Validity
Extension**

12.7 If any of the Key Experts become unavailable for the extended validity period, the Service Provider shall provide a written adequate justification and evidence satisfactory to the Municipal Council of Manzini together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original Key Expert.

12.8 If the Service Provider fails to provide a replacement Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Municipal Council of Manzini, such Proposal will be rejected.

c. Sub-Contracting

12.9 The Service Provider shall not subcontract the whole of the Services or part of the services without the approval of the Municipal Council of Manzini.

13. Clarification and Amendment of RFP

13.1 The Service Provider may request a clarification of any part of the RFP during the period indicated in the **Data Sheet** before the Proposals' submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Municipal Council of Manzini's address indicated in the **Data Sheet**. The Municipal Council of Manzini will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all shortlisted. Should the Municipal Council of Manzini deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:

13.1.1 At any time before the proposal submission deadline, the Municipal Council of Manzini may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all shortlisted Service Providers and will be binding on them. The shortlisted Service Providers shall acknowledge receipt of all amendments in writing.

13.1.2 If the amendment is substantial, the Municipal Council of Manzini may extend the proposal submission deadline to give the shortlisted Service Providers reasonable time to take an amendment into account in their Proposals.

13.2 The Service Provider may submit a modified Proposal or a modification to any part of it at any time prior to the

proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

14. Preparation of Proposals – Specific Consideration

14.1 While preparing the Proposal, the Service Provider must give particular attention to the following:

14.1.1 If a Service Provider considers that it may enhance its expertise for the assignment by associating with other Service Providers in the form of a Joint Venture or as Sub-Service Provider, it may do so with either (a) non-shortlisted Service Provider(s), or (b) shortlisted Service Providers if permitted in the **Data Sheet**. In all such cases a shortlisted Service Provider must obtain the written approval of the Municipal Council of Manzini prior to the submission of the Proposal. When associating with non-shortlisted firms in the form of a joint venture or a sub-consultancy, the shortlisted Service Provider shall be a lead member. If shortlisted Service Providers associate with each other, any of them can be a lead member.

14.1.2 The Municipal Council of Manzini may indicate in the **Data Sheet** the estimated Key Experts' time input (expressed in person-month) or the Municipal Council of Manzini's estimated total cost of the assignment, but not both. This estimate is indicative, and the Proposal shall be based on the Service Provider's own estimates for the same.

14.1.3 If stated in the **Data Sheet**, the Service Provider shall include in its Proposal at least the same time input (in the same unit as indicated in the **Data Sheet**) of Key Experts, failing which the Financial Proposal will be adjusted for the purpose of comparison of proposals and decision for award in accordance with the procedure in the **Data Sheet**.

14.1.4 For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input is not disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the **Data Sheet**, and the Financial Proposal shall not

exceed this budget.

15. Technical Proposal Format and Content

15.1 The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.

15.1.1 Service Provider shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

15.2 Depending on the nature of the assignment, the Service Provider is required to submit a Full Technical Proposal (FTP), as indicated in the **Data Sheet** and using the Standard Forms provided in Section 4 of the RFP.

16. Financial Proposal

16.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 5 of the RFP. It shall list all costs associated with the assignment, including (a) Capital Cost of project implementation, (b) Operations costs (including overheads and maintenance), (c) Projected revenues, (d) Projected profits for the duration of the contracting, (e) Profit sharing model with the MCM, and (f) reimbursable expenses indicated in the **Data Sheet**.

a. Price Adjustment

16.2 For assignments with a duration exceeding 12 months, a price adjustment provision for foreign and/or local inflation for the monthly profit shared with the MCM applies if so stated in the **Data Sheet**.

b. Taxes

16.3 The Service Provider and its Sub-Service Providers and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the **Data Sheet**. Information on taxes in Eswatini is provided in the **Data Sheet**.

c. Currency of Proposal

16.4 The Service Provider may express the price for its Services in the currency or currencies as stated in the **Data Sheet**. If indicated in the **Data Sheet**, the portion of the price representing local cost shall be stated in the

national currency.

- d. Currency of Payment** 16.5 Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.

C. Submission, Opening and Evaluation

- 17. Submission, Sealing, and Marking of Proposals** 17.1 The Service Provider shall submit a signed and complete Proposal comprising the documents and forms in accordance with ITC 10 (Documents Comprising Proposal). The submission can be done by hand. If specified in the **Data Sheet**, the Service Provider has the option of submitting its Proposals electronically.

17.2 An authorized representative of the Service Provider shall sign the original submission letters in the required format for both the Technical Proposal and, if applicable, the Financial Proposal and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.

17.2.1 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member's authorized representative.

17.3 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.

17.4 The signed Proposal shall be marked "ORIGINAL", and its copies marked "COPY" as appropriate. The number of copies is indicated in the **Data Sheet**. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

- 17.5 The original and all the copies of the Technical Proposal shall be placed inside of a sealed envelope clearly marked “**TECHNICAL PROPOSAL**”, “[Name of the Assignment] “, reference number, name and address of the Service Provider, and with a warning “**DO NOT OPEN UNTIL [INSERT THE DATE AND THE TIME OF THE TECHNICAL PROPOSAL SUBMISSION DEADLINE].**”
- 17.6 Similarly, the original Financial Proposal (if required for the applicable selection method) shall be placed inside of a sealed envelope clearly marked “**FINANCIAL PROPOSAL**” followed by the name of the assignment, reference number, name and address of the Service Provider, and with a warning “**DO NOT OPEN WITH THE TECHNICAL PROPOSAL.**”
- 17.7 The sealed envelopes containing the Technical and Financial Proposals shall be placed into one outer envelope and sealed. This outer envelope shall bear the submission address, RFP reference number, the name of the assignment, Service Provider’s name and the address, and shall be clearly marked “**DO NOT OPEN BEFORE [insert the time and date of the submission deadline indicated in the Data Sheet]**”.
- 17.8 If the envelopes and packages with the Proposal are not sealed and marked as required, the Municipal Council of Manzini will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.
- 17.9 The Proposal or its modifications must be sent to the address indicated in the **Data Sheet** and received by the Municipal Council of Manzini no later than the deadline indicated in the **Data Sheet**, or any extension to this deadline. Any Proposal or its modification received by the Municipal Council of Manzini after the deadline shall be declared late and rejected, and

promptly returned unopened.

18. Confidentiality

- 18.1 From the time the Proposals are opened to the time the Contract is awarded, the Service Provider should not contact the Municipal Council of Manzini on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Service Providers who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.
- 18.2 Any attempt by Service Providers or anyone on behalf of the Service Provider to influence improperly the Municipal Council of Manzini in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal and may be subject to the application of prevailing sanctions procedures.
- 18.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a Service Provider wishes to contact the Municipal Council of Manzini or ESPPRA on any matter related to the selection process, it should do so only in writing.

19. Opening of Technical Proposals

- 19.1 The Municipal Council of Manzini's tender opening committee shall conduct the opening of the Technical Proposals in the presence of the service providers' authorized representatives who choose to attend (in person, or online if this option is offered in the **Data Sheet**). The opening date, time and the address are stated in the **Data Sheet**. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored with a reputable public auditor or independent authority until they are opened in accordance with ITC 23.
- 19.2 At the opening of the Technical Proposals the

following shall be read out: (i) the name and the country of the Service Provider or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the **Data Sheet**.

20. Proposals Evaluation

20.1 Subject to provision of ITC 15.1, the evaluators of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and approved.

20.2 The Service Provider is not permitted to alter or modify its Proposal in any way after the proposal submission deadline except as permitted under ITC12.7. While evaluating the Proposals, the Municipal Council of Manzini will conduct the evaluation solely on the basis of the submitted Technical and Financial Proposals.

21. Evaluation of Technical Proposals

21.1 The Municipal Council of Manzini’s evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and the RFP, applying the evaluation criteria, sub-criteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the **Data Sheet**.

22. Financial Proposals for QBS

22.1 Following the ranking of the Technical Proposals, when the selection is based on quality only (QBS), the top-ranked Service Provider is invited to negotiate the Contract.

22.2 If Financial Proposals were invited together with the Technical Proposals, only the Financial Proposal of the technically top-ranked Service Provider is opened by the Municipal Council of Manzini's evaluation committee. All other Financial Proposals are returned unopened after the Contract negotiations are successfully concluded and the Contract is signed.

23. Public Opening of Financial Proposals (for QCBS, and MEAT methods)

23.1 After the technical evaluation is completed, the Municipal Council of Manzini shall notify those Service Providers whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score advising them the following:

- (i) their Proposal was not responsive to the RFP and TOR or did not meet the minimum qualifying technical score;
- (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion;
- (iii) their Financial Proposals will be returned unopened after completing the selection process and Contract signing; and
- (iv) notify them of the date, time and location of the public opening of the Financial Proposals and invite them to attend.

23.2 The Client shall simultaneously notify in writing those Consultants whose Proposals were considered responsive to the RFP and TOR, and that have achieved the minimum qualifying technical score, advising them the following:

- (i) their Proposal was responsive to the RFP and TOR and met the minimum qualifying technical score;
- (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion;

- (iii) their Financial Proposal will be opened at the public opening of Financial Proposals; and
- (iv) notify them of the date, time and location of the public opening and invite them for the opening of the Financial Proposals.

