



MATSAPHA TOWN COUNCIL

**REQUEST FOR PROPOSALS (RFP)
FOR**

**THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED
SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION
ELECTRONIC PROCESSING SERVICES**

TENDER NUMBER 31

15th July 2021

TABLE OF CONTENTS

SECTION 2..... 3
INSTRUCTIONS TO CONSULTANTS 3
SECTION 3: DATA SHEET 16
SECTION 4. TECHNICAL PROPOSAL - STANDARD FORMS..... 18
SECTION 5 FINANCIAL PROPOSAL SUBMISSION FORM 28
SECTION 6: TERMS OF REFERENCE 28
SECTION 7: DECLARATION OF ELIGIBILITY 31
BUSINESS ADDRESS:
..... 32
DATE..... 32
AS WITNESS: 32
SECTION 8: GENERAL CONTRACT TERMS AND CONDITIONS 33
 TABLE OF CONTENTS 33
 1.1.1 STATEMENT OF INTENT 34
7. OBLIGATION OF COUNCIL..... 38
7.2 NO PAYMENTS WILL BE MADE WHERE COUNCIL IS NOT SATISFIED WITH
THE WORK SUBMITTED; WHERE THERE IS OUTSTANDING INFORMATION/WORK BY
THE CONSULTANT OR WHEN THERE IS A DISPUTE OF FACT REGARDING THE
WORK BEING INVOICED. 38
7.3 COUNCIL SHALL ENSURE THAT THE CONSULTANT HAS ACCESS TO ALL
COUNCIL DOCUMENTS THAT THE CONSULTANT MAY NEED IN ORDER TO
UNDERTAKE THIS EXERCISE. 38
7.4 COUNCIL SHALL ENSURE THAT THE CONSULTANT IS INTRODUCED AND
PROVIDED WITH INFORMATION FOR COMMUNITY COMMITTEE’S IN ORDER TO
HAVE ACCESS TO THE RELEVANT COMMUNITIES WHERE THE CONSULTANT SHALL
BE WORKING. 38
 16. ADDRESSES 44



SECTION 1 ADVERTISEMENT

Request for Proposals (RFP) THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES

TENDER NUMBER 31 OF 2021/22

Matsapha Town Council invites sealed Proposals from reputable consultancy firms for the Provision of Consultancy Services **FOR THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES**. The 'Request for Proposals' document can be obtained by downloading the tender document from the ESPPRA website (www.sppra.co.sz) and Matsapha Town Council website www.matsapha.co.sz free of charge and can also be obtained at the Council Civic Offices, Treasury Department, Corner Airport Road and Police College Road.

Tenderers are expected to submit separate completed Technical and Financial Tender Proposals, signed and sealed, marked "Technical Proposal **FOR THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES** for Matsapha" and "Financial Proposal Proposal **FOR THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES** for Matsapha". The two envelopes must be enclosed in a sealed outer envelope, which shall be marked: "**Request for Proposal: FOR THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES** for Matsapha, Tender Number: 031/2021-2022 and addressed to "Chief Executive Officer, Matsapha Town Council, Corner Police College and Airport Road, Matsapha". Failure to mark the envelope clearly and accurately may result in rejection of the application /proposal.

To be eligible for consideration, a tenderer should provide the documents specified in "Instructions to Tenderers", including the following; Company profile, Certified copy of valid Trading License, Valid/Original Tax Compliance Certificate, Copy of current Labour Compliance Certificate, Copy of Form J (Company Ownership and Shareholding), Financial Statements for the previous year , Certified copy of Certificate of Incorporation , Police Clearance for All company Directors, Certified copy of Swaziland



National Provident Fund Certificate, Proof of Legal Joint Venture (where necessary) and Original general receipt (E500.00) for payment of the tender document.

The Proposal must be deposited in the Tender Box situated at the **Matsapha Town Council, Corner Police College and Airport Road, Matsapha** at the latest by **10:00am (Eswatini time) on/or before the 11th August 2021**. Late tenders, as well as tenders received by telegram, facsimile, email or similar medium will not be considered. Tenders received in time by the latest date and time for submission will be opened at Council's Offices on the **11th August 2021 at 10:00 am (Eswatini time)**.

Requests for clarifications, which must be in writing, should be addressed, via email, to procurement@matsapha.co.sz Council will strive to promptly respond in writing via e-mail to any requests for clarification up until close of business on the **4th August 2021**. Written copies of Councils response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective bidders.

Payments for the tender fee should be made to Matsapha town Council BANK ACCOUNTS listed in the table below or at the Matsapha Town Council Treasury Department. **The REFERENCE to be used when making payment is: T31 of 2021/22.**

ACCOUNT NAME: Matsapha Town Council

BANK NAME: Standard Bank (Matsapha Branch)

ACCOUNT NO: 9110003235915

BRANCH CODE: 663464

FAX NO: 2518 6646



SECTION 2 INSTRUCTIONS TO CONSULTANTS

Definitions

- i. “Client” means the agency with which the selected Consultant signs the Contract for the Services.
- ii. “Consultant” means any entity or person that may provide or provides the Services to the Client under the Contract.
- iii. “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the Special Conditions (SC), and the Appendices.
- iv. “Data Sheet” means such part of the Instructions to Consultants used to reflect specific country and assignment conditions.
- v. “Day” means calendar day.
- vi. “Government” means the government of the Client’s country.
- vii. “Instructions to Consultants” (Section 2 of the RFP) means the document which provides shortlisted Consultants with all information needed to prepare their Proposals.
- viii. “LOI” (Section 1 of the RFP) means the Letter of Invitation being sent by the Client to the shortlisted Consultants.
- ix. “Personnel” means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside the Government’s country.
- x. “Proposal” means the Technical Proposal and the Financial Proposal.
- xi. “RFP” means the Request for Proposal prepared by the Client for the selection of Consultants.
- xii. “Services” means the work to be performed by the Consultant pursuant to the Contract.
- xiii. “Sub-Consultant” means any person or entity with whom the Consultant subcontracts any part of the Services.
- xiv. “Terms of Reference” (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the assignment.

1. Introduction

- 1.1 The Client named in the Data Sheet will select a consulting firm/organization (the Consultant) from those listed in the Letter of Invitation, in accordance with the method of selection specified in the Data Sheet.
- 1.2 The shortlisted Consultants are invited to submit a Technical Proposal and a Financial Proposal for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.



