



TENDER DOCUMENT

In terms of the Supply Chain Management Regulations (Government Gazette 27636 of 30 May 2005)

Tender for
**APPOINTMENT OF A MARKETING SPECIALIST FOR THE NAMING RIGHTS
 FOR THE NEW GREEN POINT STADIUM, CAPE TOWN**

Period: From date of commencement of contract until 31 December 2008

Tender No. 274S/2007/08

CLOSING DATE: 26 February 2008

CLOSING TIME: 10h00

TENDER BOX NUMBER: 37

NB: Tenders must be properly received and deposited in the above mentioned Tender box on or before the closing date and before the closing time. No late Tender offers will be accepted under any circumstances. Tender offers must be submitted in a sealed envelope properly marked in terms of the Tender number and Tender description as indicated above, at the Tender Office situated at the 5th floor (Tower Block) Civic Centre, Hertzog Boulevard, Cape Town. No Tender offers will be accepted via facsimile or telegram.

TENDERER	
NAME of Company/ Close Corporation/Partnership/ Sole Proprietor /Joint Venture	_____
TRADING AS	_____
DATABASE / TRADEWORLD REGISTRATION NUMBER: Tenderers should note that contracts will not be concluded with a Tenderer whose details are not verified by TradeWorld and has subsequently been registered and accredited as a qualifying supplier / contractor or service provider (See Instruction to Tenderers)	_____

TENDER INVITATION ISSUED BY: CITY MANAGER, CIVIC CENTRE, HERTZOG BOULEVARD, CAPE TOWN — TELEPHONE 021 400 2481 OR 021 400 2405

A Tender posted (at sender's risk) to THE CITY MANAGER, CITY OF CAPE TOWN, P O BOX 298, CAPE TOWN, 8000 in good time so as to reach the City Manager before the above-mentioned closing date, may be accepted on condition that it is placed in the correct Tender box before the closing time, it being understood that the Council disclaims any responsibility for seeing that such tenders are in fact lodged in the tender box.

For this Tender to be provisionally valid at Tender opening stage on the closing date at the closing time, the Tender Form must be **signed**.

**Do not dismember this Tender Document (do not take it apart or put documents between its pages)
 The PROPOSAL and all other documents of the submission must be attached behind this Tender Document**

INDEX

	Details		Page/s
1	The Tender Offer		3
2	The Tender Form		4
3	Details of Tenderer		5
4	Resolution taken by the Board of Directors / Members / Partners		7
5	Resolution taken by the Board of Directors of a Consortium or Joint Venture		8
6	Tax Clearance Certificate		9
7	Declaration of interests		10
8	Responsiveness and Evaluation Criteria		12
9	Instruction to Tenderers		14
10	Conditions of Tender and Special Conditions of Contract		17
11	Form of Agreement and General Conditions for Consultants		20
12	Scope of Work / Specification	Annexure A	32
13	Conditions Pertaining To Targeted Procurement	Annexure B	39
14	HDI Contract Participation Declaration & Calculation	Annexure C	42
15	Mandatory Agreement (OHS Act)	Annexure D	45
16	Form of Indemnity	Annexure E	47
17	Form CCTPF 005: Authorisation to deduct outstanding amounts	Annexure F	48
18	Form CCTPF 004: Certificate for Municipal Services & Payments to Service Providers	Annexure G	49

A covering letter, detailed PROPOSAL and all other documents of your submission must be attached behind this Tender Document.

1. THE TENDER

- 1.1 I/we Mr/Mrs/Messrs _____ duly assigned to represent the Tenderer for the purpose of this Tender, hereby Tender to supply all or any of the goods and/or render all or any of the services described in the attached documents to the City of Cape Town on terms and conditions stipulated in this Tender and in accordance with the specifications stipulated in the Tender documents (which shall be taken as part of, and incorporated into this Tender) at the prices reflected in the pricing schedule.
- 1.2 I/we agree that this offer shall remain valid for a period of 120 days commencing from the closing date and time of this Tender.
- 1.3 I/We further agree that:
- 1.3.1 This Tender and its acceptance shall be subject to the terms and conditions contained in the City of Cape Town's Supply Chain Management and Procurement Policies
- 1.3.2 If I/we withdraw my/our Tender within the period for which I/we have agreed that the Tender shall remain open for acceptance, or fail to fulfil the contract when called upon to do so, the City of Cape Town may, without prejudice to its other rights, agree to the withdrawal of my/our Tender or cancel the contract that may have been entered into between me/us and The City of Cape Town and I/we will then pay to the City of Cape Town any additional expense incurred by the City of Cape Town having either to accept any less favourable Tender or, if fresh Tenders have to be invited, the additional expenditure incurred by the invitation of fresh Tenders and by the subsequent acceptance of any less favourable Tender; the City of Cape Town shall also have the right to recover such additional expenditure by set-off against moneys which may be due or become due to me/us under this or any other Tender or contract or against any guarantee or deposit that may have been furnished by me/us or on my/our behalf for the due fulfilment of this or any other Tender or contract and pending the ascertainment of the amount of such additional expenditure to retain such moneys, guarantee or deposit as security for any loss the City of Cape Town may sustain by reason of my/our default;
- 1.3.3 If my/our Tender is accepted the acceptance may be communicated to me/us by letter or order by certified mail or registered mail. Such posting shall be deemed to be proper service of such notice with effect from the date of posting/dispatch of such notice;
- 1.3.4 The law of the Republic of South Africa shall govern the contract created by the acceptance of my/our Tender and that I/we choose *domicilium citandi et executandi* in the Republic of South Africa, where any and all legal notices may be served at (full street address of this place):
-
- 1.4 I/we confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our Tender; that the price(s) and rate(s) quoted cover all the work/-item(s) specified in the Tender documents and that the price(s) and rate(s) cover all my/our obligations under a resulting contract and that I/we accept that any mistakes regarding price(s) and calculations will be at my/our risk.
- 1.5 I/We hereby furthermore confirm that I/we have sufficient capacity available to deliver to standard and within the proposed timeframes stipulated in the tender document.
- 1.6 I/we hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the Principal(s) liable for the due fulfilment of this contract.
- 1.7 I/we agree that any action arising from this contract may in all respects be instituted against me/us and I/we hereby undertake to satisfy fully any sentence or judgement which may be pronounced against me/us as a result of such action.
- 1.8 I/we declare that I/we have participation/no participation* in the submission of any other offer for the supplies/services described in the attached documents. *If in the affirmative, state name(s) of Tender(s) involved.

Name: _____ Signature _____

2. TENDER FORM

This Tender shall remain binding and valid for a period of 120 days calculated from the closing date of the Tender

Tender no: 274S/2007/08
Closing date: 26 FEBRUARY 2008

**THE CITY MANAGER
CITY OF CAPE TOWN
P O BOX 298
CAPE TOWN
8000**

Post Tender (at sender's risk) to the address directly to the left of this notice in good time so as to reach the City of Cape Town before the above-mentioned closing date, or deposit Tender in the designated box on the 5th Floor, Civic Centre before 10h00 on the above-mentioned closing date.

ATTENTION: TENDER OFFICE, 5TH FLOOR

**Tender 274S/2007/08:
APPOINTMENT OF A MARKETING SPECIALIST FOR THE NAMING RIGHTS FOR THE NEW GREEN POINT STADIUM, CAPE TOWN**

1. THE FOLLOWING LEGAL ENTITY: (cross out block which is not applicable)

Company with Limited Liability or Close Corporation: And: Whose Registration Number is: And: Whose Income Tax Reference Number is:	OR	Natural Person or Partnership: Whose Identity Number(s) is/are: Whose Income Tax Reference Number is/are:
---	-----------	--

(HEREINAFTER REFERRED TO AS "THE TENDERER")

AND WHO IS (if applicable):

Trading under the name and style of

AND WHO IS:

Represented herein by: Mr/Mrs/Ms (FULL NAME OF REPRESENTATIVE IN BLOCK LETTERS) and who is duly authorised to do so, in his/her capacity as (TITLE):	Note: A Resolution / Power of Attorney, signed by all the Directors / Member / Partners of the Legal Entity must be completed in this Tender, authorising the Representative to make this offer
--	--

Hereby offer to the City of Cape Town herein represented by the City Manager to execute, complete and (where specified) maintain the above-mentioned Service in accordance with the Specification, Bills of Quantities, Conditions of Tender and Special Conditions of Contract and to the entire satisfaction of the City Manager and subject to the Conditions stipulated in this Tender document for the amount indicated hereunder, and to provide all the labour, workmanship, plant, consumables and everything that is or may become necessary for the execution of the Contract.

Total Tender price (to be carried forward from pricing schedule on page 5) R.....(Including VAT) Tender Price in words: (Including VAT)

2. The Tenderer acknowledges that it is fully acquainted with the contents of all the conditions of this Tender contained in this document and that it accepts the conditions in all respects

.....
 Signature(s) of Tenderer(s)
THUS DONE AND SIGNED for and on behalf on the Tenderer / Contractor

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)

in the presence of the subscribing witnesses.
 AS WITNESSES:

- 1 Name in Block Letters:
(SIGNATURE)
- 2 Name in Block Letters:
(SIGNATURE)

3. DETAILS OF TENDERER

Name of firm / entity / enterprise	
Trading as (if different from above)	
Postal address	Postal Code _____
Physical address	
Contact Details of the Person Signing the Tender:	Telephone:(____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____
Contact Details of the Senior Manager Responsible for Overseeing Contract Performance:	Name: _____ Telephone:(____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____
Contact Details of the Person Responsible for Accounts / Invoices:	Name: _____ Telephone:(____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____
Contact Details of the Tenderer's proposed Project Manager who will represent the Tenderer in the implementation processes:	Name: _____ Telephone:(____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____
Company Income Tax no.	
VAT registration no.	
Company registration no.	
Any other Registration applicable to this Industry	
Tenderer's Bank	Name of bank: _____ Branch Name: _____ Branch Code: _____

4.1 Type of Firm (Tick one box)

Partnership OR Joint Venture Sole Proprietor Close Corporation Company |

4.2 Describe principal business activities

4.3 Company classification (Tick one box)

Manufacturer Supplier Professional service provider Other *

* If Other, please state details: _____

4.4 Total number of years the firm has been in business?

4. RESOLUTION TAKEN BY THE BOARD OF DIRECTORS / MEMBERS / PARTNERS

RESOLUTION of a meeting of the Board of Directors / Members / Partners of

(NAME OF TENDERER)

Held at _____ (place)

On _____ (date)

RESOLVED THAT:

1. The enterprise submits a Tender to the City of Cape Town in respect of the following project:

**Tender 274S/2007/08:
APPOINTMENT OF A MARKETING SPECIALIST FOR THE NAMING RIGHTS FOR THE NEW GREEN POINT
STADIUM, CAPE TOWN**

2. Mr/Mrs/Ms _____

In his/her capacity as _____

and who will sign as follows:

(SPECIMEN SIGNATURE)

be, and is hereby, authorised to sign the Tender and any and all other documents and/or correspondence in connection with and relating to the Tender, as well as to sign any contract, and or all documentation resulting from the award of the Tender to the enterprise mentioned above.