23.3 The opening date should allow the Service Providers sufficient time to make arrangements for attending the opening and shall be no less than the days indicated in the **Data Sheet** from the date of notification of the results of the technical evaluation, described in ITC 23.1 and 23.2.

23.4 The Service Provider's attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the **Data Sheet**) is optional and is at the Consultant's choice.

23.5 The Financial Proposals shall be opened publicly by the Client's evaluation committee in the presence of the representatives of the Consultants and anyone else who chooses to attend. Any interested party who wishes to attend this public opening should contact the client as indicated in the **Data Sheet**. Alternatively, a notice of the public opening of Financial Proposals may be published on the Client's website, if available. At the opening, the names of the Service Providers, and the overall technical scores, including the break-down by criterion, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copies of the record shall be sent to all Service Providers who submitted Proposals.

24. Correction of Errors 24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.

a. Time-Based

24.1.1 If a Time-Based contract form is included in

Contracts the RFP, the Municipal Council of Manzini's evaluation committee will (a) correct any computational or arithmetical errors, and (b) adjust the prices if they fail to reflect all inputs included for the respective activities or items in the Technical Proposal. In case of discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between words and figures, the former will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Municipal Council of Manzini's evaluation committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.

b. Lump-Sum Contracts 24.1.2 If a Lump-Sum contract form is included in the RFP, the Service Provider is deemed to have included all prices in the Financial Proposal, arithmetical corrections nor price adjustments shall be made. The total price, net of taxes understood as per ITC 25 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

25. Taxes 25.1 The Municipal Council of Manzini's evaluation of the Service Provider's Financial Proposal shall include taxes and duties in Eswatini in accordance with the instructions in the **Data Sheet**.

26. Conversion to Single Currency 26.1 For the evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the **Data Sheet**.

27. Combined Quality and Cost Evaluation
a. Quality- and Cost-Based 27.1 In the case of QCBS, the total score is calculated by weighting the technical and financial scores and

Selection (QCBS) adding them as per the formula and instructions in the **Data Sheet**. The Service Provider achieving the highest combined technical and financial score will be invited for negotiations.

b. Fixed-Budget Selection (FBS) 27.2 In the case of FBS, those Proposals that exceed the budget indicated in ITC14.1.4 of the **Data Sheet** shall be rejected.

27.3 The Municipal Council of Manzini will select the Service Provider that submitted the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP and invite such Service Provider to negotiate the Contract.

c. MEAT Selection 27.4 In the case of Most Economically Advantageous Tender (MEAT) Selection, the Municipal Council of Manzini will select the Service Provider with the Most Economically Advantageous Tender among those Service Providers that achieved the minimum technical score and invite such Service Provider to negotiate the Contract. The Most Economically Advantageous Tender is the proposal of the Service Provider that has been determined to:

- (i) be substantially responsive to the bidding document;
- (ii) achieved the minimum technical score; and

have the highest Net Present Value (NPV) and offer the highest minimum remittance to the Municipal Council of Manzini.

D. Negotiations and Award

28. Negotiations

28.1 The negotiations will be held at the date and address indicated in the **Data Sheet** with the Service Provider's representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Service Provider.

28.2 The Municipal Council of Manzini shall prepare minutes of negotiations that are signed by the

Municipal Council of Manzini and the Service Provider's authorized representative.

a. Availability of Key Experts

28.3 The invited Service Provider shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite to the negotiations, or, if applicable, a replacement in accordance with ITC 12. Failure to confirm the Key Experts' availability may result in the rejection of the Service Provider's Proposal and the Municipal Council of Manzini proceeding to negotiate the Contract with the next-ranked Service Provider.

28.4 Notwithstanding the above, the substitution of Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Service Provider, including but not limited to death or medical incapacity. In such case, the Service Provider shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original candidate.

b. Technical negotiations

28.5 The negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Municipal Council of Manzini's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.

c. Financial negotiations

28.6 The negotiations include the clarification of the Service Provider's tax liability in Eswatini and how it should be reflected in the Contract.

28.7 If the selection method included cost as a factor in the

evaluation, the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.

28.8 In the case of a Time-Based contract, unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by Service Providers in similar contracts. In such case, the Municipal Council of Manzini may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of Quality Based Selection; and (ii) clarifying remuneration rates' structure under, is provided in Appendix A to the Financial Form FIN-2: Financial Negotiations – Breakdown of Remuneration Rates.

29. Conclusion of Negotiations

29.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Municipal Council of Manzini and the Service Provider's authorized representative.

29.2 If the negotiations fail, the Municipal Council of Manzini shall inform the Service Provider in writing of all pending issues and disagreements and provide a final opportunity to the Service Provider to respond. If disagreement persists, the Municipal Council of Manzini shall terminate the negotiations informing the Service Provider of the reasons for doing so. After having obtained approval, the Municipal Council of Manzini will invite the next-ranked Service Provider to negotiate a Contract. Once the Municipal Council of Manzini commences negotiations with the next-ranked Service Provider, the Municipal Council of Manzini shall not reopen the earlier negotiations.

30. Standstill Period

30.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 10 working days to allow any dissatisfied tender to launch a complaint.

Where only one Tender is submitted, the Standstill Period shall not apply.

30.2 Where a Standstill Period applies, it shall commence when the Municipal Council of Manzini has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.

31. Notice of Intention to Award

31.1 When a Standstill Period applies, it shall commence when the Client has transmitted to each Consultant whose financial proposal was opened, the Notification of Intention to Award the Contract to the successful Consultant. The Notification of Intention to Award shall contain, at a minimum, the following information:

- (i) the name and address of the Service Provider with whom the client successfully negotiated a contract;
- (ii) the contract price of the successful Proposal;
- (iii) the names of all Consultants included in the short list, indicating those that submitted Proposals;
- (iv) where the selection method requires, the price offered by each Consultant as read out and as evaluated;
- (v) the overall technical scores and scores assigned for each criterion and sub-criterion to each Service Provider;
- (vi) the final combined scores and the final ranking of the Service Provider;
- (vii) a statement of the reason(s) why the recipient's Proposal was unsuccessful, unless the combined score in (f) above already reveals the reason; and
- (viii) the expiry date of the Standstill Period;

32. Notification to Award

32.1 Prior to the expiration of the Proposal Validity Period and upon expiry of the Standstill Period, specified in ITC 30.1 or any extension thereof, or upon satisfactorily addressing a

complaint that has been filed within the Standstill Period, the Client shall prepare the Contract Award Notice which shall contain, at a minimum, the following information:

- (a) name and address of the Client:
- (b) name and reference number of the contract being awarded, and the selection method used:
- (c) names of the consultants that submitted proposals, and their proposal prices as read out at financial proposal opening, and as evaluated:
- (d) names of all Consultants whose Proposals were rejected or were not evaluated, with the reasons therefor; and
- (e) the name of the successful consultant, the final total contract price, the contract duration and a summary of its scope.

32.2 The Contract Award Notice shall be published on the Client's noticeboard with free access if available or emailed to all consultants who submitted proposals. In the event the Client does not publish or email the Contract Award Notice, the Notice of Intention to Award referred to in ITC 31 shall be regarded as the Contract Award Notice.

33. Debriefing by the Client

33.1 On receipt of the Client's Notification of Intention to Award referred to in ITB 31.1, an unsuccessful Consultant has ten (10) Business Days to make a written request to the Client for a debriefing. The procedure to be followed in the event of such request is contained in the Procurement Act of 2011.

34. Award of Contract

34.1 The Contract shall be signed promptly upon Notification of Award.

34.2 The Service Provider is expected to commence the assignment on the date and at the location specified in the **Data Sheet**.

Instructions to Service Provider

E. Data Sheet

A. General	
ITC Clause Reference	
2.1	<p>Name of the Client: Municipal Council of Manzini</p> <p>Method of selection: Most Economically Advantageous Tender Method</p>
2.2	<p>Financial Proposal shall be submitted in two separate envelopes with the Technical Proposal.</p> <p>The name of the assignment is: Design, Finance, Build (Install), Operate, Maintain and Transfer a Paid Parking System for the Manzini CBD</p>
2.3	<p>A Non – Compulsory Tender Pre – Proposal Briefing Meeting shall be held on:</p> <p>Date: 16 July 2024</p> <p>Time: 10:00am</p> <p>Address: Civic Offices, Manzini</p> <p>Telephone: 2508000 E-mail: me@manzinity.co.sz</p> <p>Contact person/conference coordinator: Malusi Dlamini</p>
2.4	<p>The Municipal Council of Manzini will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals:</p> <p>Number of parking bays</p> <p>Estimated occupancy rates</p> <p>Location of parking bays</p> <p>Gazetted fees for parking bays</p> <p>Parking bylaw</p>