1.3 Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to visit the Client before submitting a proposal and to attend a pre-proposal conference if one is specified in the Data Sheet. Attending the pre-proposal conference is optional. Consultants should contact the Client's representative named in the Data Sheet to arrange for their visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.

1.4 The Client will timely provide at no cost to the Consultants the inputs and facilities specified in the Data Sheet, assist the firm in obtaining licenses and permits needed to carry out the services, and make available relevant project data and reports.

1.5 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Client 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 Consultants.

2. Conflict of Interest

2.1 Matsapha policy requires that Consultants provide professional, objective, and impartial advice and at all times hold the Client's interest's paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.

2.2 Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

3. Conflicting activities

3.1 A firm that has been engaged by the Client to provide goods, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services other than consulting services resulting from or directly related to the firm's consulting services for such preparation or implementation. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

4. Conflicting assignments

4.1 A Consultant (including its Personnel and Sub-Consultants) 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 Consultant to be executed for the same or for another Client. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a Consultant assisting a Client in the privatization of public assets shall not purchase, nor advise purchasers of, such assets. Similarly, a Consultant hired to prepare Terms of Reference for an assignment should not be hired for the assignment in question.



5. Conflicting relationships

- 5.1 A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Client's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the assignment, (ii) the selection process for such assignment, or (iii) 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 Client throughout the selection process and the execution of the Contract.
- 5.2 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 5.3 No agency or current employees of the Client shall work as Consultants under their own ministries, departments or agencies. Recruiting former government employees of the Client to work for their former ministries, departments or agencies is acceptable provided no conflict of interest exists. When the Consultant nominates any government employee as Personnel in their technical proposal, such Personnel must have written certification from their government or employer confirming that they are on leave without pay from their official position and allowed to work full-time outside of their previous official position. Such certification shall be provided to the Client by the Consultant as part of his technical proposal.

6. Unfair Advantage

- 6.1 If a shortlisted Consultant could derive a competitive advantage from having provided consulting services related to the assignment in question, the Client shall make available to all shortlisted Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

7. Fraud and Corruption

- 7.1 The Council requires that Consultants participating in their projects adhere to the highest ethical standards, both during the selection process and throughout the execution of a contract. In pursuance of this policy, the Council:
- (a) defines, for the purpose of this paragraph, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
 - (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
 - (iii) "collusive practices" means a scheme or arrangement between two or more consultants with or without the knowledge of the Council, designed to establish prices at artificial, non-competitive levels;
 - (iv) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.



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- (b) will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;
 - (c) will sanction a Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Council-financed contract if at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Council-financed contract; and
 - (d) will have the right to require that Consultants permit the Council to inspect their accounts and records and other documents relating to the submission of proposals and contract performance, and have them audited by auditors appointed by the Council.

7.2 Consultants, their Sub-Consultants, and their associates shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Council in accordance with the above para. 1.7. Furthermore, the Consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.

7.3 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the Contract, as requested in the Financial Proposal submission form (Section 4).

8. Proposal Validity

8.1 The Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. The Client will make its best effort to complete negotiations within this period. Should the need arise, however, the Client may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.

9. Eligibility of Sub-Consultants

9.1 In case a shortlisted Consultant intends to associate with Consultants who have not been shortlisted and/or individual expert(s), such other Consultants and/or individual expert(s) shall be subject to the eligibility criteria set forth in the Guidelines.

10. Clarification and Amendment of RFP Documents

10.1 Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Client's address indicated in the Data Sheet. The Client 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 the source of inquiry) to all Consultants.

- 10.2 At any time before the submission of Proposals, the Client may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Client may, if the amendment is substantial, extend the deadline for the submission of Proposals.



RULES FOR PREPARATION

1. Only one Proposal

Shortlisted Consultants may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Consultant, including individual experts, to more than one proposal.

2. Preparation of Proposals

The Proposal as well as all related correspondence exchanged by the Consultants and the Client, shall be written in the language (s) specified in the Data Sheet.

In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

While preparing the Technical Proposal, Consultants must give particular attention to the following:

- (a) If a Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture or sub-consultancy, it may associate with any Consultant(s), or (b) shortlisted Consultants if so indicated in the Data Sheet. A Consultant must first obtain the approval of the Client if it wishes to enter into a joint venture with another Consultant(s). In case of association with other Consultant(s), the Consultant shall act as association leader. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.
- (b) The estimated number of Professional staff-months or the budget for executing the assignment shall be shown in the Data Sheet, but not both. However, the Proposal shall be based on the number of Professional staff-months or budget estimated by the Consultants.

For fixed-budget-based assignments, the available budget is given in the Data Sheet, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.
- (c) Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.

3. Technical Proposal Format and Content

3.1 Consultants are required to submit a Technical Proposal. The Technical Proposal shall provide the information indicated in the following paras from (a) to (g) using the attached Standard Forms (Section 3). Paragraph (c) (ii) indicates the recommended number of pages for the description of the approach, methodology and work plan.

- (a) a brief description of the Consultants' organization and an outline of recent experience of the Consultants and, in the case of joint venture, for each partner, on assignments of a similar nature is required in Form TECH-2 of Section 3. For each assignment, the outline should indicate the names of Sub-Consultants/ Professional staff who participated, duration of the assignment, contract amount, and Consultant's involvement. Information should be provided only for those



assignments for which the Consultant was legally contracted by the Client as a corporation or as one of the major firms within a joint venture. Assignments completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Client.

- (b) comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Client (Form TECH-3 of Section 3).
- (c) a description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.
- (d) The list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks (Form TECH-5 of Section 3).
- (e) Estimates of the staff input (staff-months of foreign and local professionals) needed to carry out the assignment (Form TECH-7). The staff-months input should be indicated separately for home office and field activities, and for foreign and local Professional staff.
- (f) CVs of the Professional staff signed by the staff themselves or by the authorized representative of the Professional Staff (Form TECH-6).
- (g) a detailed description of the proposed methodology and staffing for training, if the Data Sheet specifies training as a specific component of the assignment.

1.1 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared nonresponsive.

4. Financial Proposals

The Financial Proposal shall be prepared using the attached Standard Forms (Section 4). It shall list all costs associated with the assignment, including (a) remuneration for staff (foreign and local, in the field and at the Consultants' home office), and (b) reimbursable expenses indicated in the Data Sheet. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign and local expenditures. All activities and items described in the Technical Proposal must be priced separately; activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items.

