



TENDER NO. 04 – 2024/2025

**Preparation of Mbabane
Town Planning Scheme and Inner-City Urban Design Framework**

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Eswatini**

MBABANE MUNICIPALITY

TENDER NO 04-2024/2025 FOR THE PREPARATION OF MBABANE TOWN PLANNING SCHEME AND INNER-CITY URBAN DESIGN FRAMEWORK

1. PREAMBLE

The Municipal Council of Mbabane (MCM) requires a competent, experienced, and reputable consultant to undertake the preparation of the new Mbabane Town Planning Scheme and the Inner-City Urban Design Framework. These planning documents are separate but are intricately inter-twined. The current Mbabane Town Planning Scheme 2016-2026 will soon lapse and therefore there is a need for a new Scheme which will become effective for the next 10 years from the lapse of the current scheme.

As a result of socio-economic factors, the city of Mbabane in particular the Central Business District and the areas around it, have experienced since the 1980s, stagnant growth, lack of available vacant plots for new developments, urban blight, and general urban decay. This phenomenon has further led to an exodus of corporate businesses and state-owned entities to migrate to other newer towns where vacant land is available for establishing their corporate headquarters. Council seeks to prepare a strategic document to further focus on the revitalization of the CBD and its immediately surrounding zones being the inner-city urban design framework which largely comprises of the commercial, light industrial, recreational and public facility zones.

The MCM is embarking on a public procurement process of searching for an eligible legal entity with experience in the development of town planning schemes and urban design frameworks.

2. TERMS OF REFERENCE

a. About the Municipal Council of Mbabane

The Municipal Council of Mbabane (MCM) is an organ of the Kingdom of Eswatini. Its operations are clearly spelt out in the Urban Government Act No. 6 of 1969. The Municipal Council of Mbabane is an ISO 9001:2015 compliant organisation whose operations are guided by a couple of legislations and key strategies such as the Integrated Development Plan, the Town Planning Scheme and various other strategies and plans, all of which are largely dependent on stakeholder and residents' inputs. The Municipal Council of Mbabane at its top management structure is Council which is made of 12 elected Ward Councillors and the Executive Management led by the Chief Executive Officer.

b. The need for a new Town Planning Scheme

The preparation of the Town Planning Scheme is a legislative required hence the need to prepare the scheme which must be compliant. The Town Planning Act, No. 45 of 1961 states that for every local authority established in terms of the Urban Government Act, No. 6 of 1969, there shall be a town planning scheme developed and approved by the Minister responsible for local government affairs. Town Planning Scheme's in terms of the law have a fixed period of operation and the law provides for interim reviews and scheme amendments, whilst new schemes are developed once the period of operation lapses. According to Section 21 of the Town Planning Act 1961, an approved scheme may be varied, modified or revoked and Section 21(4) provides that every approved scheme shall be reviewed periodically at intervals of not more than 5 years. The current scheme has not been reviewed since its approval in 2016.

Notwithstanding the legal requirements, MCM has found it necessary to prepare a new TPS that will address the current city challenges and operational challenges of the existing TPS.

c. Purpose of the Town Planning Scheme

The purpose for the town planning scheme is to ensure co-ordinated and harmonious development of the urban area or other area, including where necessary the identification of new growth areas, new spatial development opportunities, reconstruction and redevelopment of any part of the City. The scheme will effectively promote transportation connectivity with new and existing proposals, good public health through land use management, amenity, convenience, general public welfare, as well as efficiency and economic growth in the process of spatial developments.

d. Structure of the Town Planning Scheme per the Town Planning Act, 1961

The Town Planning Scheme process and operationalization is guided by the Town Planning Act, 1961. Over the years, the process has evolved culminating with a multi-faceted document that comprises of four (4) interlinked components. The Town Planning Scheme components is comprised of: –

- The Background Study,–
- The Structure Plan,–
- The Development Plan,-
- The Development Code,-

The above becomes the bear minimum documents considered by the Town Planning Board in to receive approval of the Scheme.