6.3.1	<p>A list of debarred firms and individuals is available at: http://www.esppra.co.sz</p>																				
<p>B. Preparation of Proposals</p>																					
10.1	<p>The Proposal shall comprise the following:</p> <p><u>For FULL TECHNICAL PROPOSAL (FTP):</u></p> <p>1st Inner Envelope with the Technical Proposal:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 5%;">(1)</td> <td>Power of Attorney to sign the Proposal</td> </tr> <tr> <td>(2)</td> <td>TECH-1</td> </tr> <tr> <td>(3)</td> <td>TECH-2</td> </tr> <tr> <td>(4)</td> <td>TECH-3</td> </tr> <tr> <td>(5)</td> <td>TECH-4</td> </tr> <tr> <td>(6)</td> <td>TECH-5</td> </tr> <tr> <td>(7)</td> <td>TECH-6</td> </tr> </table> <p>2d Inner Envelope with the Financial Proposal (if applicable):</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 5%;">(1)</td> <td>FIN-1</td> </tr> <tr> <td>(2)</td> <td>FIN-2</td> </tr> <tr> <td>(3)</td> <td>FIN-3</td> </tr> </table>	(1)	Power of Attorney to sign the Proposal	(2)	TECH-1	(3)	TECH-2	(4)	TECH-3	(5)	TECH-4	(6)	TECH-5	(7)	TECH-6	(1)	FIN-1	(2)	FIN-2	(3)	FIN-3
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(7)	TECH-6																				
(1)	FIN-1																				
(2)	FIN-2																				
(3)	FIN-3																				
10.2	<p>Statement of Undertaking is required <i>[It is obtained in paragraph (e) in Form TECH-1]</i></p>																				
11.1	<p>Participation of Sub-Service Provider, Key Experts and Non-Key Experts in more than one Proposal is permissible</p>																				
12.1	<p>Proposals must remain valid for 90 (ninety) calendar days after the proposal submission deadline</p>																				
13.1	<p>Clarifications may be requested no later than 7 days prior to the submission deadline.</p> <p>The contact information for requesting clarifications is:</p> <p>E-mail: me@manzincity.co.sz cc. ps@manzincity.co.sz, dtech@manzincity.co.sz</p>																				

14.1.1	N/A
14.1.2 (do not use for Fixed Budget method)	Design, Finance, Build (Install), Operate, Maintain and Transfer a Paid Parking System for a contract period of sixty-five (65) months
15.2	<p>The format of the Technical Proposal to be submitted is: Full Technical Proposal</p> <p><i>Submission of the Technical Proposal in a wrong format may lead to the Proposal being deemed non-responsive to the RFP requirements.</i></p>
16.2	<p>A price adjustment provision shall apply to the monthly profit remitted by the Service Provider to MCM. The price adjustment shall be equivalent to inflation. A price adjustment to the monthly profits shared to MCM shall be made whenever the Service Provider increases the parking tariffs. This adjustment shall be equivalent to the % price increase.</p>
16.4	<p>The Financial Proposal shall be stated in the following currencies: Emalangenzi (SZL)</p>
<p>C. Submission, Opening and Evaluation</p>	
17.1	<p>The Service Providers shall not have the option of submitting their Proposals electronically.</p>
17.4	<p>The Service Provider must submit:</p> <p>(a) Technical Proposal: one (1) original plus a soft copy through flash drive</p> <p>(b) Financial Proposal: one (1) original.</p>
17.7 and 17.9	<p>The Proposals must be submitted no later than:</p> <p>Date: Monday, 05th August 2024</p> <p>Time: 12:00noon, Eswatini Local Time</p> <p>The Proposal submission address is:</p> <p style="text-align: center;">The Municipal Council of Manzini</p>

	Civic Officers Along Nkoseluhlaza Street Manzini, Eswatini
19.1	<p>An online option of the opening of the Technical Proposals shall not be offered.</p> <p>The tender opening shall take place at:</p> <p>Date: 05th August 2024</p> <p>Time: 12:15pm</p> <p>Venue: Manzini Civic Offices, Along Nkoseluhlaza Street Manzini, Eswatini</p>
19.2	<p>The Tenderer shall submit the following additional/ equivalent documents in its proposal and the documents shall be evaluated in the preliminary evaluation stage:</p> <ol style="list-style-type: none"> 1. Original and Valid Tax Compliance Certificate 2. Certificate of Incorporation 3. . Valid Copy of a Trading License 4. Valid Copy of Labour Compliance Certificate 5. Police Clearance for all company Directors 6. Copy of a Form J and Copy of Form C 7. Company Audited Annual Financial Statements for the past 3 years 8. Proof of payment and Council Receipt E1,500.00 9. Copy of a Valid ENPF Compliance Certificate 10. Signed Declaration of Eligibility Form 11. Company Profile with references 12. Power of Attorney 13. Tender Security of E20,000.00 <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Note: The Municipal Council of Manzini will use a YES/NO to evaluate this section</p> </div>

	<p>**** The Municipal Council of Manzini may disqualify a tenderer for missing documents deemed as a material deviation.</p>
<p>21.1 (for FTP)</p>	<p>Criteria, sub-criteria, and point system for the evaluation of the Full Technical Proposals:</p> <p style="text-align: right;"><u>Points</u></p> <p>(i) Specific experience of the Service Provider (as a firm) relevant to the business and handling: [10]</p> <p>a) Demonstrates experience in the management of parking services or cash (handling) and law enforcement business (5)</p> <p>b) More than 5 years in business operations (5)</p> <p>(ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs): [50]</p> <p>a) Demonstrate a practical, logical, and feasible methodology in the operation and management of a vehicle parking system. Demonstrate how the parking bylaws will be enforced (15)</p> <p>b) Demonstrate a solution that has superior technology, empowering customers to manage their parking and easy to manage (15)</p> <p>c) Demonstrate customer service plan, e.g. set up of kiosks/ contact line (or equivalent) to support customers enjoy the parking experience (10)</p> <p>d) Present an implementation plan indicating dates and responsible personnel. (10)</p> <p>(iii) Key Experts’ qualifications and competence for the Assignment:</p> <p>a) At least one of the Managing Directors should possess Master in Administration, Bachelor in Accounting and Management or finance or operations management</p>

	<p>b) Contract Manager/Operations Manager should possess Bachelors in Business Administration, Bachelor in Accounting and Management or finance or operations management (05)</p> <p>(05)</p> <p>b) Proposed organization organogram should clearly depict the hierarchical structure of the organization, positions from top management to support functions (05)</p> <p>(iv) Transfer of knowledge (training) program (relevance of approach and methodology):</p> <p>a) Present a detailed training program for MCM staff members on operation and understanding of the proposed paid parking system and skills transfer plan to MCM staff members. (10)</p> <p>(v) Local Economic Development: Participation by nationals among proposed Key Experts [15]</p> <p>a) Engagement of Locals (eSwatini) residents to key positions (05)</p> <p>b) Show how Manzini residents will benefit from the project (05)</p> <p>c) Show how the youth of Manzini will benefit from the project (05)</p> <p>(vi) Demonstrate Understanding of SHERQ and how it applies to the project (05)</p> <p>Total points for the five criteria: 100</p>																
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #d9e1f2;">Criterion</th> <th style="background-color: #d9e1f2;">Weight (%)</th> <th style="background-color: #d9e1f2;">Bidder A</th> <th style="background-color: #d9e1f2;">Bidder B</th> </tr> </thead> <tbody> <tr> <td>Experience</td> <td style="text-align: center;">10</td> <td></td> <td></td> </tr> <tr> <td>Methodology</td> <td style="text-align: center;">50</td> <td></td> <td></td> </tr> <tr> <td>Key Experts</td> <td style="text-align: center;">10</td> <td></td> <td></td> </tr> </tbody> </table>		Criterion	Weight (%)	Bidder A	Bidder B	Experience	10			Methodology	50			Key Experts	10		
Criterion	Weight (%)	Bidder A	Bidder B														
Experience	10																
Methodology	50																
Key Experts	10																

Training	10		
Local Economic Development (LED)	15		
Understanding of SHERQ and how it applies to the project	05		
TOTAL	100		

.....

The minimum technical score (St) required to pass is: 70%

**27.1
(MEAT
only)**

**The Most Economically Advantageous Proposal shall be invited for contract negotiation.
Financial proposal from bidders**

- a) **Present a detailed financial proposal indicating the following:**
 - 1) Capital Cost of project implementation
 - 2) Operations costs (including overheads and maintenance)
 - 3) Projected revenues
- b) Projected profits for the duration of the contracting
- c) Profit sharing model with the MCM

The template is provided, Fin 2 – CASH FLOW

The Service Provider which offers the highest Net Present Value (NPV) and the highest minimum remittance shall be considered the most economically advantageous tender to Council.

The stated minimum remittance on the cashflow, Fin 2 shall be considered the minimum amount to be paid to Council.