5. Taxes

- a. The Consultant may be subject to local taxes (such as: value added or sales tax, social charges or income taxes on non-resident Foreign Personnel, duties, fees, levies) on amounts payable by the Client under the Contract. The Client will state in the Data Sheet if the Consultant is subject to payment of any local taxes. Any such amounts shall be included in the Financial Proposal, and included in the Contract.



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- b. Consultants shall express the price of their services in Iraqi Dinars.
 - c. Commissions and gratuities, if any, paid or to be paid by Consultants and related to the assignment will be listed in the Financial Proposal Form FIN-1 of Section 4.

6. Submission, Receipt, and Opening of Proposals

- a. The original proposal (Technical Proposal and, if required, Financial Proposal; shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and FIN-1 of Section 4.
- b. An authorized representative of the Consultants shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been dully authorized to sign. The signed Technical and Financial Proposals shall be marked "ORIGINAL".
- c. The Technical Proposal shall be marked "ORIGINAL" or "COPY" as appropriate. The Technical Proposals shall be sent to the addresses referred to and in the number of copies indicated in the Data Sheet. All required copies of the Technical Proposal are to be made from the original. If there are discrepancies between the original and the copies of the Technical Proposal, the original governs.
- d. The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL". Similarly, the original Financial Proposal (if required under the selection method indicated in the Data Sheet) shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the Loan/TA number and the name of the assignment, and with a warning "DO NOT OPEN WITH THE TECHNICAL PROPOSAL." The envelopes containing the Technical and Financial Proposals shall be placed into an outer envelope and sealed. The Client shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.
- e. The Proposals must be sent to the address/addresses indicated in the Data Sheet and received by the Client no later than the time and the date indicated in the Data Sheet, or any extension to this date. Any proposal received by the Client after the deadline for submission shall be returned unopened.
- f. The Client shall open the Technical Proposal immediately after the deadline for their submission. The envelopes with the Financial Proposal shall remain sealed and securely stored.
- g. The Client will have to undertake a prequalification assessment so all consultants are obliged to submit statutory document as proof of eligibility. During the opening, the pre-qualification documents have to be checked as detailed in the instruction to Consultant DATA SHEET and the TORs.



7. Proposal Evaluation

From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Client on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Client in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.

Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

8. Evaluation of Technical Proposals

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

9. Public Opening and Evaluation of Financial Proposals

- a. After the technical evaluation is completed the Client shall inform the Consultants who have submitted proposals the technical scores obtained by their Technical Proposals, and shall notify those Consultants whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the RFP and TOR, that their Financial Proposals will be returned unopened after completing the selection process. The Client shall simultaneously notify in writing Consultants that have secured the minimum qualifying mark, the date, time and location for opening the Financial Proposals. The opening date should allow Consultants sufficient time to make arrangements for attending the opening.

Consultants' attendance at the opening of Financial Proposals is optional.

- b. Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend. The name of the Consultants and the technical scores of the Consultants shall be read aloud. The Financial Proposal of the Consultants who met the minimum qualifying mark 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. Copy of the record shall be sent to all Consultants.
- c. The Evaluation Committee will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures the formers will prevail. In addition to the above corrections, as indicated under para. 3.6, activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, (i) if the Time-Based form of contract has been included in the RFP, the 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, (ii) if the Lump-Sum form of contract has been included in the RFP, no corrections are applied to the Financial Proposal in this respect.



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- d. In case of QCBS, the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Data Sheet: $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- e. In the case of Fixed-Budget Selection, the Client will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection, the Client will select the lowest proposal among those that passed the minimum technical score. In both cases the evaluated proposal price according to para. 5.6 shall be considered, and the selected firm is invited for negotiations.

10. TENTATIVE ACQUISITION TIMELINE

Council reserves the right to change the procurement schedule. If changes are made, bidders will be notified by the Council with notices emailed directly to all registered proposers

11. QUALIFICATIONS, EVALUATION AND SELECTION PROCESS

The RFP states the scope of Council requirements and specifies the general rules for preparing the written proposal. Responses will be objectively evaluated based on the Consultant's responses to the RFP. The written proposal should clearly demonstrate the ability of the tenderer to supply the heavy plant to best satisfy the requirement of the Council.

If required to appear for an on-site interview/demonstration, the vendor will be notified before the tender is awarded. During the interviews, vendors will be asked to demonstrate their product. Vendor interviews/demonstrations will be held solely at the option and discretion of the Council.

Proposals will be evaluated by a Tender Evaluation Committee. The Committee will review the proposals for format to ensure conformance with the requirements of the RFP and may in connection with its evaluation, and at the Council's option, invite one or more vendors to an interview/demonstration to the Tender Evaluation Committee. During these interviews/demonstrations, the vendors will be allowed to present such evidence as may be appropriate in order that the Committee can correctly analyse all materials and documentation submitted as a part of the proposal.

The Council does not guarantee that an interview will take place, thus reserving the right to select a vendor based solely on the information provided in the proposals received in response to the RFP. If an interview takes place, the key personnel responsible for fulfilling the requirements of the project shall be required to be present for the interview/demonstration.

The Council reserves the right to reject any or all proposals; to waive any requirements, both the Council's and those proposed by the vendor; to waive any irregularities or informalities in any proposal or the RFP process when it is in the best interest of the Council to do so; to negotiate for the modification of any proposal with mutual consent of the proposer; to re-advertise for proposals, if desired; to sit and act as sole judge of the merit and qualifications of the service offered and; to evaluate in its absolute discretion



the proposal of each vendor, so as to select the vendor which best serves the requirements of the Council, thus insuring that the best interest of the Council will be served.