Over and above the above, Council seeks to have a Scheme that addresses a multiple problems and challenges faced by the city regarding urban planning.

The need for the Inner-City Urban Design Framework

As mentioned in the Preamble socio-economic factors have impacted on growth of the Central Business District and the areas around it. These areas have experienced

since the 1980s, stagnant growth, lack of available vacant plots for new developments, urban blight, and general urban decay. This phenomenon has further led to an exodus of corporate businesses and state-owned entities to migrate to other newer towns where vacant land is available for establishing their corporate headquarters. Council seeks to prepare a strategic document to further focus on the revitalization of the CBD and its immediately surrounding zones being the inner-city urban design framework which largely comprises of the commercial, light industrial, recreational and public facility zones.

The objectives for preparing the Inner-City Urban Design Framework are to

1. Ensure easy and efficient movement of people and vehicle traffic between the precincts of the inner-city by ensuring appropriate connectivity between the precincts, ensuring that opportunities and amenities are accessible. Ensure that satellite bus ranks are proposed, alternative transport modes are addressed.
2. To address the issue of undesirable existing land uses within the inner city and make appropriate proposals.
3. To clearly provide zoning parameters and regulations for the inner city.
4. To provide architectural guidelines for the building design in the inner city.
5. To address street level urban design taking into consideration various street users such as pedestrians, disabled persons, children and the elderly.
6. To provide for the usage of street art, street furniture, walking trails, outdoor advertising and advertising on innovations, monuments and wifi connectivity zones and pictorial artistic features zones to capture locals and tourists.
7. Ensure that the inner city including the CBD and Government precinct retains its national status as the Capital City of the country and thus re-attracts new modern developments into the inner city.
8. That the proposals for redevelopment of the bus rank, old bus rank, coronation park, prince of wales, golf course are incorporated and clearly articulated through a clear development proposal for these areas.

9. Ensuring that the inner-city re-promotes development intensity, diversity, high-rise, and adaptability to modern times. Building re-purposing strategies will be key to ensure adaptability is achieved.
10. Ensure that informal businesses (informality) are addressed and that development should recognise and respond appropriately to informality through various interventions such as development of designated zones for trading etc. Encourage synergies between the formal and informal businesses.
11. Address the issue of pedestrianisation of certain streets where necessary and applicable.
12. Address and incorporate proposed developments on major developed and undeveloped properties within the inner city.
13. Ensure that developments protect, and enhance the usage of the natural environment, existing recreational facilities through sustainable urban design.
14. Ensure that heritage sites and monuments and unique identities of the inner-city are protected and promoted for social and economic gains.
15. Ensure that developments contribute positively to the urban structure of the city in order to create integrated and legible places.
16. Ensure the inner-city business community and property owners are engaged and have a solid buy-in to the proposals for the redevelopment of the inner-city.
17. Ensure that Business hour operations, Parking and Densification (high densities and high rise buildings regulations) are addressed so that the city can realise a 24-hour city.
18. Ensure that developments contribute to improved quality of the public realm and public spaces.
19. Ensure that developments contribute to the creation of safe and secure environments within the inner-city.
20. To address the proposals for relocation and redevelopment of certain strategic facilities in the study area
21. To address the under utilisation of the main rivers and open spaces in the city centre

22. To link development proposals with the town planning scheme
23. To address the detailed development master planning of the coronation park and pince of wales.