Note: The resolution must be signed by all the directors or members / partners of the Tendering enterprise. Should the space provided below not be sufficient for all directors to sign, please provide a separate sheet in the same format as below.

	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			

Enterprise Stamp

--

5. RESOLUTION TAKEN BY THE BOARD OF DIRECTORS OF A CONSORTIUM OR JOINT VENTURE

RESOLUTION of a meeting of the Board of Directors / Members / Partners of

_____ (NAME OF TENDERER)

Held at _____ (PLACE) on _____ (DATE)

RESOLVED THAT:

- The enterprise submits a Tender to the City of Cape Town in respect of the following project:

**Tender 274S/2007/08:
 APPOINTMENT OF A MARKETING SPECIALIST FOR THE NAMING RIGHTS FOR THE NEW GREEN POINT
 STADIUM, CAPE TOWN**

as a Consortium / Joint Venture comprising *(list all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the Consortium / Joint Venture):*

and _____
 and _____

- Mr/Mrs/Ms _____

In his/her capacity as _____

and who will sign as follows:

_____ (SPECIMEN SIGNATURE)

be, and is hereby, authorised to sign the Tender and any and all other documents and/or correspondence in connection with and relating to the Tender, as well as to sign any contract, and or all documentation resulting from the award of the Tender to the **consortium / joint venture** enterprise mentioned above

- The enterprise in the form of a consortium or joint venture accept jointly and several liability with parties under item 1 above for the fulfilment of the obligations of the joint venture deriving from, and in any way connected with the contract to be entered into with the City Of Cape Town in respect of the project described above under item 1.
- The **consortium / joint venture** enterprise chooses as its *domicilium citandi et executandi* for all purposes arising from this joint venture agreement and contract with the City of Cape Town in respect of the project under item 1:

(Physical Address) _____

Note: The resolution must be signed by all the directors or members / partners of the Tendering enterprise. Should the space provided below not be sufficient for all directors to sign, please provide a separate sheet in the same format as below.

	Name	Capacity	Signature
1			
2			
3			
4			
5			

Enterprise Stamp

6. TAX CLEARANCE CERTIFICATE

Obtain a "Tax Clearance Certificate for Tenders" from your local SA Revenue Service office.

The following conditions will apply to this Tender:

1. It is an absolute requirement that the taxes of the Tenderer **MUST** be in order, or that a suitable arrangement has been made with the Receiver of Revenue to satisfy them. Proof of this arrangement must be submitted with the Tender.
2. Tenderers are therefore required to obtain a valid Tax Clearance Certificate from the local Receiver of Revenue where such Tenderer is registered for Income Tax purposes. Failure to submit an **original and valid** Tax Clearance Certificate **WILL** invalidate your Tender.
3. The Tax Clearance certificate(s) relating to this Tender should be valid at the closing date of this particular Tender.
4. Each party to a Consortium / Joint Venture / Sub-contractors must complete a separate declaration. Failure to submit the Tax Clearance Certificates of each member to this Tender, will invalidate your Tender.

7. DECLARATION OF INTERESTS

1. No Tender will be accepted from persons in the service of the state*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to Tender. In view of possible allegations of favouritism, should the resulting Tender, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the Tenderer or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

3 In order to give effect to the above, the following questionnaire must be completed and submitted with the Tender.

- 3.1 Full Name:
- 3.2 Identity Number:
- 3.3 Company Registration Number:
- 3.4 Tax Reference Number:
- 3.5 VAT Registration Number:

3.6 Are you at present in the service of the state?* **YES / NO**

3.6.1 If so, furnish particulars.

3.7 Have you been in the service of the state for the past twelve months? **YES / NO**

3.7.1 If so, furnish particulars.

*

* MSCM Regulations: "in the service of the state" means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

3.8 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this Tender?* **YES / NO**

3.8.1 If so, furnish particulars.

3.9 Are you aware of any relationship (family, friend, other) between a Tenderer and any persons in the service of the state who may be involved with the evaluation and or adjudication of this Tender? **YES / NO**

3.9.1 If so, furnish particulars

3.10 Are any of the company's directors, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.10.1 If so, furnish particulars.

3.11 Are any spouse, child or parent of the company's directors, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.11.1 If so, furnish particulars.

CERTIFICATION

I, THE UNDERSIGNED, _____ (FULL NAME IN BLOCK LETTERS)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of Tenderer

* See footnote on previous page

8. RESPONSIVENESS AND EVALUATION CRITERIA

NB The City Of Cape Town may verify any information submitted in terms of this proposal and any information that is incorrect may result in that Tender being automatically disqualified and not considered further.

8.1 RESPONSIVENESS CRITERIA

No Tender will be considered by the City of Cape Town unless it meets the following responsiveness criteria (for the Tender to be considered responsive, the Tender **must** meet the following requirements):

- The Tender must be properly received in a sealed envelope clearly indicating the description of the service and the Tender number for which the Tender is submitted
- The Tender must be deposited in the relevant Tender box as indicated on the notice of the Tender on or before the closing date and time of the Tender
- An **original** Valid Tax Clearance Certificate must be attached to the Tender document.
- The official Tender document must be fully completed in indelible ink. Where information requested does not apply to the Tenderer and the space is left blank, it will be deemed to be not applicable.
- All requested relevant and/or additional documentation such as Compliance Certificates, professional registration, artisan qualification, etc, must be submitted with the Tender document.
- The Tenderer must be in good standing to do business with the public sector in terms of Regulation 38 of the Supply Chain Management Regulations (Government Gazette 27636 of 30 May 2005).
- If the entity submitting a Tender is a Joint Venture or Consortium or Partnership, each party to that formation must submit all the above information.
- The Tenderer must adhere to the Pricing Instructions.
- The Tenderer's Details must be provided.
- The necessary document authorising the Representative to sign and submit the Tender on the Tenderer's behalf must be completed and signed.
- The Declaration of Interests by the Tenderer must be completed and signed.

8.2 EVALUATION OF TENDERS

- 8.2.1 All Tenders received shall be evaluated in terms of the Supply Chain Management Regulations, City of Cape Town Supply Chain Management Policy, the City of Cape Town Procurement Policy Initiative and the Preferential Procurement Policy Framework Act.
- 8.2.2 The Council reserves the right to accept all, some, or none of the tenders / Tenders submitted – either wholly or in part – and it is not obligated to accept the lowest Tender.
- 8.2.3 Tenders will be evaluated according to the presentation of proposals as per Section 6 of Annexure A which will be reflected in the scoring as per Section 12 of Annexure A.
- 8.2.4 In terms of the Council's current procurement policy, this project has been identified as a Major Project (over R2 million) targeting Historically Disadvantaged Individuals (HDI'S) as prime contractors, sub-contractors and joint venture partnerships.

The points allocation for this tender will be as follows:

Price and functionality	90 points
HDI status	<u>10 points</u>

Total 100 points

In terms of the Tender Information requested above, of the 90 points allocated to price and functionality, a maximum of 50 points will be awarded for functionality and 40 points for price. 10 points will be allocated for preferences (HDI). The points will be allocated as detailed below.

The formulas used to calculate the Tender Adjudication Points are reflected in the Conditions Pertaining to Targeted Procurement annexed hereto as Annexure B.

9. INSTRUCTION TO TENDERERS

NOTE: IT IS VERY IMPORTANT THAT ALL TENDER CONDITIONS ARE STRICTLY ADHERED TO, AS FAILURE TO DO SO SHALL INVALIDATE THE TENDER

1. GENERAL

1.1 No Tender will be considered unless submitted on Council's Official Tender Document.

- 1.1.1 It should be noted that any portion of the Tender Document not completed should be regarded as not applicable.

1.2 A Tender submitted by:

- 1.2.1 A registered Company may not be considered unless accompanied by a resolution of a Board of Directors of the Company authorising the Tender to be made and the signatory to sign the Tender on the Company's behalf;
- 1.2.2 A registered Close Corporation may not be considered unless accompanied by written authority from all the members of the Close Corporation authorising the Tender to be made and the signatory to sign the Tender on the Close Corporation's behalf;
- 1.2.3 A Partnership may not be considered unless duly signed by all partners or any one or more parties duly authorized thereto to Power of Attorney by the other parties, copy of which should accompany this tender document;
- 1.2.4 A Trust may not be considered unless duly signed by all trustees authorising the Tender to be made and the signatory to sign the Tender on the Trust's behalf.

- 1.3 A Tender submitted for and on behalf of a Company or Close Corporation to be formed or in the course of formation shall not be considered unless accompanied by a written guarantee from the signatory, accepting in his personal capacity full responsibility for all performances due under these Conditions of Tender should the Company or Close Corporation not be registered and/or adopt this Contract. Should the Council accept such a Tender and such registration and adoption not take place within three months of the date of Council's acceptance, the aforesaid Company or Close Corporation to be formed or in the course of formation, shall deemed not to have registered nor the contract adopted then the signatory shall be regarded as the Tenderer/Contractor and shall be responsible for all due performances under this Tender, failing which the Council shall be entitled to enforce the aforesaid written guarantee against the signatory.

- 1.4 Tenders shall be submitted in a sealed envelope, clearly marked with the relevant Tender number and description, in the officially marked **tender box as shown on this document** at the **Tender Office, 5th Floor, Civic Centre, 12 Hertzog Boulevard, Cape Town** before 10h00 on the closing date.