The factors for calculation of the Net Present Value are:

- (i) Cashflow (inflow and outflow);
- (ii) Number of years for life cycle: five (5) years;
- (iii) A rate, in per cent, to be used to discount to present

	<p>value all annual future costs: seven and a half (7.5) percent;</p> <p>(iv) The inflation rate of the period of the life cycle: 4.3%;</p> <p>(v) The applicable interest rate for the investment: seven and a half (7.5) percent</p> <p>(vi) Decommissioning and disposal cost</p>
	D. Negotiations and Award
28.1	<p>Expected date and address for contract negotiations: Date: TBC Address: TBC</p>
30.1	<p>The publication of the contract award information following the completion of the evaluation process will be done as following: https://www.esppra.co.sz</p>
30.2	<p>Expected date for the commencement of the Services: Base Date: 1 October 2024</p>
31.3	<p>Tender shall include a Tender Security of E20,000.00 (issued by bank or surety).</p>
32	<p>Post Qualification shall be conducted:</p> <p>The contract awarded service provider shall provide Proof of Funding for the project e.g. letter from the bank indicating access to at least E 1 million credit or bank statement showing at least E 1 million available balance.</p> <p>Failure to provide proof of funding shall result to disqualification and the second-best evaluated tenderer invited for contract negotiation.</p>
<p><i>NB: Numbering in the above is informed by section 2, instructions to service provider and data sheet.</i></p>	

SECTION 3. TERMS OF REFERENCE

1. Background

Situated at the Hub of Eswatini is the city of Manzini, which services as an Administrative and Trade Centre for the Manzini Region. It covers about 2447 hectares, with a population of approximately 35,000 people (2017) during the night. It has a day population of over 110357 inhabitants who come for trade, business, work and others on transit. As a result of its ideal location, it attracts thousands of individuals who seek both formal and non-formal employment or just passing through.

The Municipal Council of Manzini is looking for a reputable company to partner with in the provision of paid parking in an effort to manage parking spaces within the CBD.

2. Objective(s) of the Assignment

The Objective is to secure a contract with a company that will implement prepaid parking in line with the municipal council's smart city strategic direction.

3. Scope of Services, Tasks (Components) and Expected Deliverables

3.1 Operation:

- 3.1.1 The service provider to implement paid parking solution for 732 parking bays with the allowance for expanding to 1000 parking bays.
- 3.1.2 The Service Provider will develop and modify, from time to time, a detailed operating plan ("Operating Plan") for the Parking System. The Operating Plan will detail all aspects of operations including but not limited to branding, signage, geometric design (i.e. delineation of free parking, paid parking and no-parking areas), fee collection, enforcement, facility maintenance, and customer service procedures. The Service Provider also will prepare detailed Parking Management Plans for all Block Faces and Parking Lots assigned to the Service Provider. The Operating Plan and Parking Management Plans, and any modifications to them, must be approved by Municipal Council of Manzini. The Service Provider will incorporate suggestions from Municipal Council of Manzini on the Operating Plan and Parking Management Plans

and operate the Parking System in accordance with the approved Operating Plan and Parking Management Plans.

- 3.1.3 Enter into an agreement with Municipal Council of Manzini to set up an Escrow Account into which all revenue, including Fees and Fines, shall be deposited. Payment to the Service Provider, Municipal Council of Manzini and other agencies shall be made from the escrow account.
- 3.1.4 Collect customer payments toward User Accounts via multiple payment media and deposit the same into an escrow account set up for the purpose of the Parking System.
- 3.1.5 Develop a network of third-party shops to sell prepaid parking vouchers Coupons, carry out training of shopkeepers about the Parking System, and ensure that the shops have an adequate supply of prepaid parking vouchers at all times.
- 3.1.6 Collect applicable Parking Fees using an IT-based system from all users who park their vehicles in Paid Parking Blocks or Paid Parking Lots assigned to the Service Provider. Fees will be collected via User Accounts or Parking Coupons. The Service Provider will not collect cash or other forms of direct payment on the street.
- 3.1.7 Monitor and enforce on street parking rules in all Block Faces by Traffic Police and Municipal Council of Manzini. The Service Provider will electronically check paid/unpaid status of vehicles parked in Parking Facilities and identify vehicles that have not paid applicable Parking Fees or that are parked in No-Parking Areas. Traffic Police will be notified by the Service Provider to issue parking fines for and immobilize such vehicles. Notify concerned authorities about immobilization of violating vehicles. Remove immobilization devices after checking proof of Fee and Fine payment.
- 3.1.8 Establish and maintain a Control Centre that will monitor operations of the Parking System. The Control Centre will constitute Municipal Council of Manzini 's single point of contact to enable Municipal Council of Manzini to coordinate with the Service Provider in the course of the day-to-day operation and management of the Parking System by Municipal Council of Manzini. The Service Provider shall ensure that the Control Centre is staffed by an adequate number of appropriately qualified personnel and further that there is due coordination between the staff at the Service Provider control Centre and Municipal Council of Manzini. The premises for the Control Centre will be provided by Municipal Council of Manzini.

- 3.1.9 Provide access to an IT-enabled web-based monitoring system with which Municipal Council of Manzini may monitor the Parking System. The Service Provider will provide real-time information access and periodic summary reports in an electronic format specified by Municipal Council of Manzini.
- 3.1.10 Enlist trained professionals to operate the Parking System. The Service Provider will prepare a Human Resources Plan specifying how personnel will be recruited, trained, and paid. The Human Resources Plan must be approved by Municipal Council of Manzini.
- 3.1.11 Bear all expenses towards operation of the Parking System through the entire period and not claim any additional expenses.
- 3.1.12 Waive all rights to sell advertisement space on any elements of the Parking System, which are retained by and shall vest only in Municipal Council of Manzini . The Service Provider shall be obliged to carry advertisements as specified by Municipal Council of Manzini. The Service Provider shall not carry out any other commercial activities on or near Parking System facilities unless explicitly approved by Municipal Council of Manzini.

3.2 IT (Hardware, Software and Facilities) and Customer Service

- 3.2.1 Paid parking system that will allow users to download an application compatible with iOS and Android to assist users with a range of applications including locating free parking bays, payments etc.
- 3.2.2 A system that will allow for integration with Manzini Municipal Council camera security system. The cameras shall be capable of working in lightless environment (night vision), detailed panoramic views. The camera must be capable of utilizing Lorawan for data collection.
- 3.2.3 A system that will offer dynamic payment options for off-peak and peak times.
- 3.2.4 Allow businesses to advertise on the application and share revenues generated from advertisements with the municipality (advertisements shall not obstruct operations of the user).
- 3.2.5 A system that can be scaled up to integrate with traffic management system and other future council systems (for example public transport management system, shuttle services).

- 3.2.6 A parking system that will allow the Municipal Council of Manzini representatives to have full access to parking data, and live parking data 24/7, 365 days.
- 3.2.7 A parking system that will produce detailed parking occupancy reports indicating trends.
- 3.2.8 A parking system that will allow for categorization of parking bays and offer high end parking to willing residents.
- 3.2.9 A parking system that can allow residents/ customers to reserve parking (at a additional fee for a limited time).
- 3.2.10 A system that is capable of identifying and reading vehicle number plates.

3.3 Maintenance

- 3.3.1 The supplier will provide road marking indicating where parking is allowed and not allowed, the type of vehicle that can park.
- 3.3.2 The supplier will provide signs showing parking fees, parking arrangement.
- 3.3.3 Ensure that hardware and software is in good working order.
- 3.3.4 The supplier is fully responsible for collecting parking fees.
- 3.3.5 Setup physical kiosks, to disseminate information and assist with customer registrations.

3.4 Management of paid parking services

- 3.4.1 The supplier will be expected to enforce parking bylaws.
- 3.4.2 All data collected through the system shall remain the property of the Municipal Council of Manzini, but the supplier may use it for the sole purpose of improving the parking services or unless otherwise agreed.
- 3.4.3 The supplier shall convene monthly meetings with Council to discuss operations, revenues and other important factors.
- 3.4.4 The supplier shall be required to transfer, handover the equipment to council at the end of the contract period

3.5 Training

- 3.5.1 The Supplier shall provide training to representatives of the municipal council of Manzini on operation of the paid parking system and all associated components.
- 3.5.2 The supplier shall train customers on use of the parking system

The duration of the contract shall be 65 months renewable based on satisfactory performance

4. Team Composition & Qualification Requirements for the Key Experts (and any other requirements which will be used for evaluating the Key Experts under Data Sheet. (attach CVs and Certificates)

- 4.1 At least one of the Managing Directors must be in possession of an (MBA) Master's in Business Administration, Bachelor in Accounting and Management or Finance or Operations Management.
- 4.2 Contract Manager/Operations Manager should possess Bachelors in Business Administration, Bachelor in Accounting and Management or Finance or Operations Management.
- 4.3 Must have worked with public sector organizations and/ or municipalities, parastatals etc

5. Reporting Requirements and Time Schedule for Deliverables

- 5.1.1 Reports detailing parking occupancy rates, revenue collected for the duration of the contract.
- 5.1.2 On 5th of each month, reports for the preceding months shall be submitted.

5.1.3 Final reports shall be delivered in email.

6. Municipal Council of Manzini's Input and Counterpart Personnel

6.1 Map detailing location of Parking Bay

6.2 Gazette of parking fees

6.3 Bylaws for parking

DECLARATION OF ELIGIBILITY FORM

[The Tenderer must provide a signed declaration on its company letterhead in the following format. If the Tender is being presented by a joint venture or consortium all members must each sign their own declaration.]