12. TEST FOR RESPONSIVENESS

- a. A Bid will be considered non-responsive if:
 - i. The bid is not in compliance with the specifications;
 - ii. The bidder has not fully completed and signed where required, all the returnable documents as listed in the bid document; and/or
 - iii. The bidder has failed to clarify or submit any supporting documentation within 2-5 business days of being requested to do so in writing.
- b. **The Municipality reserves the right to accept or reject:**
 - i. Any variation, deviation, bid offer, or alternative bid offer; may cancel the bidding process and reject all bid offers at any time before the formation of a contract. Council shall not accept or incur any liability to a bidder for such cancellation and/or rejection, and will only provide written reasons for such action upon receipt of a written request to do so;
 - ii. A bid offer which does not, in the Council's opinion, materially and/or substantially deviate from the terms, conditions and specifications of the bid document.
 - iii. The whole bid or part of a bid or any item or part of any item, or to accept more than one bid (in the event of a number of items being offered), and the Municipality is not obliged to accept the lowest or any bid.
- c. The bidder shall declare ALL the Council account numbers for which the enterprise or the proprietors or directors in their personal capacity/capacities is/ are responsible or co-responsible for;
 - i. Council has the right to summarily disqualify any bidder who, either at the date of submission of a bid or at the date of its award, is indebted to the Municipality in respect of any municipal rates and taxes or municipal service charges for more than three months. However, an agreement signed by the bidder whereby the bidder agrees that a percentage or fixed amount at the discretion of the municipality, be deducted from payments due to him/her for this bid, until the debt is paid in full, will also be accepted by the Municipality.

13. INCORRECT INFORMATION

Where a contract has been awarded on the strength of the information furnished by the tenderer which after the conclusion of the relevant agreement, is proven to have been incorrect, Council may, in addition to any other legal remedy it has or may have, recover from the contractor all costs, losses or damages incurred or sustained by Council as a result of the award of the contract.

14. CONTRACT AWARD PROCEDURES

- The awarding of contract shall be recommended to the best evaluated tenderer, as determined by the evaluation methodology and criteria specified in the invitation document.
- The contract award decision shall be taken by the appropriate approvals authority, but the award decision does not constitute a contract.



-
- Following the contract award decision, the procuring entity shall prepare a notice indicating the name of the best evaluated tenderer, the value of the proposed contract and any evaluation scores. The notice shall be-
 - a) Published on the Public Procurement Agency website and sent directly to all tenderers who submitted tenders by letter and where appropriate, by fax or email; and,
 - b) Council shall allow a period of at least ten working days to elapse from the date of dispatch of the notice before a contract is awarded.

15. Negotiations

Negotiations will be held at the date and address indicated in the Data Sheet. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Failure in satisfying such requirements may result in the Client proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

16. Technical negotiations

Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The Client and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as “Description of Services”. Special attention will be paid to clearly defining the inputs and facilities required from the Client to ensure satisfactory implementation of the assignment. The Client shall prepare minutes of negotiations which will be signed by the Client and the Consultant.

17. Financial negotiations

The financial negotiations will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.

18. Availability of Professional staff/experts

Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the Client expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the Client will require assurances that the Professional staff will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate.

19. Conclusion of the negotiations

Negotiations will conclude with a review of the draft Contract. To complete negotiations the Client and the Consultant will initial the agreed Contract. If negotiations fail, the Client will invite the Consultant whose Proposal received the second highest score to negotiate a Contract.



20. Confidentiality

Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of the Government's antifraud and corruption policy.



Section 3: Data Sheet

The name of the Client is: MATSAPHA TOWN COUNCIL	
The method of selection is: Least Cost Selection (LCS)	
Technical and Financial Proposals are requested: Yes (In separate envelopes)	
Eligibility Criteria	Check/s
1. Proof of Purchase of Tender Document.	Purchase receipt submitted with tender.
2. Tender Validity:	Equal or longer than the specified 90 days period.
3. Power of Attorney or Signing Authority.	Attached with tender documents, signed by Board of Directors and all tender documents pages initialed by authorized signatory
4. Bid/Tender Security.	Correct amount, in acceptable format, and valid 30 days beyond validity period
5. Declaration of Interest	Bid Submission Form/Conflict of Interest
6. Suspension Declaration	Tenderer must declare if it is subject for suspension as per section 55 of the Procurement Act
A pre-proposal conference will be held: No	
Clarifications may be requested up to 7 days before the submission date.	
The address for requesting clarifications is: as above	
i. Firms/entities may associate with other firms inside or outside Eswatini: Yes	
ii. Training is a specific component of this assignment: No.	
Proposals must remain valid 90 days after the submission date.	
Consultants must submit an original and 4 additional copies of each proposal:	
The proposal submission address is: <div style="text-align: center;"> Matsapha Town Council P.O. Box 1790 Matsapha </div>	
Any proposal received after the closing time for submission of proposals shall be returned unopened.	
Proposals must be submitted no later than the following date and time:	



11th August 2021 at 1000 hours, after which the technical will be opened in public. The date of opening of financial proposals of qualifying firms will be advised after evaluation of the technical proposals.

The number of points to be given under each of the evaluation criteria are:

No.	Criteria	Points
i.	Relevant and Specific experience of the consultants related to the assignment	20
ii.	Adequacy of the proposed methodology and work plan in responding to the Terms of Reference: a) Technical approach and methodology (20) b) Work Plan (10) c) Organization and staffing (10)	40
iii.	Relevant qualifications & competence of key staff: a) GIS Specialist (BSc) (20) b) IT Specialist Systems Analysts (BSc) (5) c) Town Planner (BSc) (5)	30
iv.	Participation by indigenous Swati Nationals in key staff	10
	Total points	100

The minimum technical score required to pass is: 75%

The contract period is expected to commence upon signing of contract agreement.

The formula for determining the financial scores is the following:

$S_f = 100 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the proposal under consideration.

The weights given to the Technical and Financial Proposals are:

T = 0.70, F = 0.30

Section 4. Technical Proposal - Standard Forms

- 4A. Technical Proposal submission form.
- 4B. Firm's references.
- 4C. Comments and suggestions of consultants on the Terms of Reference and on data, services, and facilities to be provided by the Client.
- 4D. Description of the methodology and work plan for performing the assignment.
- 4E. Team composition and task assignments.
- 4F. Format of curriculum vitae (CV) for proposed professional staff.
- 4G. Time schedule for professional personnel.
- 4H. Activity (work) schedule.



4A. TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for [Title of consulting services] in accordance with your Request for Proposal dated [Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

If negotiations are held during the period of validity of the Proposal, i.e., before [Date] we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

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

We remain,

Yours sincerely,

Authorized Signature:
Name and Title of Signatory:
Name of Firm:
Address:



4B. FIRM'S REFERENCES

**Relevant Services Carried Out in the Last Five Years
That Best Illustrate Qualifications**

Using the format below, provide information on each assignment for which your firm/entity, either individually as a corporate entity or as one of the major companies within an association, was legally contracted.