- 1.5 Any Tender submitted shall remain valid, irrevocable and open for written acceptance for a period of one **hundred and twenty (120) days** from the closing date. The submission of a Tender shall be deemed to constitute a Contract between Council and the Tenderer whereby the latter agrees not to withdraw his tender or to amend it or derogate from its effect during the aforesaid period of hundred and twenty (120) days.

- 1.6 The Council reserves the right to accept all, some, or none of the tenders / Tenders submitted – either wholly or in part – and it is not obligated to accept the lowest Tender.

- 1.7 Council shall not consider tenders which are received after the closing date and time.

1.8 The Council retains the right to call for any additional information it may deem necessary.

- 1.9 The Council will not be held responsible for any expenses incurred by the Tenderer in preparing and submitting tenders.

- 1.10 A Tenderer must be registered on the Council's Supplier Database (at present administered by TradeWorld) in order to become an accredited supplier to Council and must quote the Database registration number on the cover page of the Tender document. Tenderers/Bidders/Contractors (including suppliers and service providers) who are **not registered and verified** on the Western Cape Supplier Database are not precluded from submitting Tenders, but must be registered and verified before the closing date in order to qualify for preference points. Contracts **will not be awarded to firms** who are not registered and verified on the Supplier Database.

For registration on the Supplier Database, forms may be collected from the Tender Board Office, 5th Floor, Civic Centre, 12 Hertzog Boulevard, Cape Town – Tel No. (021) 400-2405, or from the TradeWorld offices – Tel No. (021) 680 4666.

- 1.11 This tender will be adjudicated in terms of the City's Procurement Policy and the attached Conditions Pertaining to Targeted Procurement.
- 1.12 If tendering as a Joint Venture, the **Joint Venture Agreement** must be submitted with the tender document detailing the split of responsibilities in terms of the tender specifications, i.e. percentage of work to be performed by each partner. **All parties** to the Joint Venture Agreement **must be registered** and verified on the Western Cape Supplier Database. Only those that are registered and verified before the closing date of the tender will qualify for preference points.
- 1.13 If a Tenderer or Contractor, or any person employed by him is found to have either directly or indirectly, promised or given to any Councillor or person in the employ of the Council, any commission, gratuity, gift or other consideration, the Council shall have the right summarily and without recourse to law and without prejudice to any other legal remedy which it may have in regard to any loss and/or additional cost or expenses, to disqualify the Tender or cancel the Contract without paying any compensation to the aforesaid Tenderer or Contractor.
- 1.14 A Tenderer shall not in any way communicate with a member of the Council or with any officer of the Council on a question affecting any contract for the supply of goods or for any work undertaking or service which is the subject of a tender during the period between the closing date or receipt of tenders and the dispatch of the written notification of the Council's decision on the award of the contract, provided that a Tenderer shall not hereby be precluded:
- 1.14.1 at the request of the Head of a Council Department or his authorised representative from furnishing him with additional information, or with a sample or specimen for testing purposes or otherwise, or from giving a demonstration so as to enable the recommendation to the Council's responsible Committee on the award of the contract to be formulated;
- 1.14.2 from obtaining from the City Manager or his authorized representative information as to the date upon which the award of the contract is likely to be made or, after the decision upon the award has been made by the Council or any Committee to which the Council has delegated its powers, information as to the nature of the decision or such information as was publicly disclosed at the opening of tenders or from submitting to the City Manager in writing any communication relating to his tender or award of the contract or a request for leave to withdraw his tender, and provided further that nothing contained herein shall be construed so as to prevent information being sought and obtained from a Councillor in regard to any decision taken at an open Council meeting.
- 1.15 The Contractor shall complete and sign the Tender Document where indicated. Failure to complete the Tender Document where indicated may invalidate the Tenderer's / Contractor's offer and that Tender may be disqualified with immediate effect without any liability to the Council and without affecting any rights the Council may have resulting from such cancellation.

- 1.16 Tenderers must submit a certified statement signed by the Tenderer declaring that the Tenderer has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days (Annexure G).

2. FORM OF AGREEMENT

After the award of the contract, the successful Tenderer will be required to sign a FORM of Agreement.

3. TAX CLEARANCE

The Tenderer must **submit an original valid tax clearance certificate** with the Tender document. Should Council not be in possession of this certificate, the Tenderer's offer will be considered non-responsive. It is a condition of this Tender invitation that the successful Tenderer must submit their latest **original** Tax Clearance Certificate to cover the duration of this contract.

In the case where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate.

4. EXTRACTS FROM THE CITY'S SUPPLY CHAIN MANAGEMENT POLICY:

50. The City Manager may cancel a contract awarded to a person if:

50.1 the person committed a corrupt or fraudulent act during the procurement process or the execution of the contract, or

50.2 an official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.

51. The City Manager may reject the Tender or quote of any person if that person or any of its directors has:

51.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months;

51.2 failed, during the last five years, to perform satisfactorily on a previous contract with the City or any other organ of state after written notice was given to that Tenderer that performance was unsatisfactory;

51.3 abused the supply chain management system of the City or has committed any improper conduct in relation to this system;

51.4 been convicted of fraud or corruption during the past five years;

51.5 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

51.6 been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004) or has been listed on National Treasury's database as a person prohibited from doing business with the public sector.

10. CONDITIONS OF TENDER AND SPECIAL CONDITIONS OF CONTRACT THAT MAY ARISE FROM THIS TENDER

(Where these Conditions of Tender and Special Conditions of Contract vary from the standard Appointment of Consultant's Agreement and General Conditions – included in this Tender Document, the terms of these Conditions of Tender and Special Conditions of Contract will take precedence)

A. CONDITIONS OF TENDER

1 REQUIREMENTS OF TENDER

This tender for the appointment of a Marketing Specialist for the Naming Rights for the new Green Point Stadium, Cape Town.

- 1.1 It must be clearly understood that the tender prices must include the cost of all arrangements necessary for the rendering of the services in its entirety.

2 DEFINITIONS

Unless inconsistent with or expressly indicated otherwise by context:-

- 2.1 "*Approved*" or "*Approva*" shall mean "*approved*" or "*approva*" by the Council's Representative defined in the Letter of Award / Appointment.
- 2.2 "*Council*" shall mean the **COUNCIL OF THE CITY OF CAPE TOWN.**
- 2.3 "*Contractor*" shall mean the Tenderer whose tender has been accepted by the Council and shall include the Tenderer's legal personal representative, heirs, successors and assignees.
- 2.4 "*Contract*" shall mean and include the Council's Special Conditions of Tender and Contract and/or Conditions of Tender, Form of Tender Document, the Specification including any Schedules, Drawings, Patterns, Samples attached to the Specification or any Drawings, Patterns, Samples approved by the Council's Representative relative to the Contract, relevant Appointment of Consultant's Agreement and General Conditions, and any agreement entered into in terms of the Council's Special Conditions of Tender and Contract and/or Conditions of Tender hereinafter referred to as "the General Conditions".
- 2.5 "*Contract Price(s)*" shall mean the price(s) tendered by the Tenderer/Contractor and accepted by the Council for the execution of the contract.
- 2.6 "*Date of Delivery*" shall mean the date stipulated in the Contract or Form of Tender Document for the delivery of the goods and/or the completion of the work or works, as the case may be, in accordance with the provisions of the contract.
- 2.7 "*Date of Tender*" shall mean the date and time on which tenders/bids are due to be deposited in terms of the advertisement calling for tenders.
- 2.8 "*Delivery*" shall mean delivery in compliance with the terms and Conditions of the Contract at the point of delivery specified in the contract.
- 2.9 "*Goods*" shall mean the machinery, plant, equipment, apparatus or materials to be supplied under the contract.
- 2.10 "*Month*" shall mean calendar month.
- 2.11 "*Site*" shall mean the buildings or ground or any other place in which or on which or over which the goods are to be stored, installed or used, or where work has to be executed.
- 2.12 The "*Specification*" shall mean the Specification annexed to these Special Conditions.

- 2.13 "Writing" shall include any manuscript, typewritten or printed statement, under or over signature or seal as the case may be.
- 2.14 "Work" or "Works" shall mean and include goods to be provided and work to be done by the Contractor under the contract.
- 2.15 "Equity Ownership" shall mean the percentage of an enterprise or business owned by individuals or, in respect of a private company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over enterprise, commensurate with their degree of ownership at the closing date of the tender.

3 TRANSPARENCY AND DISCLOSURE OF POTENTIAL CONFLICTS OF INTERESTS

If there is any known potential conflict of interests or if any owner, partner or member of the Tenderer is an official, an employee or a councillor of the City of Cape Town, or is related to an official, an employee or a councillor of the City of Cape Town, that relationship must be placed on record here:

This is intended to guide the adjudication process with reference to the relevant sections of the Municipal Systems Act and the Municipal Finance Management Act. It should be noted that failure to provide complete information may render any contract awarded on the basis of this tender subject to invalidation.

Should you be aware of any corrupt or fraudulent transactions relating to the tendering process of the City of Cape Town, please contact the following:

Fraud.hotline@capetown.gov.za or

the Gobodo external audit hotline at **0800 32 31 30** (toll free)

Information submitted will need to be substantiated, but sources will be regarded as confidential.

4 OBJECTIONS, QUERIES AND DISPUTES

Periods mentioned in this section run concurrently (every period mentioned will run from the same date of notification).

4.1 Objections or Complaints

Persons aggrieved by decisions or actions taken in the implementation of the City's supply chain management system, may lodge within 21 days of the decision or action, a written objection or complaint against the decision or action.

4.2 Requests for Reasons

Every Tenderer has a right to request reasons for the award decision in terms of the Promotion of Administrative Justice Act (Act 3 of 2000).

4.3 Dispute Resolution

Where a disagreement or dispute between a City department and a Tenderer or Contractor cannot be resolved by mutual discussions, the City Manager shall appoint an independent and impartial person not directly involved in the supply chain to assist in the resolution of the dispute.

4.4 Right to Approach a Court

These foregoing provisions do not affect a person's rights to approach a court at any time. The Contract shall in all respects be construed in accordance with the law of the Republic of South Africa, and any difference that may arise between the Council and the Contractor in regard to the Contract shall be settled in the Republic of South Africa.

5 FORM OF AGREEMENT

A Form of Agreement will be entered into between the City of Cape Town and the successful applicant.