[>>>Name of Company, Address, and Date>>>]

To:

THE CHIEF EXECUTIVE OFFICER
MUNICIPAL COUNCIL OF MANZINI
P.O.BOX 418
NKOSELUHLAZA STREET
MANZINI

Dear Madam,

Re: TENDER NO: MCMz351 of 2024/2025 – THE Design, Build (Install), Operate, Maintain and Transfer a Paid Parking System for the Manzini CBD

I/We hereby declare that: -

- a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract.
- b) I/We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we are not the subject of legal proceedings for any of the foregoing.
- c) I/We have fulfilled our obligations to pay taxes and social security contributions.
- d) I/We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations. as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- e) I/We do not have a conflict of interest in relation to the procurement requirement.

- f) I/We do not have any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of five years preceding the commencement of procurement proceedings.
- g) I/We are not subject to suspension in accordance with section 55, and none of its directors or officers have been involved in a tenderer or supplier currently subject to suspension.

Sincerely yours,

Signed

Authorized Representative

Date

Section 4. Technical Proposal – Standard Forms

{Notes to Service Provider shown in brackets { } throughout Section 3 provide guidance to the Service Provider to prepare the Technical Proposal; they should not appear on the Proposals to be submitted. }

CHECKLIST OF REQUIRED FORMS

Required for FTP or STP (v)		FORM	DESCRIPTION	Page Limit
FTP	STP			
√	√	TECH-1	Technical Proposal Submission Form.	
	"√" If applicable	TECH-1 Attachment	If the Proposal is submitted by a joint venture, attach a letter of intent or a copy of an existing agreement.	
	"√" If applicable	Power of Attorney	No pre-set format/form. In the case of a Joint Venture, several are required: a power of attorney for the authorized representative of each JV member, and a power of attorney for the representative of the lead member to represent all JV members	
√		TECH-2	Service Provider's Organization and Experience.	
√		TECH-2A	A. Service Provider's Organization	
√		TECH-2B	B. Service Provider's Experience	
√		TECH-3	Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Municipal Council of Manzini.	
√		TECH-3A	A. On the Terms of Reference	
√		TECH-3B	B. On the Counterpart Staff and Facilities	
√	√	TECH-4	Description of the Approach, Methodology, and Work Plan for Performing the Assignment	
√	√	TECH-5	Work Schedule and Planning for Deliverables	
√	√	TECH-6	Team Composition, Key Experts Inputs, and attached Curriculum Vitae (CV)	

All pages of the original Technical and Financial Proposal shall be initialed by the same authorized representative of the Service Provider who signs the Proposal.

Form TECH-1

TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: Municipal Council of Manzini
P O Box 419
Manzini

Dear Sirs:

We, the undersigned, offer to provide the consulting services for *[Insert title of assignment]* in accordance with your Request for Proposals dated *[Insert Date]* and our Proposal. *[Select appropriate wording depending on the selection method stated in the RFP: “We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope” or, if only a Technical Proposal is invited “We hereby are submitting our Proposal, which includes this Technical Proposal only in a sealed envelope.”]*

{If the Service Provider is a joint venture, insert the following: We are submitting our Proposal a joint venture with: {Insert a list with full name and the legal address of each member, and indicate the lead member}. We have attached a copy {insert: “of our letter of intent to form a joint venture” or, if a JV is already formed, “of the JV agreement”} signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.

{OR

If the Service Provider’s Proposal includes Sub-Service Provider, insert the following: We are submitting our Proposal with the following firms as Sub-Service Providers: {Insert a list with full name and address of each Sub-Service Provider.}

We hereby declare that:

- (a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Municipal Council of Manzini and/or may be sanctioned by ESPPRA.
- (b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet.
- (c) We have no conflict of interest in accordance with ITC 3.

- (d) We meet the eligibility requirements as stated in ITC 6, and we confirm our understanding of our obligation to abide by the Public Procurement Act in regard to corrupt and fraudulent practices as per ITC 5.
- (f) Except as stated in the Data Sheet, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC may lead to the termination of Contract negotiations.
- (g) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 30.2 of the Data Sheet.

We understand that the Municipal Council of Manzini is not bound to accept any Proposal that the Municipal Council of Manzini receives.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: _____

Name and Title of Signatory: _____

Name of Service Provider(company's name or JV's name):

In the capacity of: _____

Address: _____

Contact information (phone and e-mail): _____

{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached}

1.

FORM TECH-2 (FOR FULL TECHNICAL PROPOSAL ONLY)

SERVICE PROVIDER’S ORGANIZATION AND EXPERIENCE

Form TECH-2: a brief description of the service provider’s organization and an outline of the recent experience of the Service Provider that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Service Provider’s Key Experts and Sub-Service Providers who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Service Provider), and the Service Provider’s role/involvement.

A – Service Provider’s Organization

1. Provide here a brief description of the background and organization of your company, and – in case of a joint venture – of each member for this assignment.

B – Service Provider’s Experience

1. List only previous similar assignments successfully completed in the last 5 years.
2. List only those assignments for which the Service Provider was legally contracted by the Municipal Council of Manzini as a company or was one of the joint venture partners. Assignments completed by the Service Provider’s individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Service Provider, or that of the Service Provider’s partners or sub-Service ProviderService Providers, but can be claimed by the Experts themselves in their CVs. The Service Provider should be prepared to substantiate the claimed experience by presenting copies of relevant documents and references if so requested by the Municipal Council of Manzini.

Duration	Assignment name/& brief description of main deliverables/outputs	Name of Municipal Council of Manzini & Country of Assignment	Approx. Contract value (in SZL/ Amount paid to your firm)	Role on the Assignment
{e.g., Jan.2009–Apr.2010}	{e.g., “Improvement quality of.....”: designed master plan for rationalization of; }	{e.g., Ministry of, country }	{e.g., SZL1 mill/SZL0.5 mill }	{e.g., Lead partner in a JV A&B&C }
{e.g., Jan-May 2011 }	{e.g., “Support to sub-national government.....” : drafted secondary level regulations on..... }	{e.g., municipality of....., country }	{e.g., SZL0.2 mil/SZL0.2 mil }	{e.g., sole Service Provider }

FORM TECH-3 (FOR FULL TECHNICAL PROPOSAL)

COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE, COUNTERPART STAFF, AND FACILITIES TO BE PROVIDED BY THE MUNICIPAL COUNCIL OF MANZINI

Form TECH-3: comments and suggestions on the Terms of Reference that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Municipal Council of Manzini, including: administrative support, office space, local transportation, equipment, data, etc.

A - On the Terms of Reference

{improvements to the Terms of Reference, if any}

B - On Counterpart Staff and Facilities

{comments on counterpart staff and facilities to be provided by the Municipal Council of Manzini. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}

FORM TECH-4 (FOR FULL TECHNICAL PROPOSAL ONLY)

DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN IN RESPONDING TO THE TERMS OF REFERENCE

Form TECH-4: a description of the approach, methodology and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{Suggested structure of your Technical Proposal (in FTP format):

- a) Technical Approach and Methodology
- b) Work Plan
- c) Organization and Staffing }

- a) **Technical Approach and Methodology.** {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here. }
- b) **Work Plan.** {Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Municipal Council of Manzini), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form. }
- c) **Organization and Staffing.** {Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff. }

FORM TECH-4 (FOR SIMPLIFIED TECHNICAL PROPOSAL ONLY)

DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

Form TECH-4: a description of the approach, methodology, and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{Suggested structure of your Technical Proposal}

- a) **Technical Approach, Methodology, and Organization of the Service Provider's team.** {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TOR), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s); the degree of detail of such output; and describe the structure and composition of your team. Please do not repeat/copy the TORs in here.}
- b) **Work Plan and Staffing.** {Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Municipal Council of Manzini), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan and work schedule showing the assigned tasks for each expert. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form.}
- c) **Comments (on the TOR and on counterpart staff and facilities)**
{Your suggestions should be concise and to the point, and incorporated in your Proposal. Please also include comments, if any, on counterpart staff and facilities to be provided by the Municipal Council of Manzini. For example, administrative support, office space, local transportation, equipment, data, background reports, etc.}

FORM TECH-5 (FOR FTP AND STP)

WORK SCHEDULE AND PLANNING FOR DELIVERABLES

N°	Deliverables ¹ (D-..)	Months											
		1	2	3	4	5	6	7	8	9	n	TOTAL
D-1	{e.g., Deliverable #1: Report A												
	1) data collection												
	2) drafting												
	3) inception report												
	4) incorporating comments												
	5)												
	6) delivery of final report to Municipal Council of Manzini}												
D-2	{e.g., Deliverable #2:.....}												
n													

- 1 List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Municipal Council of Manzini’s approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in a form of a bar chart.
3. Include a legend, if necessary, to help read the chart.



FORM TECH-6 (FOR FTP AND STP)

TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

N°	Name	Expert's input (in person/month) per each Deliverable (listed in TECH-5)										Total time-input (in Months)			
		Position		D-1		D-2		D-3	D-...			Home	Field	Total
KEY EXPERTS															
K-1	{e.g., Mr. Abbbb}	[Team Leader]	[Home]	[2 month]	[1.0]	[1.0]									
			[Field]	[0.5 m]	[2.5]	[0]									
K-2															
K-3															
n															
											Subtotal				
NON-KEY EXPERTS															
N-1			[Home]												
			[Field]												
N-2															
n															
											Subtotal				
											Total				

1 For Key Experts, the input should be indicated individually for the same positions as required under the Data Sheet ITC21.1.