Assignment Name:		Country:
Location within Country:		Professional Staff Provided by Your Firm/Entity(profiles):
Name of Client:		Nº of Staff:
Address:		Nº of Staff-Months; Duration of Assignment:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Services (in Current SZL):
Name of Associated Consultants, If Any:		Nº of Months of Professional Staff Provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of Project:		
Description of Actual Services Provided by Your Staff:		

4C. COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND ON DATA, SERVICES, AND FACILITIES TO BE PROVIDED BY THE CLIENT

On the Terms of Reference:



-
- 1.
 - 2.
 - 3.
 - 4.
 - 5.

On the data, services, and facilities to be provided by the Client:

- 1.
- 2.
- 3.
- 4.
- 5.



4D. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT



4E. TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff		
Name	Position	Task

2. Support Staff		
Name	Position	Task

4F. FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm/Entity: _____ Nationality: _____

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations. Use about half a page.]

Education:

[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended, and degrees obtained. Use about one quarter of a page.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments. For experience in last ten years, also give types of activities performed and client references, where appropriate. Use about two pages.]

Languages:

[For each language indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing.]

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, these data correctly describe me, my qualifications, and my experience.

_____ Date: _____



[Signature of staff member and authorized representative of the firm]Day/Month/Year

Full name of staff member: _____

Full name of authorized representative: _____



4G. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

Name	Position	Reports Due/Activities	Months (in the Form of a Bar Chart)												Number of Months			
			1	2	3	4	5	6	7	8	9	10	11	12				
																	Subtotal (1)	
																		Subtotal (2)
																		Subtotal (3)
																		Subtotal (4)

Full-time: _____
 Reports Due: _____
 Activities Duration: _____

Part-time: _____

Signature: _____
 (Authorized representative)

Full Name: _____

Title: _____

Address: _____



4H. ACTIVITY (WORK) SCHEDULE

A. Field Investigation and Study Items

	<i>[1st, 2nd, etc. are months from the start of assignment.]</i>												
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th h	11th h	12th h	
Activity (Work)													

B. Completion and Submission of Reports

Reports	Date
1. Inception Report	
2. Draft Report	
4. Final Report	

Section 5 Financial proposal submission form

[Location, Date]

To: [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for [Title of consulting services] in accordance with your Request for Proposal dated [Date] and our Proposal (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of [Amount in words and figures]. This amount is exclusive of the local taxes, which we have estimated at [Amount(s) in words and figures].

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., [Date].

Commissions and gratuities, if any, paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below:

Name and Address of Agents	Amount (Emalangi)	Purpose of Commission or Gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

We remain,

Yours sincerely,

Authorized Signature:
Name and Title of Signatory:
Name of Firm:
Address

Section 6: Terms of Reference

THE PROVISION OF GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES

1. Background



The Matsapha Town Council has a mandate to provide municipal services to the Matsapha urban area. Part of the municipal services include the services under the Town Planning Unit which include building applications approval, outdoor advertising, land subdivisions and consolidations, approval of building plans, rezoning applications, special consent applications and other related services.

The services listed above are land and property related and can be identified using the existing Council GIS system. This is limiting to Council and clients, hence the move towards a more integrated and advanced system is planned to be adopted by Council.

2. Objective of Assignment

To deliver an electronic system that will integrate the Matsapha Town Council's Town Planning Unit business functions into an electronic format for applications to be submitted, processed and tracked online.

3. Scope of Services

The required services will be expected to do the following:

- i) The application should be web based solution for Matsapha ratepayers to be able to apply for the electronic submission, processing and tracking of Town Planning applications.
- ii) The solution should be fully integrated with the business functions of the Town Planning Unit at the Matsapha Town Council.
- iii) The system must be fully integrated with the existing Geographic Information System for all land parcels in Matsapha.
- iv) The system should facilitate smooth electronic workflow and decision making.
- v) The Municipality and system users must be able to log in and manage online application processes via the system.
- vi) Develop electronic submission process and requirements document.
- vii) The service provider must also provide Council with an Unstructured Supplementary Service Data (USSD) Solution.

4. Consultant's Key Staff

It is anticipated that the following key staff will be required for the successful completion of the services:

Qualifications & competence of key staff:

- a) GIS Specialist (BSc, 5 years)
- b) IT Specialist, Systems Analysts (BSc, 5 years)
- c) Town Planner (BSc, 5 years)

5. Duration of Consulting Services

The Consultancy services shall be for a period of **Six months (3) months** from the date of appointment.

6. Obligations of the Client

The Client will;

- i. Undertake negotiations to acquire information required for the purpose of the assignment.
- ii. Where available, provide relevant information.
- iii. Make available Council staff to assist the Consultant, where necessary.
- iv. Pay the consulting firm for services rendered in accordance with the contract and on submission of the solution and final report.

7. Obligations of the Consultant

- i. The Consultant shall perform the services specified in the “Terms of Reference” under “Scope of Services,”
- ii. The Consultant shall provide the personnel listed in the submitted proposal to perform the Services.
- iii. The Consultant shall submit to the Client the reports within the agreed time periods with the final report submitted at the end of the three-month period.

8. Time lines and deliverables.

The consultant will submit the following documents to Council at the indicated time lines:

- i) Inception report within two weeks of appointment
- ii) Data Collection and Configuration twelve weeks after approval of Inception
- iii) Demonstration: Presentation of a fully functional System
- iv) Draft report of Findings 4 weeks after presentation.
- v) Final report 4 weeks after submission of draft report.

9. End of Services.

The services shall be deemed complete when;

- (i) The services scheduled in these ToR’s have been provided.
- (ii) The final account has been agreed and presented to Council for payment.
- (iii) All contractual disputes, if any, have been settled or litigation commenced.



Section 7: Declaration of Eligibility

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

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

To: *The Town Clerk of Matsapha Town Council, Matsapha Civic Centre, Po Box 1790
Matsapha*

Dear Sirs,

**RE: TENDER REFERENCE: TENDER NUMBER 31 OF 2021/22: THE PROVISION OF
GEOGRAPHIC INFORMATION SYSTEM BASED SOFTWARE APPLICATION FOR TOWN
PLANNING APPLICATION ELECTRONIC PROCESSING SERVICES**

We hereby declare that: -

- (a) We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- (b) 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) We have fulfilled our obligations to pay taxes and social security contributions;
- (d) 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) We do not have a **conflict of interest** in relation to the procurement requirement.