The primary consultant/service provider is responsible for ensuring that the agreed deliverables are produced to a quality standard, on time and within budget.

In the case of successful applicants utilising sub-consultants, the Form of Agreement will apply to the main consultant who will be responsible for ensuring delivery of services from any such sub-consultants and for making any payments to such sub-consultants.

6 LEGAL NOTICES

6.1 Disclaimer

Candidates must make and rely on their own investigations and satisfy themselves in relation to all aspects of the project. The City of Cape Town will not be liable for any incorrect or misleading information in relation to any part of this document and reference documents thereto.

6.2 Right to Amend

The City of Cape Town reserves the right to amend the process set out in this document by notice in writing to candidates who have not withdrawn or been excluded from this process. Such amendment may include cancellation, variation or supplementation of the process.

6.3 Absence of Obligation

No legal or other obligation shall arise between the candidate and the City of Cape Town unless and until formal appointment documentation has been signed. The City of Cape Town is not obliged to proceed with any tenders or candidates.

6.4 Intellectual Property

The City of Cape Town will not be entitled to use the tenders as a whole of a candidate that is not appointed to the project. In submitting their tender however, the candidate agrees that without compensation to the candidate the City of Cape Town will be entitled to utilise one or more features contained in any such tender without the approval of the candidate.

NOTE: It is NOT our intention to unlawfully utilise the work of unsuccessful applicants but we do wish to avoid litigation where an unsuccessful applicant may consider that a feature of their tender appears in the successful tender and seeks thereafter to stop progress on the project by interdict or otherwise. Similar features may also be spontaneously incorporated and we wish to avoid competing claims as to who originated the feature in question.

11. APPOINTMENT OF CONSULTANT'S FORM OF AGREEMENT AND GENERAL CONDITIONS

Made and entered into between:

THE CITY OF CAPE TOWN

(hereinafter referred to as the "**CLIENT**")

and

XXXXXXX

(hereinafter referred to as the "**CONSULTANT**")

1 DEFINITIONS

In this Agreement the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

- (a) "**Agreement**" means this form of Agreement together with any annexures or appendices.
- (b) "**CLIENT**" means the City of Cape Town a metropolitan municipality, established in terms of the Local Government: Municipal Structures Act, 1998 read with the Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000.
- (c) "**CONSULTANT**" means the contracting party named in the Agreement who is employed by the CLIENT to perform the Services and legal successors to the CONSULTANT.
- (d) "**Project**" means the project named in Annexure "A" to this Agreement for which the Services are to be provided.
- (e) "**Services**" means the assistance advice and services to be performed by the CONSULTANT in accordance with this Agreement and as fully described in Annexure "A".

- (f) **“Specific Provisions”** means those terms and conditions as set out in the Conditions of Tender and Special Conditions of Contract to this Agreement which specifies variations, if any, to the general conditions of this Agreement and any other documents comprising this Agreement and which may contain supplementary information or additional clauses relating to specific aspects of the Services to be rendered in terms hereof.
- (g) **“Sub-Contractor”** means a person or legal entity who enters into a sub-contract with the Consultant to perform part of the Services.
- (h) **“The Parties”** means collectively the CLIENT and the CONSULTANT.
- (i) **“The Effective Date”** means the date stipulated by the CLIENT for the commencement of the Services. This date being the date provided for in the letter of appointment.

2 INTERPRETATION

- 2.1 Unless there is something in the subject matter or the context which is inconsistent therewith, any reference in this Agreement to a statute, statutory instrument, regulation, by-law or order, shall be construed as a reference to such statute, statutory instrument, regulation or order, as amended or re-enacted, from time to time and to all instruments, order or regulations, then in force and made under, or deriving from the relevant statute.
- 2.2 Any reference, in this Agreement, save where the context otherwise requires, to the masculine, shall include the feminine and any reference to the singular shall include the plural and words denoting natural persons shall include companies, corporations, municipal councils and any other legal entities and vice versa, in each case.
- 2.3 The table of contents and the headings to the Clause, Sub-clauses and Annexures of this Agreement are inserted for ease of reference only and shall be ignored in the construction and interpretation of this Agreement.
- 2.4 If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 2.5 In this Agreement, any reference to a numbered Clause or Sub-clause is a reference to a Clause or a Sub-clause in this Agreement bearing that number. Any reference to a numbered Annexure is, subject to any contrary indication, a reference to an Annexure in this Agreement so numbered.
- 2.6 Unless otherwise indicated, words to which a meaning is ascribed in the body of this Agreement shall bear that meaning wherever such words appear thereafter.
- 2.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any person, whether or not a party, then, notwithstanding that such provision appears only in the definition clause, effect shall be given thereto as if it were a substantive provision contained in the body of this Agreement.

3 APPOINTMENT OF CONSULTANT

The CLIENT hereby appoints the CONSULTANT and the CONSULTANT accepts the appointment on the following terms and conditions.

4 DURATION OF THE AGREEMENT

- 4.1 This Agreement shall commence on the Effective Date and shall terminate no later than the date stipulated by the CLIENT for the completion of the Services as provided for in the letter of appointment for this Agreement. The duration of this Agreement may be extended by mutual agreement subject to such terms and conditions as the Parties may agree.

5 ASSIGNMENT

The CONSULTANT shall not cede or assign this Agreement or any part thereof for any benefit, obligation or interest therein or thereunder without the prior written consent of the CLIENT.

6 DUTIES OF THE CONSULTANT

The duties to be performed by the CONSULTANT in terms of this Agreement shall be the provision of assistance, advice and services in connection with the Project as required by the CLIENT from time to time and as fully described in Annexure "A" to this Agreement.

7 DESIGNATED REPRESENTATIVE

- 7.1 The CONSULTANT shall designate in writing a person to act as his representative and such person shall have complete authority to receive instructions and to give information to the CLIENT on behalf of the CONSULTANT.
- 7.2 If the CONSULTANT is a joint venture or consortium of two or more persons the CONSULTANT shall also designate one person with complete authority to bind the joint venture or consortium. Neither the composition nor the constitution of the joint venture or consortium shall be altered without the prior written consent of the CLIENT.

8 INFORMATION TO BE SUPPLIED TO THE CONSULTANT

The CLIENT shall furnish all available pertinent data and information and give such assistance as shall reasonably be required for the carrying out by the CONSULTANT of its obligations in terms of this Agreement and both the CONSULTANT and CLIENT agree to use all reasonable expedition and dispatch in carrying out the provisions of this Agreement. The CONSULTANT will however have to satisfy himself on the accuracy and completeness of such information furnished by or on behalf of the CLIENT.

9 NOTICE OF CHANGE

On becoming aware of any matter which shall materially change or has changed the scope, cost or timing of the Project either party shall immediately give notice to the other.

10 SERVICES OF OTHERS

Where the CONSULTANT is required to administer the work of others or of any contract on behalf of the CLIENT, then the CLIENT shall only issue instructions related to such work or contract through the CONSULTANT. Furthermore, the CLIENT shall not enter into any agreement or contract which describes the duties of the CONSULTANT or imposes obligations on him without first obtaining the CONSULTANT'S written agreement thereto.

11 REMUNERATION OF CONSULTANT

The remuneration of the CONSULTANT for the Services to be performed under this Agreement is specified in the letter of appointment.

12 COMPLETION OF THE PROJECT

- 12.1 The various stages and components of the project shall be duly undertaken and completed and all relevant information and data submitted to the CLIENT by the CONSULTANT in accordance with the dates and times as fully set out in the letter of appointment.
- 12.2 Should there be a delay in furnishing any data, information or assistance as provided for in Clause 8 of this Agreement, the CLIENT may in his sole discretion extend any date/s referred to in Clause 12.1 above for such a period as he deems fair and reasonable, provided that the CONSULTANT has submitted a request for this purpose, fully motivated and substantiated to the CLIENT's satisfaction, at least one month before the completion date/s referred to in the said Clause 12.1
- 12.3 The CLIENT reserves the right to cancel this Agreement as set out in Clause 27 and to terminate the services of the CONSULTANT in the event of the CONSULTANT failing to complete the Services as envisaged in terms of this Agreement to the satisfaction of the CLIENT by the date(s) prescribed in the letter of appointment.

13 SUB-CONTRACTING OF THE SERVICES

- 13.1 The CONSULTANT shall not sub-contract or engage a Sub-Contractor to perform any part of the Services without the prior written consent of the CLIENT. Such consent will generally be limited to permitting the CONSULTANT to obtain specialist advice or certain specialist services necessary for the performance of the Project and which he/she is unable to provide using his/her own resources. No such consent will release the CONSULTANT from any of his/her obligations in terms of this Agreement. If a sub-contractor is engaged with the written consent of the CLIENT and is found by the CLIENT to be incompetent, the CLIENT reserves the right to withdraw any consent previously granted in this regard.
- 13.2 The CLIENT shall have no contractual relationship with Sub-Contractors.
- 13.3 The CONSULTANT shall be responsible for the actions, defaults, negligence of Sub-Contractors and their agents and/or employees in the performance of their services as if they were the actions, defaults, negligence of the CONSULTANT and his own agent and/or his employees.

14 OWNERSHIP OF RECORDS AND OTHER DATA

All drawings, records, documents, computer software, calculation worksheets, papers and data of whatsoever nature prepared by the CONSULTANT in connection with the Project shall become the Property of the CLIENT upon their submission to him. It is specifically recorded that all documentation referred to in this clause shall vest in the CLIENT and shall remain the property of, and be retained and used by the CLIENT without any further payment in any form or kind by the CLIENT.

15 CONFIDENTIALITY

Any information or data obtained by the CONSULTANT arising out of this Agreement or from the performance of the Services in terms of this Agreement, shall be treated as strictly confidential and shall not be divulged or permitted to be divulged by the CONSULTANT to any person not being a party to this Agreement. Furthermore such information or data shall not be used other than for the purposes of rendering the Services in terms of this Agreement without the prior written consent of the CLIENT.

It is specifically recorded that the Parties agree that this clause shall remain in force after the termination of this Agreement.