- 2 Months are counted from the start of the assignment/mobilization. One (1) month equals twenty two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours.
- 3 “Home” means work in the office in the expert’s country of residence. “Field” work means work carried out in Eswatini or any other country outside the expert’s country of residence.

-  Full time input
-  Part time input

**FORM TECH-6
(CONTINUED)**

CURRICULUM VITAE (CV)

Position Title and No.	{e.g., K-1, TEAM LEADER}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship/Residence	

Education: {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Municipal Council of Manzini’s and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact information for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2005-present]	[e.g., Ministry of, advisor/Service Providerto... For references: Tel...../e-mail.....; Mr. Hbbbb, deputy minister]		

Membership in Professional Associations and Publications:

Language Skills (indicate only languages in which you can work): _____

SECTION 5. FINANCIAL PROPOSAL - STANDARD FORM

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal

FIN-1 Financial Proposal Submission Form

FIN-2 Cashflow Analysis

FIN-3 Example Calculation of NPV

FORM FIN-1
FINANCIAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: **Municipal Council of Manzini**
P O Box 419
Manzini

Dear Sirs:

We, the undersigned, offer to provide the services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal.

Our attached Financial Proposal is for the amount of {Indicate the corresponding to the amount(s) currency(ies)} {Insert amount(s) in words and figures}, [Insert “including” or “excluding”] of all indirect local taxes in accordance with Clause 25.1 in the Data Sheet. The estimated amount of local indirect taxes is {Insert currency} {Insert amount in words and figures} which shall be confirmed or adjusted, if needed, during negotiations. {Please note that all amounts shall be the same as in Form FIN-2}.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Clause 12.1 of the Data Sheet.

Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
_____	_____	_____
_____	_____	_____

{If no payments are made or promised, add the following statement: “No commissions or gratuities have been or are to be paid by us to agents or any third party relating to this Proposal and Contract execution.”}

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: _____

Name and Title of Signatory: _____

In the capacity of: _____

Address: _____

E-mail: _____

{For a joint venture, either all members shall sign or only the lead member/Service Provider, in which case the power of attorney to sign on behalf of all members shall be attached}

FORM FIN-2 CASH FLOW

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Capital Cost							
Revenue							
System Maintenance							
Overheads							
Hardware Maintenance							
Finance Costs							
Scrap value????							
Profit							
Tax							
Minimum remittance to Council (Annual)							
Net Present Value							

The Service Provider which offers the highest Net Present Value (NPV) and the highest minimum remittance shall be considered the most economically advantageous tender to Council.

FORM FIN-3 – EXAMPLE OF NPV CALCULATION TABLE

Item	Units		Years of Operation Service Period					
			1	2	3	4	5	etc
1	Consultant's annual amount* (operation service + asset replacement)	Currency						
2	NPV Factor with discount rate of [3%]	nr	0.97	0.94	0.92	0.89	0.86	etc.
3	Present value (row 1 x row 2)	Currency						
4	Net Present Value	Currency	<i>[sum all PV value in row 3 for Operation Service Period]</i>					

* from price schedule, as corrected in accordance with the ITP

SECTION 6. CORRUPT AND FRAUDULENT PRACTICES

“Fraud and Corruption

1.23 Section 60, 61 and 62 of the Public Procurement Act, 2011, require that Procuring Entities (including beneficiaries of Government funds), Service Provider Service Providers, and their agents (whether declared or not), sub-contractors, sub-Service Provider Service Providers, service providers, or suppliers, and any personnel thereof, observe the highest standard of ethics during the selection and execution of Government-financed contracts [footnote: In this context, any action taken by a Service Provider or any of its personnel, or its agents, or its sub-Service Provider Service Providers, sub-contractors, services providers, suppliers, and/or their employees, to influence the selection process or contract execution for undue advantage is improper.]. In pursuance of this policy, the Act:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party¹;
- (ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation²;
- (iii) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party³;
- (iv) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party⁴;

¹ For the purpose of this sub-paragraph, “another party” refers to a public officer acting in relation to the selection process or contract execution. In this context “public officer” means any officer employed in the public service including in procuring entities, requesting entities, the Agency and the Tender Boards.

² For the purpose of this sub-paragraph, “party” refers to a public officer; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

³ For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officers) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

⁴ For the purpose of this sub-paragraph, “party” refers to a participant in the selection process or contract execution.

- (v) “obstructive practice” is
- (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the Government’s inspection and audit rights;
- (b) will reject a proposal for award if it determines that the Service Provider recommended for award or any of its personnel, or its agents, or its sub-Service Provider Service Providers, sub-contractors, services providers, suppliers, and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare misprocurement and cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Municipal Council of Manzini or of a recipient of any part of the proceeds were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without the Municipal Council of Manzini having taken timely and appropriate action satisfactory to the Government to address such practices when they occur, including by failing to inform the Government in a timely manner they knew of the practices;
- (d) will sanction a firm or an individual at any time, in accordance with prevailing sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Government-financed contract, and (ii) to be a nominated⁵ sub-Service Provider, supplier, or service provider of an otherwise eligible firm being awarded a Government-financed contract.

⁵ A nominated sub-Service Provider, supplier, or service provider is one which has been either (i) included by the Service Provider in its proposal because it brings specific and critical experience and know-how that are accounted for in the technical evaluation of the Service Provider’s proposal for the particular services; or (ii) appointed by the Borrower.

PART II

Section 7. Conditions of Contract and Contract

Preface

1. The standard Contract form consists of four parts: the Form of Contract to be signed by the Municipal Council of Manzini and the Service Provider, the General Conditions of Contract (GCC), including Attachment 1 (Corrupt and Fraudulent Practices); the Special Conditions of Contract (SCC); and the Appendices.
2. The General Conditions of Contract, including Attachment 1, shall not be modified. The Special Conditions of Contract that contain clauses specific to each Contract intend to supplement, but not over-write or otherwise contradict, the General Conditions.

I. General Conditions of Contract

A. GENERAL PROVISIONS

1. Definitions

1.1. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Regulations” means Public Procurement Regulations, 2022.
- (b) “Applicable Law” means the Laws of Eswatini and any other instruments having the force of law in Eswatini, as they may be issued and in force from time to time.
- (c) “Municipal Council of Manzini” means the Municipal Council of Manzini or implementing agency that signs the Contract for the Services with the Selected Service Provider.
- (d) “Service Provider” means a legally established professional consulting firm or entity selected by the Municipal Council of Manzini to provide the Services under the signed Contract.
- (e) “Contract” means the legally binding written agreement signed between the Municipal Council of Manzini and the Service Provider and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (f) “Day” means a working day unless indicated otherwise.
- (g) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (h) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Service Provider, Sub-Service Provider or JV member(s) assigned by the Service Provider to perform the Services or any part thereof under the Contract.
- (i) “Foreign Currency” means any currency other than the currency of Eswatini.
- (j) “GCC” means these General Conditions of Contract.
- (k) “Government” means the government of Eswatini.
- (l) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than

one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Municipal Council of Manzini for the performance of the Contract.

- (m) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Service Provider’s proposal.
- (n) “Local Currency” means the currency of Eswatini.
- (o) “Non-Key Expert(s)” means an individual professional provided by the Service Provider or its Sub-Service Provider to perform the Services or any part thereof under the Contract.
- (p) “Party” means the Municipal Council of Manzini or the Service Provider, as the case may be, and “Parties” means both of them.
- (q) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- (r) “Services” means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A hereto.
- (s) “Sub-Service Provider Service Providers” means an entity to whom/which the Service Provider subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- (t) “Third Party” means any person or entity other than the Government, the Municipal Council of Manzini, the Service Provider or a Sub-Service Provider.

2. Relationship between the Parties

2.1. Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Municipal Council of Manzini and the Service Provider. The Service Provider, subject to this Contract, has complete charge of the Experts and Sub-Service Provider Service Providers, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

3. Law Governing Contract

3.1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4. Language

4.1. This Contract has been executed in **English**, which shall be

the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

5. Headings

5.1. The headings shall not limit, alter or affect the meaning of this Contract.

6. Communications

6.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.

6.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **SCC**.

7. Location

7.1. The Services shall be performed at such locations as are specified in **Appendix A** hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Municipal Council of Manzini may approve.

8. Authority of Member in Charge

8.1. In case the Service Provider is a Joint Venture, the members hereby authorize the member specified in the **SCC** to act on their behalf in exercising all the Service Provider's rights and obligations towards the Municipal Council of Manzini under this Contract, including without limitation the receiving of instructions and payments from the Municipal Council of Manzini.

9. Authorized Representatives

9.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Municipal Council of Manzini or the Service Provider may be taken or executed by the officials specified in the **SCC**.

10. Corrupt and Fraudulent Practices

10.1. The Government requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in **Attachment 1** to the GCC.

a. Commissions and Fees

10.2. The Municipal Council of Manzini requires the Service Provider to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the

Contract by the Municipal Council of Manzini and/or sanctions by ESPPRA.