Signed

Authorised Representative

Date

I/We the undersigned, hereby acknowledge myself/ourselves fully conversant with the details and the conditions set out in the special conditions and specifications and with the general conditions of purchase and conditions of tender attached and hereby agree to provide the consultancy service as outlined in the Terms of Reference.



NAME OF TENDERER (in full)

BUSINESS ADDRESS:

.....

TELEPHONE NUMBER:

EMAIL ADDRESS:

Name of Person authorized to sign this tender:

.....

(BLOCK LETTERS)

Signature of person authorized to sign this tender:

.....

DATE.....

AS WITNESS:



Section 8: General Contract Terms and Conditions

TABLE OF CONTENTS

- Statement of intent
- 1. Definitions and interpretations
- 2. Engagement for service
- 3. Duration
- 4. Obligations of the Consultant
- 5. Qualifications of Security Personnel
- 6. Fees and Costs
- 7. Obligation of the Council
- 8. Warranties and Indemnities
- 9. Confidential information
- 10. Copy rights
- 11. Indemnities and Limitations of Liability
- 12. Breach
- 13. Termination.
- 14. Force majeure
- 15. General
- 16. Addresses
- 17. Costs



1.1.1 STATEMENT OF INTENT

WHEREAS, the Council is desirous to ensure that Council has an operational Geographic Information System Based Software Application for Town Planning Application Electronic Processing Services

WHEREAS, the Council is also desirous to ensure that necessary precaution is taken to guarantee that there is no flouting of any laws in the process of providing the Services;

AND WHEREAS, the Council wishes to engage an independent Service Provider to, and the Service Provider is willing to accept such engagement or appointment;

THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATIONS

In this agreement, clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention, the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

1.1.1 **“Agreement”** means this service level agreement

between the Council and the Consultant.

“Business Day” means any day of the week

“Commencement date” means the date agreed between the Service Provider and Council

“Confidential information” means proprietary information made available to a party pertaining to the other party or its business, which includes, but is not limited to all information that has a commercial value and is not available to the public;



“Services,”	means provision of Geographic Information System Based Software Application for Town Planning Application Electronic Processing Services as specified in the Minimum Service Level Standards and in any part of this agreement and its attachments and the Bidding Documents.
“Service Provider”	means a company duly incorporated according to the laws of Eswatini with a registration number and engaged under this agreement by the Matsapha Town Council for the provision of Geographic Information System Based Software Application for Town Planning Application Electronic Processing Services
“Signature Date”	means the date on which this agreement is signed by the party that signs it;
“Termination Date”	means the date on which this agreement is terminated in terms of clause 11.
“Parties”	means the Council and the Consultant shall mean either one of them, as the context may require

For the purposes of this agreement, unless the context requires otherwise:

For the purposes of this agreement, unless the context requires otherwise:

- The singular shall include the plural and vice versa;
- A reference to any one gender, whether masculine, feminine or neuter, includes the other two; and
- Any word or expression defined in and for the purposes of this Agreement shall, if expressed in the singular, include the plural and vice versa and a cognate word expression shall have a corresponding meaning.
- A Party includes a reference to that Party’s successors in title and assigns allowed at law; and
- A reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last mentioned clauses.



- Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this Clause 2 or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.
- Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their English meaning.
- A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.
- Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- If the due date for performance of any obligation in terms of this Agreement is a day which is not a business day, then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.
- Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

2. ENGAGEMENT FOR SERVICES

The Council hereby appoints the Consultant, which hereby accepts such appointment, as an independent Consultant, to render the services subject to the terms and conditions of this agreement.

Notwithstanding anything to the contrary, this agreement does not constitute an agreement of employment, partnership, joint venture or, save as expressly stated otherwise, agency between Council and the Consultant and shall not give rise to any relationship of employer and employee, master and servant, save as expressly stated otherwise. Accordingly, neither



party shall have power to conclude a contract in the name of the other, to grant or pledge credit of the other, to incur liabilities on behalf of the other, or to employ any person on behalf of the other and neither party shall hold itself out to have such power or purport to exercise any such power.

3. DURATION

Notwithstanding the date of signature hereof, this agreement shall commence on the

4. OBLIGATIONS OF THE CONSULTANT

Notwithstanding the conditions set in Performance and Standard Outputs (Appendix A) attached hereon, the Consultant shall be expected to:

- 4.1 Develop a web based solution for Matsapha ratepayers to be able to apply for the electronic submission, processing and tracking of Town Planning applications.
- 4.2 Fully integrate the solution with the business functions of the Town Planning Unit at the Matsapha Town Council.
- 4.3 Fully integrate the solution with the existing Geographic Information System for all land parcels in Matsapha.
- 4.4 Ensure the system facilitates smooth electronic workflow and decision making.
- 4.5 Deliver a system the Municipality and system users are able to log into and manage online application processes via the system.
- 4.6 Develop electronic submission process and requirements document.
- 4.7 Provide Council with an Unstructured Supplementary Service Data (USSD) Solution.

5. QUALITY OF CONTRACT PERSONNEL

- 5.1 All Personnel and Operations engaged and performed by the Consultant for the delivery of services sought by Council herein shall at all times have the relevant and appropriate experience.

6. FEES AND COSTS

- 6.1 As consideration for the Service to be provided by the Contractor in terms of this agreement, the Council shall pay the Consultant the sum of E_____ in the following manner;
 - 6.1.1 20% after submission, presentation and approval of inception report with clear detailed outline of how the works will be executed within four weeks of appointment.



- 6.1.2 40% of the total cost of the project upon submission of a draft report and successful testing/demonstration of the system within 8 weeks after appointment.
- 6.1.3 The remaining 40% remunerated upon:
- submission of a final comprehensive draft twelve weeks after appointment; and
 - Making a PowerPoint presentation to Council on the final report, and
 - Deployment of the system
- 6.2 The Council undertakes to pay the Consultancy the fees contained in this clause 6 within 30 days of receipt of an invoice issued after the services have been rendered as per the contract.