16 VARIATIONS OF SERVICES

- 16.1 The CLIENT may without changing the terms and conditions of this Agreement request variations to the Services in writing. In this event the CONSULTANT shall submit proposals, including time and cost implications, for such variations to the Services.
- 16.2 The cost of preparation and submission of such proposals and the incorporation of any consequent changes to the scope of the Services and the revised remuneration of the CONSULTANT shall be agreed between the Parties and confirmed in writing.
- 16.3 No variation to the Services shall be put into effect until the CLIENT has confirmed his acceptance of the CONSULTANT'S proposals and the cost implications thereof in writing.

17 LANGUAGE OF COMMUNICATION

The language of this Agreement and all communication between the Parties shall be in English.

18 SERVICES TO BE RENDERED BY THIRD PARTIES APPOINTED BY THE CLIENT

The CLIENT may at his/her own cost engage any third parties as may be necessary to undertake work not included in the Services and required for the proper completion of the Project. The CONSULTANT shall co-operate with such third parties but shall not be responsible for them or their performance.

19 LOSS OR DAMAGE OF INFORMATION

If, at any time before the completion of the Project, any documentation, data or information relating to the Project are lost, damaged or destroyed whilst under the control of the CONSULTANT, the CONSULTANT shall at its cost be responsible for reproducing the necessary documentation, data, or information to enable the completion of the Project.

20 POSTPONEMENT, CANCELLATION OR ABANDONMENT OF THE PROJECT

The CLIENT reserves the right to postpone, cancel or abandon the whole of the Project or part thereof; provided that in such an event, the remuneration to be paid to the CONSULTANT shall be determined on a *quantum meruit* basis or as mutually agreed upon in writing between the CLIENT and the CONSULTANT.

21 DEATH OR INCAPACITY OF THE PARTIES

21.1 Should the CONSULTANT, being an individual, die or be prevented by illness or any other circumstances beyond its control from performing its obligations in terms of this Agreement, this Agreement shall be terminated without prejudice to the accrued rights of either party against the other. The CLIENT shall in such instance be liable for payment to the CONSULTANT or its successors and assigns against surrender of the documents necessary for the continuation of the work, such part of remuneration as may correspond to the extent of the work already performed by the CONSULTANT including any reimbursable costs.

21.2 Should the CONSULTANT be a partnership or body corporate, the Agreement shall not be dissolved by the death, resignation, retrenchment or retirement of a member of a partnership or a director of the body corporate, but shall automatically come to an end on the death of the last survivor of them without prejudice to the accrued rights of either party against the other, whereupon the provisions of 21.1 shall apply.

22 DUTY OF CARE

The CONSULTANT shall perform the Services in accordance with the terms and conditions of this Agreement and with all reasonable care, diligence and skill and in accordance with the generally accepted professional techniques and appropriate and currently applicable standards.

23 NON PERFORMANCE OF THE CONSULTANT

Should the CONSULTANT for any reason whatsoever be unable to remedy a breach of the terms and conditions of this Agreement the CONSULTANT shall, when instructed by the CLIENT, hand over all drawings, documents, computer software, calculation worksheets, papers, records and data relating to the Project. In such an event, the remuneration to the CONSULTANT for Services already rendered at the date of the notification of the breach of this Agreement shall be determined on a *quantum meruit* basis or as mutually agreed upon between the CLIENT and the CONSULTANT.

24 INDEPENDENT AUDIT

In the case of Services carried out on a time charge basis and for all other directly reimbursable expenses the CONSULTANT shall maintain records which clearly identify such time and expenses and shall retain such records for a period of 12 months after the completion or termination of the Services. Within this period the CLIENT may, on not less than 14 days notice, require that a reputable and independent firm of accountants, nominated by the CLIENT and at the CLIENT's expense, audit any such time and expenses claimed by the CONSULTANT by attending during normal working hours at the office where the records are maintained.

25 CONFLICT OF INTEREST

Unless otherwise agreed in writing by the CLIENT, the CONSULTANT and his personnel shall have no interest in nor receive remuneration in connection with the Project except as provided for in the Agreement. The CONSULTANT shall not engage in any activity which may conflict with the interests of the CLIENT under the Agreement.

26 BREACH

- 26.1 Should either party hereto breach or fail to comply with any term or condition of this Agreement, then the party aggrieved thereby shall give the defaulting party written notice to rectify such a breach.
- 26.2 In the event of the defaulting party failing to rectify such a breach within thirty (30) days of the dispatch of such notice, the aggrieved party shall be entitled to give written notice of termination of this Agreement to the other party. Such termination shall take effect upon dispatch of such notice to the other party.
- 26.3 Should either party repeatedly breach any of the terms and conditions of this Agreement in such a manner as to justify the aggrieved party in holding that the defaulting party's conduct is inconsistent with the defaulting party's intention to carry out the terms and conditions of this Agreement, then and in such event the aggrieved party shall without prejudice to its legal rights and remedies, be entitled to terminate this Agreement.
- 26.4 On terminating this Agreement, the aggrieved party will be entitled to claim and recover such damages as the aggrieved party may be able to prove that it has sustained.

27 TERMINATION

This Agreement shall terminate with immediate effect upon the happening of any of the following events:

- 27.1 if either fails to rectify a breach of this Agreement as provided for in terms of Clause 26;
- 27.2 if either party commits an act of insolvency;
- 27.3 if either party enters into an arrangement with or makes any assignment for the benefit of, any of its creditors;

- 27.4 that the CONSULTANT passes a resolution for voluntary winding up or having an application for winding up brought against it;
- 27.5 if either party fails to satisfy within ten days any judgment for the payment of any moneys of which execution has been stayed.

28 INSURANCE

- 28.1 The CONSULTANT shall at its cost take out and maintain a Professional Indemnity Insurance Policy with an insurance company approved by the CLIENT which shall provide cover to the CLIENT's satisfaction against the following:
- 28.1.1 Loss or damage suffered by the CLIENT by reason of any error, omission or neglect or breach of professional duty by the CONSULTANT, its employees or Sub-Contractors in the discharge of the duties it has agreed to perform;
- 28.1.2 Liability for death or injury to any third parties arising from error, omission or neglect or breach of professional duty in the conduct of the project for which the CONSULTANT is responsible.

29 RESOLUTION OF DISPUTES

29.1 Settlement by negotiation

- 29.1.1 The Parties shall negotiate in good faith with the intention of settling any dispute or claim arising out of or relating to the Agreement and shall not initiate further proceedings until either party has, by written notice to the other, declared that such negotiations have failed.

29.2 Mediation

- 29.2.1 Subject to the provisions of clause 29.1 any dispute arising out of this Agreement must in all instances be referred by the Parties without legal representation to a Mediator.
- 29.2.2 The dispute shall be heard by the Mediator at a place and time to be determined by him in consultation with the Parties.
- 29.2.3 The Mediator shall be selected by agreement between the Parties.
- 29.2.3.1 If Agreement cannot be reached upon a particular Mediator within three (3) days after the mediation has been demanded, then the President for the time being of Law Society of Cape of Good Hope shall nominate the Mediator within seven (7) days after the Parties have failed to agree.
- 29.2.4 The Mediator shall at his sole discretion determine whether the reference to him shall be made in the form of written or verbal representations. Provided that in making this determination he shall consult with the Parties and may be guided by their common reasonable desire of the form in which the said representations are to be made.

- 29.2.5 The Parties shall have seven (7) days within which to finalise their representation. The Mediator shall within seven (7) days of the receipt of the representations express in writing an opinion on the matter and furnish the CLIENT and the CONSULTANT each with a copy thereof by hand or by registered post.
- 29.2.6 The opinion so expressed by the Mediator shall be final and binding upon the CONSULTANT and the CLIENT unless either the CONSULTANT or the CLIENT is unwilling to accept the opinion expressed by the Mediator. In this later event, the aggrieved party must deal with the dispute in terms of the Arbitration clause.
- 29.2.7 The cost of the mediator shall be borne equally by both Parties, and shall be due and payable to the Mediator on presentation of his written account.
- 29.2.8 The expressed opinion of the Mediator shall not prejudice the rights of the Parties in any manner whatsoever in the event of their proceeding to Arbitration.

29.3 Arbitration

- 29.3.1 Subject to the provisions of clause 29.2, any dispute which may arise out of or in regard to:
- (a) Any matters arising out of this Agreement;
 - (b) The interpretation of this Agreement
- Shall be submitted to and decided by arbitration on notice given by any party to the other.
- 29.3.2 Arbitration shall be held in Cape Town informally and otherwise in accordance with the terms of the provisions of the Arbitration Act No 42 of 1965 (as amended from time to time) it being intended that if possible it shall be held and concluded within ten (10) days after it has been demanded.
- 29.3.3 Save as otherwise specifically provided herein, the Arbitrator shall be if the question in dispute is:
- (a) primarily a legal matter – a practising Senior Advocate of the Cape Bar Society of not less than five (5) years standing;
 - (b) any other matter – an independent and suitably qualified person as may be agreed upon between the Parties to the dispute.
- 29.3.4 If Agreement cannot be reached on whether the question in dispute falls under 29.3.3 (a) or 29.3.3 (b) and/or upon a particular Arbitrator within three (3) days after the arbitration has been demanded, then the President for the time being of the Law Society of the Cape of Good Hope shall:
- (a) determine whether the question in dispute falls under 29.3.3 (a) or 29.3.3 (b) and/or;
 - (b) nominate the Arbitrator within seven (7) days after the Parties have failed to agree.

- 29.3.5 The Arbitrator shall give his decision within five (5) days after completion of the arbitration, and shall, in arriving at his decision, have regard to these presents. The Arbitrator may determine that the costs of the arbitration are to be paid either by one or other of the disputing Parties.
- 29.3.6 The decision of the Arbitrator shall be final and binding and may be made an order of the Cape Provincial Division of the High Court of South Africa upon the application of any party to the arbitration.
- 29.3.7 This Clause shall not preclude either party from obtaining interim relief on an urgent basis from a Court of competent jurisdiction pending the decision of the Arbitration.