B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 11. Effectiveness of Contract** 11.1. This Contract shall come into force and effect on the date (the “Effective Date”) of the Municipal Council of Manzini’s notice to the Service Provider instructing the Service Provider to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the **SCC** have been met.
- 12. Termination of Contract for Failure to Become Effective** 12.1. If this Contract has not become effective within such time period after the date of Contract signature as specified in the **SCC**, either Party may, by not less than twenty eight (28) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
- 13. Commencement of Services** 13.1. The Service Provider shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the **SCC**.
- 14. Expiration of Contract** 14.1. Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the **SCC**.
- 15. Entire Agreement** 15.1. This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
- 16. Modifications or Variations** 16.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- 16.2. In cases of substantial (20% and above) modifications or variations, the prior written consent of ESPPRA is required.
- 17. Force Majeure**
- a. Définition** 17.1. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to

be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

17.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-Service Providers or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

17.3. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

b. No Breach of Contract 17.4. The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

c. Measures to be Taken 17.5. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

17.8. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider, upon instructions by the Municipal Council of Manzini, shall either:

(a) demobilize, in which case the Service Provider shall be

reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Municipal Council of Manzini, in reactivating the Services; or

- (b) continue with the Services to the extent reasonably possible, in which case the Service Provider shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 44 & 45.

18. Suspension

18.1. The Municipal Council of Manzini may, by written notice of suspension to the Service Provider, suspend all payments to the Service Provider hereunder if the Service Provider fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Service Provider to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Service Provider of such notice of suspension.

19. Termination

19.1. This Contract may be terminated by either Party as per provisions set up below:

a. By the Municipal Council of Manzini

19.1.1. The Municipal Council of Manzini may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Municipal Council of Manzini shall give at least thirty (30) calendar days' written notice of termination to the Service Provider in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- (a) If the Service Provider fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- (b) If the Service Provider becomes (or, if the Service Provider consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

- (c) If the Service Provider fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;
- (d) If, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- (e) If the Municipal Council of Manzini, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Service Provider fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2. Furthermore, if the Municipal Council of Manzini determines that the Service Provider has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Municipal Council of Manzini may, after giving fourteen (14) calendar days written notice to the Service Provider, terminate the Service Provider's employment under the Contract.

b. By the Service Provider

19.1.3. The Service Provider may terminate this Contract by not less than thirty (30) calendar days' written notice to the Municipal Council of Manzini, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- (a) If the Municipal Council of Manzini fails to pay any money due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause GCC 45.1 within forty-five (45) calendar days after receiving written notice from the Service Provider that such payment is overdue.
- (b) If, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- (c) If the Municipal Council of Manzini fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 45.1.
- (d) If the Municipal Council of Manzini is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Service Provider may have subsequently approved in writing) following the receipt by

the Municipal Council of Manzini of the Service Provider's notice specifying such breach.

c. Cessation of Rights and Obligations

19.1.4. Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Service Provider's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.

d. Cessation of Services

19.1.5. Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Service Provider shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Service Provider and equipment and materials furnished by the Municipal Council of Manzini, the Service Provider shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

e. Payment upon Termination

19.1.6. Upon termination of this Contract, the Municipal Council of Manzini shall make the following payments to the Service Provider:

- (a) payment for Services satisfactorily performed prior to the effective date of termination; and
- (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

C. OBLIGATIONS OF THE SERVICE PROVIDER

20. General

a. Standard of Performance

20.1 The Service Provider shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ

appropriate technology and safe and effective equipment, machinery, materials and methods. The Service Provider shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Municipal Council of Manzini, and shall at all times support and safeguard the Municipal Council of Manzini's legitimate interests in any dealings with the third parties.

20.2. The Service Provider shall employ and provide such qualified and experienced Experts and Sub-Service Providers as are required to carry out the Services.

20.3. The Service Provider may subcontract part of the Services to an extent and with such Key Experts and Sub-Service Providers as may be approved in advance by the Municipal Council of Manzini. Notwithstanding such approval, the Service Provider shall retain full responsibility for the Services.

**b. Law
Applicable to
Services**

20.4. The Service Provider shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-Service Provider Service Providers, comply with the Applicable Law.

20.5. Throughout the execution of the Contract, the Service Provider shall comply with the import of goods and services prohibitions in Eswatini when

- (a) as a matter of law or official regulations, the Government prohibits commercial relations with that country; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

20.6. The Municipal Council of Manzini shall notify the Service Provider in writing of relevant local customs, and the Service Provider shall, after such notification, respect such customs.

**21. Conflict of
Interests**

21.1. The Service Provider shall hold the Municipal Council of Manzini's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

**a. Service
Provider Not
to Benefit
from
Commissions,**

21.1.1 The payment of the Service Provider pursuant to GCC F (Clauses GCC 38 through 42) shall constitute the Service Provider's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Service Provider shall not accept for its own benefit any trade commission, discount or

- Discounts, etc.** similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Service Provider shall use its best efforts to ensure that any Sub-Service Provider Service Providers, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.
- 21.1.2 Furthermore, if the Service Provider, as part of the Services, has the responsibility of advising the Municipal Council of Manzini on the procurement of goods, works or services, the Service Provider shall comply with the Applicable Regulations, and shall at all times exercise such responsibility in the best interest of the Municipal Council of Manzini. Any discounts or commissions obtained by the Service Provider in the exercise of such procurement responsibility shall be for the account of the Municipal Council of Manzini.
- b. Service Provider and Affiliates Not to Engage in Certain Activities** 21.1.3 The Service Provider agrees that, during the term of this Contract and after its termination, the Service Provider and any entity affiliated with the Service Provider, as well as any Sub-Service Providers and any entity affiliated with such Sub-Service Provider Service Providers, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Service Provider's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC.
- c. Prohibition of Conflicting Activities** 21.1.4 The Service Provider shall not engage, and shall cause its Experts as well as its Sub-Service Providers not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
- d. Strict Duty to Disclose Conflicting Activities** 21.1.5 The Service Provider has an obligation and shall ensure that its Experts and Sub-Service Providers shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Municipal Council of Manzini, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Service Provider or the termination of its Contract.
- 22. Confidentiality** 22.1 Except with the prior written consent of the Municipal Council of Manzini, the Service Provider and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Service Provider and the Experts make public the recommendations

formulated in the course of, or as a result of, the Services.

23. Liability of the Service Provider

23.1 Subject to additional provisions, if any, set forth in the **SCC**, the Service Provider's liability under this Contract shall be provided by the Applicable Law.

24. Insurance to be Taken out by the Service Provider

24.1 The Service Provider(i) shall take out and maintain, and shall cause any Sub-Service Providers to take out and maintain, at its (or the Sub-Service Provider Service Providers', as the case may be) own cost but on terms and conditions approved by the Municipal Council of Manzini, insurance against the risks, and for the coverage specified in the **SCC**, and (ii) at the Municipal Council of Manzini's request, shall provide evidence to the Municipal Council of Manzini showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Service Provider shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.

25. Accounting, Inspection and Auditing

25.1 The Service Provider shall keep, and shall make all reasonable efforts to cause its Sub-Service Providers to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.

25.2 The Service Provider shall permit and shall cause its Sub-Service Providers to permit, the Government and/or persons appointed by the Government to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Government if requested by the Government. The Service Provider's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Government's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under ESPPRA's prevailing sanctions procedures.)

26. Reporting Obligations

26.1 The Service Provider shall submit to the Municipal Council of Manzini the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in the said Appendix.

27. Proprietary Rights of the Municipal Council of Manzini in Reports and

27.1 Unless otherwise indicated in the **SCC**, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Service Provider for the Municipal Council of Manzini in the course of the Services shall be

Records

confidential and become and remain the absolute property of the Municipal Council of Manzini. The Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Municipal Council of Manzini, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Municipal Council of Manzini.

27.2 If license agreements are necessary or appropriate between the Service Provider and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Service Provider shall obtain the Municipal Council of Manzini's prior written approval to such agreements, and the Municipal Council of Manzini shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the **SCC**.

28. Equipment, Vehicles and Materials

28.1 Equipment, vehicles and materials made available to the Service Provider by the Municipal Council of Manzini or purchased by the Service Provider wholly or partly with funds provided by the Municipal Council of Manzini, shall be the property of the Municipal Council of Manzini and shall be marked accordingly. Upon termination or expiration of this Contract, the Service Provider shall make available to the Municipal Council of Manzini an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Municipal Council of Manzini's instructions. While in possession of such equipment, vehicles and materials, the Service Provider, unless otherwise instructed by the Municipal Council of Manzini in writing, shall insure them at the expense of the Municipal Council of Manzini in an amount equal to their full replacement value.

28.2 Any equipment or materials brought by the Service Provider or its Experts into Eswatini for the use either for the project or personal use shall remain the property of the Service Provider or the Experts concerned, as applicable.

D. SERVICE PROVIDER EXPERTS AND SUB-SERVICE PROVIDER**29. Description of Key Experts**

29.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Service Provider's Key Experts are described in **Appendix B**.

30. Replacement of Key

30.1 Except as the Municipal Council of Manzini may otherwise

Experts

agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Service Provider's written request and due to circumstances outside the reasonable control of the Service Provider, including but not limited to death or medical incapacity. In such case, the Service Provider shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31. Removal of Experts or Sub-Service Provider Service Providers

31.1 If the Municipal Council of Manzini finds that any of the Experts or Sub-Service Provider has committed serious misconduct or has been charged with having committed a criminal action, or shall the Municipal Council of Manzini determine that Service Provider's Expert of Sub-Service Provider have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Service Provider shall, at the Municipal Council of Manzini's written request, provide a replacement.