7. OBLIGATION OF COUNCIL

- 7.1 Council undertakes to pay all valid claims for work done to Councils satisfaction and in compliance with all the requirements of this Service Level Agreement. Such claims shall be processed upon presentation of a substantiated claim/invoice to Council.
- 7.2 No payments will be made where Council is not satisfied with the work submitted; where there is outstanding information/work by the consultant or when there is a dispute of fact regarding the work being invoiced.
- 7.3 Council shall ensure that the consultant has access to all council documents that the consultant may need in order to undertake this exercise.
- 7.4 Council shall ensure that the consultant is introduced and provided with information for Community Committee's in order to have access to the relevant communities where the consultant shall be working.

8. WARRANTIES AND INDEMNITIES

- 8.1 The Consultant hereby warrants to the Council that it has the commercial and technical expertise to render the Services to the Council.
- 8.2 The Consultant hereby warrants to the Council that it is duly authorized and has obtained all necessary approvals to enter into this agreement.
- 8.3 The Consultant hereby warrants to the Council that any person(s) employed by it to execute the services in terms of this agreement will be qualified and suitable to perform the services and shall perform the services properly, diligently, promptly, efficiently and in compliance with the laws of the Kingdom of Eswatini, Council's requirements and standards.
- 8.4 The Consultant hereby indemnifies and holds the Council harmless against any claim of any nature relating to any aspect of this agreement or any other cause whatsoever



that the Consultant or any of its employees, directors, holding company or subsidiaries, might institute against the Council.

- 8.5 Save as otherwise set out in this agreement, the Consultant hereby indemnifies and holds the Council harmless against loss, damage, costs and/or expenses which the Consultant may suffer or incur and any claim which may be brought against the Consultant by any third party in respect of any loss, liability, damage, costs and/or expenses of any willful or negligent act or omissions on the part of the Consultant or any of its employees.

9 CONFIDENTIAL INFORMATION

9.1 Each party shall:

9.1.1 Keep confidential the confidential information of the other party and use the same care to do so as it uses to protect its own confidential information; and

9.1.2 Not disclose or grant access to the other party's confidential information or any part thereof to any other person unless it is necessary in order to perform its obligations in terms of this agreement or laws of the Kingdom of Eswatini.

9.2 The obligations set out in clause 8.1 shall not apply to any:

9.2.1 Confidential information which the receiving party can demonstrate is already in the public domain or becomes available to the public through no breach by the receiving party;

9.2.2 Confidential information which was rightfully in the receiving party's possession without obligation of confidence prior to receipt from the disclosing party, as proven by its written records;

9.2.3 Confidential information which can be proven to have been rightfully received by the receiving party from a third party without obligation of confidence;

9.2.4 Confidential information which is independently developed by the receiving party as proven by its written records;

9.2.5 Confidential information which is approved for release with the prior written consent of the disclosing party; and

9.2.6 Disclosure of confidential information which is required by law to be disclosed or must be disclosed in order to comply with a judicial order or decree, provided that



the receiving party has (where reasonably possible) given the disclosing party written notice of such request such that the disclosing party has an opportunity to defend, limit or protect such disclosure.

- 9.3 The rights and obligations in terms of this clause 8 are divisible from the rest of this agreement, and shall remain of full force and effect, notwithstanding termination of this agreement for any reason whatsoever, and shall continue to be effective indefinitely without limit in time.

10 COPYRIGHT

On final completion or termination of the Agreement and payment of all fees and disbursements payable to the Consultant, all designs, specifications and copyright will become the sole property of the Client.

11 INDEMNITY AND LIMITATION OF LIABILITY

- 11.1 The Consultant shall accept liability for and indemnify and keep indemnified the Council from and against claims, losses, damages and expenses relating to injury to any persons or loss of or damage to any property which may arise out of any negligent or intentional act or omission by the Consultant in relation to this agreement and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof on in relation thereto.
- 11.2 The Contract shall provide a fidelity insurance cover against possible loss or damage. The Consultant shall provide a certificate of insurance to Council.

12 BREACH

If either party commits a breach of its obligations in terms of this agreement, the party not in breach shall:

- 12.1 In respect of any material breach, in addition and without prejudice to its rights in law or under this agreement, including but not limited to its right to claim damages, be entitled to terminate this agreement forthwith on notice to the party in breach, if the breach is not remedied within 10 (ten) business days after receipt by the party in breach of a written notice requiring it to do so; and
- 12.2 In respect of any breach other than that referred to in clause 11.1, and without prejudice, be entitled to exercise all other remedies available to it in law which are consistent with this agreement remaining in force including the claiming of specific performance (in so far as permissible) and/or damages, if the party in breach fails to remedy the breach within 10 (ten) business days after receipt by it of written notice requiring it to remedy the breach.



13 TERMINATION

13.1 Notwithstanding the provisions of clause 3 and clause 11, either party may terminate this agreement with immediate effect by written notice if the other party:

13.1.1 Ceases or threatens to cease operating its business as a going concern;

13.1.2 If a judicial management or a curator ship order is made against it;

13.1.3 If any resolution or petition is passed or made for its winding up (other than solely for the purposes of amalgamation or reconstruction); and

13.1.4 If a judicial manager or curator is appointed for any of its businesses, assets or undertakings.

13.1.5 Notwithstanding anything to the contrary, and notwithstanding the termination of this agreement or any part thereof for any reason whatsoever, the provisions of this agreement which expressly or by implication are intended to survive such termination, shall survive such termination and shall continue to be of full force and effect.

13.2 Termination of this agreement or any part thereof shall in no way affect the liability of either party to the other in respect of any amounts which are, at the date of such termination, due, owing and payable by either party to the other after the date of termination.

13.3 In the event of termination of this agreement or any part thereof, any amount paid by either party to the other in respect of any obligation to be performed after the date of such termination and which will not be transferable as a result of such termination shall, within 20 (twenty) days after such termination, be repaid to the party that has made such payment.

13.4 If either party purports to terminate this agreement or part thereof or claims that this agreement or any part thereof has terminated for any reason whatsoever, and the other party for any reason whatsoever disputes such termination, then both parties shall, without prejudice to their respective rights in terms of this agreement in law, continue to perform all their respective obligations in terms of this agreement until such time that the dispute is finally determined.

14 FORCE MARJEURE

14.1 Neither party shall be liable to the other for its failure to perform the defective performance nor any delay in performing any obligation in terms of this agreement in the event and to the extent that such failure or delay is caused by force majeure.