30 FORCE MAJEURE

- 30.1 No party shall be liable to the other in respect of the non-performance of any of the provisions of this agreement in the event and to the extent that such non-performance is the direct result of or has been directly caused by *force majeure*, which shall mean any event beyond the reasonable control of a party and which could not reasonably have been foreseen by it at the date of signature of this agreement, and shall include: war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war, mutiny, riot (insofar as it is uninsurable), civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power or any act of any person acting on behalf of or in connection with any organization with activities directed towards the overthrow by force of the Government *de jure* or *de facto* or to the influencing of it by terrorism or violence, confiscation, nationalization or requisition or destruction of or damage to property by or under the order of the Government *de jure* or *de facto* or any Public or Local Authority.
- 30.2 For the purposes of clause 30.1, *force majeure* does not include or refer to lack of authorisations, of licences, of permits or of approvals necessary for the performance of the agreement and to be issued by the appropriate public authority.
- 30.3 A party claiming *force majeure* shall as soon as possible after becoming aware of the *force majeure* event, notify the other party thereof, stating the nature, extent and expected duration of same.
- 30.4 The burden of proof of the existence and extent of the alleged event and the enforceability thereof, shall rest on the party claiming *force majeure*.
- 30.5 The party receiving notice in terms of clause 30.3 shall within 7 (seven) days of receipt thereof notify the other party of his acceptance or otherwise of the claim. In the event of such party notifying the other that the latter's claim of *force majeure* is not accepted, the provisions of clause 29 shall apply.
- 30.6 In the event of *force majeure* as notified and accepted in terms of clause 30.5 or determined in terms of clause 30.1 continuing for a period of 15 (fifteen) days, the party who has received notice of *force majeure*, shall be entitled to terminate this agreement with immediate effect.

THE CONSULTANT:

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

- 34.2 Any notice to any party shall be addressed to it at its *domicilium* aforesaid and be sent either by pre-paid registered post or delivered by hand. In the case of any notice:
- 34.2.1 Sent by pre-paid registered post, it shall be deemed to have been received, unless the contrary is proved, on the seventh day after posting; and
 - 34.2.2 Delivered by hand, it shall be deemed to have been received, unless the contrary is proved, on the date of delivery, provided such date is a business day or otherwise on the next following business day.
 - 34.2.3 Any party shall be entitled by notice in writing to the other, to change its *domicilium* to any other address within the Republic of South Africa, provided that the change shall become effective only fourteen (14) days after the service of the notice in question.
 - 34.2.4 Any notice addressed to the CLIENT shall be required to be addressed to the City Manager (For the Attention of **XXXXXXXXXX**) to be deemed to have been effectively delivered or served.

SIGNED AT ON THIS..... DAY OF 2008

AS WITNESSES:

1
2
_____ **CLIENT**

SIGNED AT ON THIS DAY OF 2008

AS WITNESSES:

1
2
_____ **CONSULTANT**

12. SCOPE OF WORK / SPECIFICATION

TENDER SPECIFICATION/SCOPE OF WORK

Request for Proposal

Appointment of a Marketing Specialist for the Naming Rights for the New Green Point Stadium, Cape Town

CONTENTS

- 1. INTRODUCTION**
- 2. RIGHTS ON OFFER**
- 3. THE BRIEF**
- 4. BRAND ALIGNMENT**
- 5. CONTRACTUAL ARRANGEMENTS**
- 6. PRESENTATION OF PROPOSALS**
- 7. AWARDING OF THE SPONSORSHIP CONTRACT**
- 8. CLOSING DATE, TIME AND VENUE FOR SUBMISSIONS**
- 9. ADJUDICATION PROCESS**
- 10. CONDITIONS GOVERNING AWARDS AND SUBMISSIONS**
- 11. REGISTRATION OF CONTACT DETAILS**
- 12. CRITERIA**
- 13. ENQUIRIES**

1. INTRODUCTION

The City of Cape Town as the Stadium Owner and Rights Holder wishes to appoint a Marketing Specialist or expert to assist the City in securing a commercial partner for the Naming Rights for the stadium.

The New Green Point Stadium, in Cape Town, a semi-final venue for the 2010 FIFA World Cup™ is set in arguably the most scenic stadium site in the world! Situated in the heart of the City's Tourism infrastructure, which attracted a total of 4.24 Million visitors in 2006, the stadium site covers 18ha of prime historical, public open space totalling 90ha adjacent to Cape Town's world famous Victoria and Alfred Waterfront. Visible from the stadium are major tourism icons of Cape Town & South Africa including Table Mountain and Robben Island. The stadium, set in an Urban Park, will be the newest icon and landmark in the City's array of unique assets, providing world-class sports and recreation facilities.

The New Green Point Stadium design is responsive to the environment. It is publicly funded through the national, provincial and local government in preparation for hosting the 2010 FIFA World Cup™. The City of Cape Town intends to appoint a commercial operator to manage the facility after the 2010 FIFA World Cup™ and hopes to attract rugby, football, music events, hospitality and other events to the stadium. This tender will be issued in February 2008.

The City is keen to conclude an agreement with a Naming Sponsor, to ensure that the commercial benefit for both the City Of Cape Town and the potential naming sponsor is maximised. Respondents are asked to indicate to the City what in their view they consider a minimum period for the partnership.

2. RIGHTS ON OFFER

2.1 Naming Rights for the New Green Point Stadium

The City of Cape Town invites proposals from specialists or experts in Marketing to secure a sponsor (s) for the Stadium Naming Rights of this iconic building set in the heart of Cape Town's tourism infrastructure.

This appointment will be for the Marketing specialists or experts who will advise and lead the negotiations on the City's behalf. The final selection of the naming sponsor will be subject to the City's supply chain management process.

2.2 Stadium Sponsorship and Marketing Rights

This appointment relates solely to the procurement of the sale of the Naming Rights for the Green Point Stadium. Other commercial opportunities will be handled as separate exercises.

2.3. Stadium Operator Tender

The City acknowledges that there are synergies between the Naming Rights and the Operation of the Stadium. The intention therefore is to ensure that both these tenders are awarded at the same time in order to maximise the opportunities presented by both.

3. THE BRIEF

The objective is to stimulate interest, both nationally and internationally, in making offers for the Naming Rights of the new Green Point Stadium and ultimately securing a maximum-value sponsorship for the City.

The successful Proposer will be required to:

- Prepare a strategic methodology to stimulate interest in the opportunity amongst a broad range of potential sponsors
- Finalise a mutually agreed methodology with City officials after taking into account the legal requirements of the public sector (which will be explained)

- Lead the process up to the point that a recommendation is made and be an advisor on the final selection
- Use their creative and commercial skills to encourage responses that, whilst maximising the financial value to the City, are mutually beneficial to both parties

4. BRAND ALIGNMENT

It is expected that the successful sponsors' brand principles are aligned with government commitment to service delivery. Cognisance must be taken of legal constraints around certain product sponsorships. The partnership cannot contravene any existing South Africa legislation and respondents are advised to take note of constraints on alcohol and tobacco product advertising.

4.1 Cape Town brand principles

- An Attraction
- Entertainment
- Scenic
- Environmental awareness
- Iconic
- Cape hospitality
- Vibrant
- Diverse
- Cultural & Heritage
- Outdoor
- Innovative
- Works for all its residents (equitable)
- Works for its visitors (reliable)
- Premium
- World Class
- Proudly South African, African

4.2. The Ideal Partner Qualities

- Innovative
- Reliable
- Fun
- Useful
- Good reputation with all customers
- Aspiration
- Environmentally aware
- Enhances Cape Town/Western Cape
- World Class

4.3 The Marketing Agency Qualities

- Reliable
- Good reputation
- Innovative
- Delivers
- Enhances
- Adds value
- Good interface
- Good contacts
- Structures simple deals for partners
- International experience

Please indicate how your company would ensure brand alignment amongst the partners, explain your approach and list examples or interested partners, where applicable.

5. CONTRACTUAL ARRANGEMENTS

The City of Cape Town intends to enter into an agreement with the proposed sponsor specifically related to the Naming Rights. Proposers must be able to demonstrate their knowledge of key elements that should be contained in such a contract.

6. PRESENTATION OF PROPOSALS

The proposal documentation must be clear to enable the Adjudication Panel to make an informed decision. We are looking for the best experience internationally or locally to ensure that the City of Cape Town realises the highest revenue and partnership potential from the sale of the Naming Rights for the stadium in a sustainable way. The evaluation criteria are listed in paragraph 13.

Please respond to the following basic criteria requirements:

6.1 Track record & Company Background

- Number of years in the industry
- Deals secured, finalised and sustained
- Contactable References
- Most recent annual financial statement of the agency or partners

6.2 The Team

- The detailed CV of the Account Manager and brief resumés of the team who will actually work on the Green Point Stadium project. The composition of the team may not change after the appointment without prior written consent.

6.3 Economic empowerment of historically disadvantaged individuals

Please provide the following information (with specific reference to HDI1):

- Equity holding;
- Managerial and staffing composition; and
- Broad based black and women empowerment

6.4 The Proposal

6.4.1 The Brief

Please respond to the brief and provide proposals for the following:

- o Provide the methodology for securing appropriate sponsors
- o Provide an indication of how packages and offerings should be structured
- o Leading the process to secure a sponsorship deal to the City's satisfaction
- o Acting on the City's behalf to maximise the quantifiable revenue in a sustainable manner
- o Delivering results in the shortest period of time

6.4.2 Brand Alignment

Please indicate how your company would ensure brand alignment amongst the partners, explain your approach and list examples or interested partners, where applicable.

6.4.3 The Estimated Financial Value

To assist the evaluation and adjudication team in making a decision, a well thought through, comprehensive calculation on the value of the Naming Rights is required for assessment purposes. Explain your rationale.

**(Quantitative Value + Qualitative Value) – (Quantitative Costs + Qualitative Costs)
= ESTIMATED BOTTOM LINE OFFER**

Quantitative Value (Hard figures)

- Gross Turn Over including the methodology and reasoning of the calculation
- Term or number of years the partnership is proposed
- Timing and phasing of payments
- Currency of the offer i.e. Rand, US Dollars, Euro etc. (Please convert foreign currency offers into Rand, stating the exchange rate used)

Quantitative Costs (Hard figures)

- Fee for services rendered as % of total revenue generated
- Cost of sponsor activation requirements (branding, suites etc) if any

Qualitative Value (Soft issues)

- Good access to appropriate and interested sponsor brands
- Proposal enhancing conditions

Qualitative Costs (Soft issues)

- Conditions/counter trade

6.5 Fee

The City requires that fee proposals are a percentage of the revenue generated from the sale of the Naming Rights. Respondents are asked to indicate their assessment of the value of the Naming Rights for the Stadium, as well as the percentage fee they expect for services rendered. A draft budget should be presented for disbursements such as travel and advertising. Whilst agreed disbursements would be refundable, the Proposal should be structured on a "Success Fee" basis. These disbursement costs will be deducted from the "Success Fee".