31.2 In the event that any of Key Experts, Non-Key Experts or Sub-Service Providers is found by the Municipal Council of Manzini to be incompetent or incapable in discharging assigned duties, the Municipal Council of Manzini, specifying the grounds, therefore, may request the Service Provider to provide a replacement.

31.3 Any replacement of the removed Experts or Sub-Service Providers shall possess better qualifications and experience and shall be acceptable to the Municipal Council of Manzini.

31.4 The Service Provider shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

E. OBLIGATIONS OF THE MUNICIPAL COUNCIL OF MANZINI**32. Assistance and Exemptions**

32.1 Unless otherwise specified in the SCC, the Municipal Council of Manzini shall use its best efforts to:

- (a) Assist the Service Provider with obtaining work permits and such other documents as shall be necessary to enable the Service Provider to perform the Services.
- (b) Assist the Service Provider with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Municipal Council of Manzini's country while carrying out the

Services under the Contract.

- (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.
- (c) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (d) Assist the Service Provider and the Experts and any Sub-Service Providers employed by the Service Provider for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in Eswatini according to the applicable law in Eswatini.
- (e) Assist the Service Provider, any Sub-Service Providers and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in Eswatini, of bringing into Eswatini reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
- (f) Provide to the Service Provider any such other assistance as may be specified in the SCC.

33. Access to Project Site

33.1 The Municipal Council of Manzini warrants that the Service Provider shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Municipal Council of Manzini will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Service Provider and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Service Provider or any Sub-Service Providers or the Experts of either of them.

34. Change in the Applicable Law Related to Taxes and Duties

34.1 If, after the date of this Contract, there is any change in the applicable law in Eswatini with respect to taxes and duties which increases or decreases the cost incurred by the Service Provider in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 38.1

- 35. Services, Facilities and Property of the Municipal Council of Manzini** 35.1 The Municipal Council of Manzini shall make available to the Service Provider and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (**Appendix A**) at the times and in the manner specified in said **Appendix A**.
- 36. Counterpart Personnel** 36.1 The Municipal Council of Manzini shall make available to the Service Provider free of charge such professional and support counterpart personnel, to be nominated by the Municipal Council of Manzini with the Service Provider's advice, if specified in **Appendix A**.
- 36.2 Professional and support counterpart personnel, excluding Municipal Council of Manzini's liaison personnel, shall work under the exclusive direction of the Service Provider. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Service Provider that is consistent with the position occupied by such member, the Service Provider may request the replacement of such member, and the Municipal Council of Manzini shall not unreasonably refuse to act upon such request.
- 37. Payment Obligation** 37.1 In consideration of the Services performed by the Service Provider under this Contract, the Municipal Council of Manzini shall make such payments to the Service Provider for the deliverables specified in **Appendix A** and in such manner as is provided by GCC F below.

F. PAYMENTS TO THE SERVICE PROVIDER

- 38. Contract Price** 38.1 The Contract price is fixed and is set forth in the **SCC**. The Contract price breakdown is provided in **Appendix C**.
- 38.2 Any change to the Contract price specified in Clause 38.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCC 16 and have amended in writing the Terms of Reference in **Appendix A**.
- 39. Taxes and Duties** 39.1 The Service Provider, Sub-Service Providers and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the **SCC**.
- 39.2 As an exception to the above and as stated in the **SCC**, all local identifiable indirect taxes (itemized and finalized at Contract negotiations) are reimbursed to the Service Provider or are paid by the Municipal Council of Manzini on behalf of the Service Provider.

40. Currency of Payment

40.1 Any payment under this Contract shall be made in the currency(ies) of the Contract.

41. Mode of Billing and Payment

41.1 The total payments under this Contract shall not exceed the Contract price set forth in Clause GCC 38.1.

41.2 The payments under this Contract shall be made in lump-sum installments against deliverables specified in **Appendix A**. The payments will be made according to the payment schedule stated in the **SCC**.

41.2.1 *Advance payment:* Unless otherwise indicated in the **SCC**, an advance payment shall be made against an advance payment bank guarantee acceptable to the Municipal Council of Manzini in an amount (or amounts) and in a currency (or currencies) specified in the **SCC**. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in **Appendix D**, or in such other form as the Municipal Council of Manzini shall have approved in writing. The advance payments will be set off by the Municipal Council of Manzini in equal portions against the lump-sum installments specified in the **SCC** until said advance payments have been fully set off.

41.2.2 *The Lump-Sum Installment Payments.* The Municipal Council of Manzini shall pay the Service Provider within sixty (60) days after the receipt by the Municipal Council of Manzini of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Municipal Council of Manzini does not approve the submitted deliverable(s) as satisfactory in which case the Municipal Council of Manzini shall provide comments to the Service Provider within the same sixty (60) days period. The Service Provider shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

41.2.3 *The Final Payment.* The final payment under this Clause shall be made only after the final report I have been submitted by the Service Provider and approved as satisfactory by the Municipal Council of Manzini. The Services shall then be deemed completed and finally accepted by the Municipal Council of Manzini. The last lump-sum installment shall be deemed approved for payment by the Municipal Council of Manzini within ninety (90) calendar days after receipt of the final report by the Municipal Council of Manzini unless the Municipal Council of Manzini, within such ninety (90) calendar day period, gives written notice to the Service Provider specifying in detail

deficiencies in the Services, the final report. The Service Provider shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. 41.2.4 All payments under this Contract shall be made to the accounts of the Service Provider specified in the SCC.

41.2.4 With the exception of the final payment under 41.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Service Provider of any obligations hereunder.

42. Interest on Delayed Payments

42.1 If the Municipal Council of Manzini had delayed payments beyond fifteen (15) days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Service Provider on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

G. FAIRNESS AND GOOD FAITH

43. Good Faith

43.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

H. SETTLEMENT OF DISPUTES

44. Amicable Settlement

44.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.

44.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 49.1 shall apply.

45. Dispute Resolution

45.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the SCC.

II. General Conditions

Attachment 1: Corrupt and Fraudulent Practices

(the text in this Attachment 1 shall not be modified)

“Fraud and Corruption

1.23 Section 60, 61 and 62 of the Public Procurement Act, 2011, to require that Procuring Entities (including beneficiaries of Government funds), Service Provider Service Providers, and their agents (whether declared or not), sub-contractors, sub-Service ProviderService Providers, service providers, or suppliers, and any personnel thereof, observe the highest standard of ethics during the selection and execution of Government-financed contracts [footnote: In this context, any action taken by a Service Provider or any of its personnel, or its agents, or its sub-Service Provider Service Providers, sub-contractors, services providers, suppliers, and/or their employees, to influence the selection process or contract execution for undue advantage is improper.]. In pursuance of this policy, the Government:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party⁶;
- (ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation⁷;
- (iii) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party⁸;

⁶ For the purpose of this sub-paragraph, “another party” refers to a public officer acting in relation to the selection process or contract execution. In this context “public officer” means any officer employed in the public service including in procuring entities, requesting entities, the Agency and the Tender Boards.

⁷ For the purpose of this sub-paragraph, “party” refers to a public officer; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

⁸ For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officers) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

- (iv) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party⁹;
- (v) “obstructive practice” is
- (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the Government’s inspection and audit rights;
- (b) will reject a proposal for award if it determines that the Service Provider recommended for award or any of its personnel, or its agents, or its sub-Service Provider Service Providers, sub-contractors, services providers, suppliers, and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare mis procurement and cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Municipal Council of Manzini or of a recipient of any part of the proceeds were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without the Municipal Council of Manzini having taken timely and appropriate action satisfactory to the Government to address such practices when they occur, including by failing to inform the Government in a timely manner they knew of the practices;
- (d) will sanction a firm or an individual at any time, in accordance with prevailing sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Government-financed contract, and (ii) to be a nominated¹⁰ sub-Service Provider, supplier, or service provider of an otherwise eligible firm being awarded a Government-financed contract.

⁹ For the purpose of this sub-paragraph, “party” refers to a participant in the selection process or contract execution.

¹⁰ A nominated sub-Service Provider, supplier, or service provider is one which has been either (i) included by the Service Provider in its proposal because it brings specific and critical experience and know-how that are accounted for in the technical evaluation of the Service Provider’s proposal for the particular services; or (ii) appointed by the Borrower.

II. Appendices

APPENDIX A – TERMS OF REFERENCE

[This Appendix shall include the final Terms of Reference (TORs) worked out by the Municipal Council of Manzini and the Service Provider during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements and list of deliverables against which the payments to the Service Provider will be made; Municipal Council of Manzini’s input, including counterpart personnel assigned by the Municipal Council of Manzini to work on the Service Provider’s team; specific tasks or actions that require prior approval by the Municipal Council of Manzini.]

Insert the text based on the Section 3 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 of the Service Provider’s Proposal. Highlight the changes to Section 3 of the RFP]

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APPENDIX B - KEY EXPERTS

[Insert a table based on Form TECH-6 of the Service Provider’s Technical Proposal and finalized at the Contract’s negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

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