- 14.2 For the purposes of this agreement” force majeure” shall mean any circumstance beyond the reasonable control of the party giving notice of force majeure (“the affected party”) including, but not limited to terrorism, revolution, invasion, insurrection, riot, civil commotion, mob violence, sabotage, blockade, embargo, boycott, the exercise of military or usurped power, fire, explosion, theft storm, flood, rain, draught, wind, lightning, or any other adverse weather condition, epidemic, quarantine, major accident, acts or restraints of government imposition, or restrictions or embargos on imports or exports.
- 14.3 Notwithstanding the provisions of clause 14.2, inability to meet a payment because of lack of funds shall in no circumstances be treated as an event of force majeure.
- 14.4 The affected party shall give notice thereof to the party not so affected (“the other party”) immediately upon the occurrence of an event of force majeure and again immediately on the cessation thereof.
- 14.5 If the event the force majeure is in such a nature that it will result in the impossibility of performance of an obligation going to the root of this agreement, the other party shall be entitled, on receipt of this notice of the force majeure event, to terminate this agreement upon notice to the affected party, but shall not be entitled to recover any damages which it may suffer as a result of such premature termination.
- 14.6 If the event of force majeure is of such a nature that it will not result in the impossibility of performance of the obligation in question, but will delay the performance thereof, then the affected party shall be entitled to such extension of time in which to perform that obligation as may be reasonable in the circumstances, taking into account the interests of both parties, provided that if such force majeure situation persists for a period in excess of 30 (thirty) days, the other party shall be entitled to terminate this agreement, but shall not be entitled to recover any damages which it may suffer as a result of such premature termination.

15. GENERAL

15.1 Communications

All notices, demands and other written communications under this agreement shall be in English.

15.2 Remedies

No remedy conferred by this agreement is intended to be exclusive of any other remedy which is otherwise available at law, by statute or otherwise. Each remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law, by statute or otherwise. The election of any 1 (one) or more remedy by either of the parties shall not constitute a waiver by such party of the right to pursue any other remedy.



15.3 Severance

If any provision of this agreement is rendered void, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and the parties shall endeavor in good faith to agree to an alternative provision to the void, illegal or unenforceable provision.

15.4 Survival of rights, duties and obligations

Termination of this agreement for any cause shall not release a party from any liability which at the time of termination has already accrued to such party or which thereafter may accrue in respect of any act or omission prior to such termination.

15.5 Entire Agreement

This agreement constitutes the entire agreement between the parties and, save as otherwise expressly provided, no modification, amendment or waiver of any of the provisions of this agreement shall be effective, unless made in writing specifically referring to this agreement and duly signed by or on behalf of the parties.

15.6 Assignment

This agreement shall be binding to the parties and to their respective successors and assigns; provided that neither party shall be entitled to cede its rights and delegate its obligations under this agreement without the prior written consent of the other party.

15.7 Further Assurance

Each party shall co-operate with the other party and execute and deliver to the other party such other instruments and documents and take such other actions as may be reasonably requested from time to time in order to carry out, evidence and confirm its rights and the intended purpose of this agreement.

15.8 Good Faith

Each of the parties undertakes with the other to do all things reasonably within its power, which are necessary or desirable to give effect to the spirit and intent of this agreement.

15.9 Jurisdiction

This agreement shall be governed by and construed in accordance with the laws of the Kingdom of Eswatini.

15.10

In the event of proceedings arising out of or in connection with this agreement being instituted in the ordinary courts of law, such proceedings shall be instituted in the High Court and the parties consent to the jurisdiction of the Magistrates Court for the District of Manzini.



16. ADDRESSES

16.1 The parties choose for the purposes of this agreement the following postal and email addresses:

MATSAPHA TOWN COUNCIL:

Physical address : Civic Offices, 1790, Cnr Police Collage Road and Airport Road
Postal Address : P.O. Box 1790, Matsapha
Email Address: : procurement@matsapha.co.sz

Details of Service Provider:

Physical Address :
Postal Address :
Email Address :

- 16.1 Any legal process to be served on either of the parties may be served on it at the address specified for it in clause 15.1 and it chooses that address as its domicile citandi et executandi for all purposes under this agreement.
- 16.2 Any notice or other communication to be given to either of the parties in terms of this agreement shall be valid and effective only if it is given in writing, provided that any notice given by telefax shall be regarded for this purpose as having been given in writing.
- 16.3 A notice to either party which is sent by registered post in a correctly addressed envelope to the address specified for it in clause 15.1 shall be deemed to have been received (unless the contrary is proved) within 5 (five) business days from the date it was posted, or which it is delivered to the party by hand at that address shall be deemed to have been received on the day of delivery, provided it was delivered to a responsible person during ordinary business hours.
- 16.4 Notwithstanding anything to the contrary in this clause 15, a written notice or other communication actually received by either the Council's designated Representative or the Consultant's Representative, as the case may be, (and for which written receipt has been obtained) shall be adequate written notice or communication to it notwithstanding that the notice was not sent to or delivered at its chosen address.
- 16.5 Either party may by written notice to the other party change its address for the purposes of clause 15.1 to any other address (other than a post office box number) provided that the change shall become effective on the 5th (fifth) business day after the receipt of the notice.

17. COSTS

Any costs, including attorney and own clients costs, incurred by either party arising out of the other party breaching any of the provisions of this agreement, shall be borne by the party in breach.



THUS DONE AND SIGNED BY THE COUNCIL AT ON
THIS..... DAY OF 2021

AS WITNESSES:

1

.....

For and on behalf of Council

2

THUS DONE AND SIGNED BY THE CONSULTANT AT..... ON

THIS DAY OF..... 2021

AS WITNESSES:

1

.....

For and on behalf of Consultant

2



APPENDIX A.

PERFORMANCE AND STANDARD OUTPUT

DESIRED OUTCOMES	PERFORMANCE STANDARDS	MEASUREMENT TOOLS	TIMELINES/DUE DATES
Inception report	Presentation of the Inception Report to Council	Approval of the Inception Report by Council	Two Weeks after appointment
Data Capturing and Configuration	All Data required is captured and configured to ToR requirements.	Fully configured system and Functional	Twelve Weeks after appointment
Testing/ demonstration of system and Draft report	Successful testing/demonstration of the system and submission of a draft report to Council	System tested successfully and approval of the draft report by Council	Fourteen weeks after appointment
Deployment of system and Final report	Deployment of system and submission final report to Council	System is deployed and approved by Council. Final report is approved by Council	Twenty- Four weeks after appointment