6.6 General

The Proposal should demonstrate that there is good working knowledge of the key elements that should be contained within the final Naming Rights contract.

6.7 Compulsory documentation

Note: Failure to submit the following documents will lead to your disqualification

You must comply with responsiveness criteria in the Form of Tender, inter-alia:

- Western Cape Supplier Database (Tradeworld) - Form E of the main Bid Document
- VAT number - South African companies only
- Tax Clearance Certificate from SARS to cover the duration of the contract – South African Companies only.

7. THE AWARDING OF THE SPONSORSHIP CONTRACT

The selection of the successful sponsor must follow a process that at all times is competitive, fair, equitable and transparent. The successful Proposer will be required to prepare in cooperation with the City of Cape Town an appropriate specification document to be circulated to all the prospective sponsors. Furthermore the specification document must be issued to all the parties who may request a copy and be advertised in the media. All the offers of sponsorship will have to be lodged at a specified location on a pre-determined time and date in accordance with public sector legal requirements.

8. CLOSING DATE, TIME AND VENUE FOR SUBMISSIONS

Proposals are to be clearly marked: “**MARKETING SPECIALIST FOR THE STADIUM NAMING RIGHTS**” and the tender number with the name of the applicant. They must be deposited in the City of Cape Town **Tender Box 37, marked Marketing Specialist for the Stadium Naming Rights** at the **Tender Office** situated on the **5th Floor, Tower Block, Civic Centre, Cape Town** on **Tuesday 26 February 2007 before 10h00, South African time**. No late submissions will be accepted. Posted, e-mailed, or faxed submissions will also not be accepted.

9. ADJUDICATION PROCESS

The successful proposal will be awarded by means of the following process:

Upon closure of the Request for Proposals, the City of Cape Town Bid Evaluation Committee will assess the submissions. In compliance with the City of Cape Town’s Supply Chain Management Policy, a report will be submitted to the Bid Adjudication Panel for approval.

Should they be required, tenderers must be prepared to make themselves available to present their proposals (more than one presentation may be required) to the Adjudication Panel (and any other forum if required) at short notice and at their own cost.

10. CONDITIONS GOVERNING AWARDS AND SUBMISSIONS

The City of Cape Town may at its sole discretion elect to make partial or no appointment pursuant to this call for proposals.

No extensions of time will be granted and all late submissions will be disqualified.

All submissions must be hand delivered to the City of Cape Town Offices and placed in the tender box prior to the closing date and time. No posted, e-mailed or faxed submissions will be considered.

11. REGISTRATION OF CONTACT DETAILS

This Tender document will be distributed via the website (www.capetown.gov.za) and email. Bidders are advised to please ensure that you register your contact details with Mr. Danie Malan (danie.malan@capetown.gov.za) as soon as you download the documentation and are interested in responding to the Tender. Failure to do so will not disqualify you from consideration, however, failure to provide an email address could compromise the distribution of relevant information prior to the closure of the tender.

12 ASSESSMENT CRITERIA

Your proposal will be evaluated in terms of the following criteria.

CRITERIA	%
1. Track record, Company Background and Experience	25
2. The quality and experience of the team that will work on the project	15
3. Economic empowerment of historically disadvantaged individuals	10
4. Estimated Bottom line calculation, rationale and fee proposal	35
5. Methodology for structuring sponsors' packages and securing sponsors as indicated in The Brief.	15
TOTAL	100

13. ENQUIRIES

Written enquiries, preferably by email, before 29 January will be answered in writing before 5 February, and enquiries before 15 February will be answered by 22 February after which no further correspondence will be entered into. All enquiries should be addressed to:

Danie Malan

Fax: +27 (0)21 400 4854

Email: danie.malan@capetown.gov.za

Annexure B

13. CONDITIONS PERTAINING TO TARGETED PROCUREMENT (MAJOR CONTRACT (Over R2 000 000))

1. DEFINITIONS

“Historically Disadvantaged Individual (HDI)” means a South African citizen -

- (1) who, due to the apartheid policy that had been in place had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa 1993 (Act No. 200 of 1993) (“the Interim Constitution”); and/or
- (2) who is a female and/or
- (3) who has a disability;

Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not be an HDI;

“Management” in relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not the person is a director;

2. TENDER ADJUDICATION

The City may, before Tenders are considered for acceptance, examine and take into account the following, although not limited thereto:

- the financial standing of Tenderers, including their ability to furnish the required Surety, where applicable,
- the Tenderers’ good standing with the City,
- the Tenderers’ ability to fulfill their obligations in terms of the Tender documents.

The remaining responsive Tenders shall be adjudicated according to the following as applicable:

- Tender price (corrected if applicable and brought to a comparative level where necessary),
- the unit rates and prices,
- any qualifications to the Tender,
- the Tender ranking obtained in respect of Preferential Procurement as required by the City’s Procurement Policy,
- Any other criteria specified in the Tender documents.

Adjudication using a Points System

2.1 Responsive tenders will be adjudicated by the Employer using a system which awards points on the basis of:

- the tendered price (Np)
- HDI percentage of ownership (Ng)
- Functionality (Nf)

The Employer will normally award the Contract to the Tenderer obtaining the highest number of points, but will not bind itself to do so.

Points Awarded to Price (Np)

2.1.1 A maximum of 40 points is allocated to Price on the following basis:

$$N_p = 40 \left(1 - \frac{P - P_m}{P_m} \right)$$

where NP = the number of tender adjudication points awarded for price
Pm = the price of the lowest responsive tender adjusted to a common financial base for comparative purposes, if applicable
P = the price of the responsive tender under consideration adjusted to a common financial base for comparative purposes, if applicable

Points Awarded in respect of the Status of the Enterprise (Ng)

2.1.2 A maximum of 10 (ten) points may be awarded to businesses.

$$N_g = a \left(\frac{\% \text{ HDI}}{100\%} \right)$$

- Ng = the number of tender adjudication points awarded for preference
- a - shall be applied to the value of work performed using Tenderer’s own employees (See HDI Participation Calculations attached)
- a = maximum of 10 points
- %HDI = the percentage of HDI equity ownership claimed by the Tenderer under consideration (see note below).

Note : The Tendered % contract participation goal shall be calculated using the Tendered values for the particular target group expressed as a % of the Tender sum less provisional sums, contingencies and VAT.

Points Awarded in respect of Functionality (Nf)

2.1.3 A maxim of 50 (fifty) points may be awarded to businesses

Nf = Total individual points for functionality

Nf = the number of tender adjudication points awarded for functionality

Total Tender Adjudication Points

2.6 The total number of tender adjudication points awarded (N), is the sum of:

$$N_p + N_g + N_f \text{ (not to exceed 100)}$$

Where a joint venture partnership Tenders as a prime contractor, the joint venture agreement must state the percentage of the contract value that will be managed or executed by the parties thereto. In this regard the adjudication points for HDI equity ownership in respect of the joint venture shall be calculated on the pro rata contribution of each of the parties to the joint venture partnership. Tenderers shall state on the Form of Tender the % contribution of each party to the Joint Venture.

Partner	% Contribution	Partner	% Contribution
_____	<input type="text"/>	_____	<input type="text"/>

The equity ownership must be equated to the percentage of the enterprise or business owned by HDI individuals or, in respect of a company, the percentage of a company's shares that are owned by HDI individuals, who are actively involved in the management of the enterprise, or business and exercise control over the enterprise commensurate with the degree of ownership at the closing date of the Tender.

Penalties

Failure by the Contractor to honour undertakings given or stated by him in his Tender pertaining to Affirmative Action and Preferential Procurement shall be a reason for termination of this contract by the Council.

Where a Contractor is found guilty of misrepresenting any facts in respect of ownership, either in a Tender submission, or on the City's database, in order to effect the outcome of a Tender, either before or after the award of a contract, then that contract shall be blacklisted for a period of twelve months. The affect of such blacklisting is that no further work will be awarded to the contract for the duration of the blacklisting.

The penalty that should be applied for non-compliance with Tendered goals is as follows:

$$\text{Penalty} = \frac{(N_g - N_g^*)}{100} \times P_t^*$$

Where: N_g = the number of Tender adjudication points awarded for preference.

N_g^* = the number of preference points achieved, that is, preference points calculated in terms of actual goals achieved in the performance of the contract.

P_t^* = Tender sum less provisional sums, contingencies and VAT.

Once a Tender has been accepted the %HDI equity ownership claimed becomes the contractual goal to which contractors must comply. This in effect prevents a prime contractor with a high %HDI ownership from sub-contracting out work to sub-contractors with little or no %HDI ownership, as the prime contractor will then be unable to meet the contractual goal.

**14. CONTRACT PARTICIPATION DECLARATION IN RESPECT OF HDI OWNERSHIP
 (MAJOR CONTRACTS)**

I/We declare our total tendered participation goal in respect of HDI equity ownership is%
 and hereby claim the applicable adjudication points.

I/We understand that I/we may achieve the Tendered Participation Goal in respect of HDI equity
 ownership:

**(Indicate by inserting a x in the relevant box below) Please note that the calculations
 attached to the Conditions Pertaining to Targeted Procurement must be completed.**

By virtue of my/our HDI ownership percentage as a Prime Contractor

By virtue of my/our HDI ownership percentage in a Joint Venture Partnership

By awarding contracts to HDI sub-contractors

Note: Contributing proportionate values may only be claimed once (i.e. either as part of the prime
 contractors contribution or as part of the sub-contractor's, supplier's, manufacturer's, service
 provider's contribution).

Tenderers are required to be registered and verified on the Western Cape Supplier Database (WCSD) prior to
 tenders closing in order to qualify for preference points. The Employer will verify the HDI equity ownership
 percentage claimed by the tenderer against that given on the WCSD. If any discrepancy exists, the employer
 shall use the percentage given on the WCSD, in the formula above, to calculate the number of preference
 points achieved by the tenderer.

All parties to the Joint Venture Partnership must be registered and verified on the Western Cape Supplier
 Database prior to the closing of the tender to qualify for preference points.

The Joint Venture Agreement must be submitted with the tender document detailing the split of responsibilities
 in terms of the tender specifications, ie: percentage of work to be performed by each partner. All parties to the
 Joint Venture Agreement must be registered and verified on the Western Cape Supplier Database. Only
 those that are registered and verified before the closing date of the tender will qualify for preference points.
 The Joint Venture Agreement must stipulate the partner selected for the financial administration in the event of
 the Joint Venture been considered successful.

Partner and HDI status	% Contribution	Partner and HDI status	% Contribution
	<input type="text"/>		<input type="text"/>

SIGNATURE OF TENDERER: _____ **DATE:** _____

HDI CONTRACT PARTICIPATION CALCULATION

1. SUMMARY HDI CONTRACT PARTICIPATION PERCENTAGE

Complete the following in respect of each selected method:

1.1 Method #1: by virtue of my/our HDI ownership percentage as a prime Contractor

% HDI Ownership% (A)

Percentage of work using own employees and resources% (2)

$$\frac{(A) \times (2)}{100}$$

.....% (3)

1.2 Method #2: by virtue of my/our HDI ownership percentage in a Joint Venture partnership

Name of JV partner	% HDI ownership (B)	Percentage of work performed by each partner using own employees and resources (excluding subcontractors) (C)	% HDI equity ownership $\frac{(B) \times (C)}{100}$
	%	%	%
	%	%	%
	%	%	%
	%	%	%
Total towards participation %			% (4)

1.3 Method #3: by awarding contracts to HDI sub-contractors, suppliers, manufacturers and service providers

HDI Subcontractor, etc.	% HDI ownership (D)	Percentage of work undertaken (E)	% HDI equity ownership $\frac{(D) \times (E)}{100}$
	%	%	%
	%	%	%
	%	%	%
	%	%	%
	%	%	%
Total towards HDI participation %			% (5)

2 TOTAL CONTRACT HDI PARTICIPATION PERCENTAGE

Total for Method #1 (refer 1.1)% **(3)**
OR
Method #2 (refer 1.2)% **(4)**
AND/OR
Method #3 (refer 1.3)% **(5)**

TOTAL HDI CONTRACT PARTICIPATION
PERCENTAGE CARRIED TO CONTRACT
PARTICIPATION DECLARATION ATTACHED

.....%

TENDERER'S SIGNATURE: _____

DATE: _____

Annexure D

**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

15. OCCUPATIONAL HEALTH AND SAFETY ACT 1994 (Act No 85 of 1993)

TO BE COMPLETED AND SIGNED BY ALL MANDATARIES

NOTE : Section 1 (1)(XXVIII) of the Act defines a “mandatary” as including an Agent, a Contractor or a Sub-contractor.

AGREEMENT MADE AND ENTERED INTO BETWEEN

CITY OF CAPE TOWN
(hereinafter referred to as the “PRINCIPAL”)

and

.....
herein represented and duly authorised by its director/official(hereinafter referred to as the “MANDATARY”)

WHEREAS the Occupational Health and Safety Act No 85 of 1993, as amended, (hereinafter called the “ACT”) provides that the principal shall be accountable for the compliance and application of the provisions of the ACT and more specifically Section 37(2) of the Act, with regard to the execution of work of whatever nature by private independent contractor specifically engaged by the PRINCIPAL for the purpose;

AND WHEREAS the contractor, so engaged. (Hereinafter called the “MANDATARY”) is statutory compelled in its/his own right as employer, to comply with the obligations prescribed by section 37(2) and other provisions of the ACT applicable to his employees;

AND WHEREAS the PRINCIPAL, has in fact engaged the services of the MANDATARY on account of the fact that the PRINCIPAL is not in the position to execute the work departmentally resulting in the MANDATARY’s presence on site for the specific purpose of executing the work by means of his own employees and is bound therefore, to adhere to the obligations and provisions of Section 37(2) of the ACT;

AND NOW THEREFORE, the PRINCIPAL and the MANDATARY, hereby agree as follows:

1. The MANDATARY hereby unconditionally accepts the responsibility and accountability for the relevant work or contract in accordance with the provisions of Section 37(2) of the ACT.
2. The MANDATARY undertakes to take due care that all machines, equipment and implements are in approved good order and state of repair and shall be utilised by any employee in its/his employ in a manner which fully complies with any and all relevant provisions of the ACT.
3. The MANDATARY hereby unconditionally grants the PRINCIPAL indemnity against any and all claims and steps that may be instituted against the PRINCIPAL on account of non compliance with the provisions of Section 37(2) of the ACT and any other relevant provision thereof.

4. The MANDATARY, without encroaching upon the indemnity granted to the PRINCIPAL as per paragraph 3 hereof undertakes to inform the PRINCIPAL summarily should the MANDATARY at any time during the execution of the specific contract, for whatever reason find that he cannot comply with the provision of the ACT and afore-mentioned indemnity given to the PRINCIPAL or its/his inability to perform as per the Agreement or that compliance be detrimentally affected for whatever reason. In such an event the MANDATARY shall liaise with the PRINCIPAL, who however, reserves the right not to release the MANDATARY from the provisions of the Agreement between parties and the indemnity herein referred to unless otherwise agreed upon.
5. The MANDATARY hereby certifies that it/he has taken note of the addendums to this Agreement and unconditionally undertakes to comply with the provisions thereof, failing which it/he shall be fully liable for all consequential legal proceedings that may be instituted and indemnifies the PRINCIPAL against any action arising out of non compliance with Section 37(2) of the ACT.
6. The MANDATARY's sole responsibility in terms of this agreement terminates when the PRINCIPAL releases the MANDATARY from his obligations under the contract.
7. The MANDATARY undertakes to indemnify the PRINCIPAL in the same manner herein provided for, against any claims instituted on account of non compliance in terms of the ACT against subcontractors employed by the MANDATARY.
8. Appoint Mr/Mrs/Ms as our representative and the responsible person on site for the duration of my/our work on the premises of City of Cape Town in terms of Section 8(2)(i), GAR1, GSR 11, GMR 2 and EIR 4 & 5 of the Occupational Health and Safety Act.
9. Registration number with Compensation Commissioner:

THUS DONE AND SIGNED

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)
in the presence of the subscribing witnesses.

AS WITNESSES:

1
2
PRINCIPAL
(For and on behalf of
City of Cape Town)

THUS DONE AND SIGNED

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)
in the presence of the subscribing witnesses.

AS WITNESSES:

1
2
MANDATARY
(Contractor)

16. FORM OF INDEMNITY

THE CITY MANAGER
City of Cape Town

INDEMNITY

Given by(Name of Company)

of

.....

(registered address of Company) a company incorporated with limited liability according to the Company
Laws of the Republic of South Africa (hereinafter called the Contractor),

represented herein by

.....(Name of Representative) in his capacity as

.....(Designation) of the Contractor is

duly authorised hereto by a resolution dated
to sign on behalf of the Contractor.

WHEREAS the Contractor has entered into a Contract dated with the
Municipality of the City of Cape Town (hereinafter called the Municipality) who require this indemnity from
the Contractor for

NOW THEREFORE THIS DEED WITNESSES that the Contractor does hereby indemnify and hold harmless
the Municipality in respect of all loss or damage that may be incurred or sustained by the Municipality by
reason of or in any way arising out of or caused by operations that may be carried out by the Contractor in
connection with the aforementioned contract; and also in respect of all claims that may be made against the
Municipality in consequence of such operations, by reason of or in any way arising out of any accidents or
damage to life or property or any other cause whatsoever; and also in respect of all legal or other expenses
that may be incurred by the Municipality in examining, resisting or settling any such claims; for the due
performance of which the Contractor binds itself according to law.

SIGNATURE :

THUS DONE AND SIGNED for and on behalf on the Contractor

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)

in the presence of the subscribing witnesses.

AS WITNESSES:

1(Designation)

2(Designation)

20. CCTPF 005: Authorisation to deduct outstanding amounts - Ver 060612



Annexure F

To: THE CITY MANAGER, CITY OF CAPE TOWN

From: _____
(Name of Tenderer or Consortium)

17. AUTHORISATION FOR THE DEDUCTION OF OUTSTANDING AMOUNTS OWED TO COUNCIL

Extract from Supply Chain Management Policy, Section 51.1:

“The City Manager may reject the Tender or quote of any person if that person or any of its directors has:

51.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months; ...”

I, THE UNDERSIGNED,

_____,
(FULL NAME IN BLOCK LETTERS)

hereby authorise the City of Cape Town to deduct the full amount outstanding by the business organization / Director, shareholder, partner, etc from any payment due to us / me.

.....
Signature

THUS DONE AND SIGNED for and on behalf on the Tenderer / Contractor

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)

in the presence of the subscribing witnesses.

AS WITNESSES:

1 Name in Block Letters:
(SIGNATURE)

2 Name in Block Letters:
(SIGNATURE)



Annexure G

To: **THE CITY MANAGER, CITY OF CAPE TOWN**

**18. CERTIFICATE FOR MUNICIPAL SERVICES
AND PAYMENTS TO SERVICE PROVIDER**

Information required in terms of the City's Supply Chain Management Policy, Clauses 51.1 and 111.2

**TENDER : 274S/2007/08:
APPOINTMENT OF A MARKETING SPECIALIST FOR THE NAMING RIGHTS FOR THE NEW GREEN POINT
STADIUM, CAPE TOWN**

NAME OF THE BIDDER:

FURTHER DETAILS OF THE BIDDER/S; Proprietor / Director/s / Partners, etc:

Physical Business address of the Bidder	Municipal Account number(s)

If there is not enough space for all the names, please attach the additional details to the Bid Document

Name of Director / Member / Partner	Identity Number	Physical residential address of Director / Member / Partner	Municipal Account number(s)

I, _____, the
undersigned,
(full name in block letters)

certify that the information furnished on this declaration form is correct and that I/we have no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.

Signature
THUS DONE AND SIGNED for and on behalf on the Bidder / Contractor

at _____ on the _____ day of _____ 20_____
(PLACE) (DATE) (MONTH) (YEAR)

Please Note:

Even if the requested information is not applicable to the Bidder, the table above should be endorsed Not Applicable and THIS DECLARATION MUST STILL BE SIGNED