The ultimate objective of the inner-city urban design framework is to ensure the revitalisation of the various areas of the inner-city including the CBD, industrial, government, and recreational areas and to link the framework with the town planning scheme.

e. Problem Statement

The MCM strives to ensure that compliance with the Town Planning Scheme is achieved both from a development control and spatial development perspective. However, the MCM has over the implementation of the current Scheme found that there are challenges in the implementation process which made facilitation of development challenging. Some of the challenges faced by the City in terms of the Scheme, are addressed in the objectives above. In addition to the above, the current Scheme has a number of challenges which need to be resolved through the new Scheme such as the following:

- The current Scheme contains restrictions that have resulted in operational challenges in enforcement of development control. These require review to allow for more flexibility taking into consideration the current and future situations of the state of development of the city and urban planning trends.
- The subdivision of land and provision of right of ways needs to be reviewed. Currently, the City has a number of challenges brought about by subdivisions and right of ways, and the scheme needs to provide for clear means of how to handle these applications going forward. There must detailed regulations and procedures for management subdivisions and right of ways.
- The processes of the Scheme are too lengthy and discourage developers.
- The scheme does not address laws such as the Sectional Titles Act and Human Settlement Authority applications in terms of how Council should be dealing with such applications.
- The Scheme was prepared without a comprehensive city-wide surveys and data capturing and analysis. The scheme was prepared with mainly desktop

and secondary information that was regurgitated from previous studies and reports. There was lack of original reliable data collection, analysis and creation of new baseline information for the city across the many data spectrums of the city. There was further a lack or basic of usage of GIS for the data creation and analysis.

- The Scheme does not address how Council should deal with applications for rezonings in the event the application or property is owned or initiated by the Council. The current processes assume that application will only be made by external parties.
- The scheme does not have a live or systematic means or tools for updating applications and changes and conditions issued to applications. The current filing and records keeping needs to be improved in order to have a live reliable system and such as system needs to link with the GIS and or information system of Council.
- Zoning Map
 - The current Zoning map is not up to scale and requires to be aligned with Council's Cadastra, as well as existing land uses. There are no clear provisions for Scheme amendments. Scheme amendments such as Rezoning, Special Consent Applications, Variations, need to be reviewed. The current zoning map provides a blanket zoning to most townships, whilst there are land uses on the ground that have been existences for years.
- Harmonization of Conflicting Land uses
 - Careful consideration of land uses permitted in each zoning is requested. This includes ensuring land uses permitted by Council's special consent are in harmony with uses permitted by right. Developing trends of implementing the development code of the Town Planning Scheme must be considered.
- Harmonization with valuation roll (currently being prepared)
 - The Mbabane Valuation Roll is reviewed every 5 years. The review of the roll includes updating land use status, ownership, zoning etc. Therefore, the data must be aligned to the active zoning map, and provisions of the Scheme.
- Inaccuracy: Conflicting zoning of plots within the municipality management system. E.g., the Valuation Roll property zoning showing a different plot zone with the current Town Planning Scheme or Development Code.

- Delays in the processing of town Planning Applications: there are bottlenecks and the new scheme needs to processes more efficiently. Some of the recommendation must be statutory where Council will need to engage the Ministry of Housing and Urban Development regard the necessary reviews.
- The 2016 Scheme was prepared to be detailed enough in regulations of zoning categories, however a zoning map with cadastre was not included.
- Definitions in the Scheme need to be reviewed as some are ambiguous and outdated.
- Residents of the City have complained that during the last preparation of the Scheme, they were not directly involved and this has affected their property values when the new valuation roll was prepared based on the zoning of properties.
- The Scheme is of short-term nature (10 years).
- The new urban agenda and other United Nations Protocols such as Sustainable Development Goals (SDGs) have not been incorporated in the Scheme and sustainability practices are not in the scheme.

3. SCOPE OF WORK

The preparation of the Town Planning Scheme together with the supporting documents aims to achieve specific objectives which the consultant's final output must comply with as part of the mandatory measures of good performance by the consultant, which also forms part of the Scope of Work which is:

- 3.1.** To prepare a supplementary accompanying comprehensive report on the entire stakeholder engagement, communication, and visibility of the processes of the preparation and implementation of the Town Planning Scheme and Urban Design Framework. The objective of this report is ensure legislative compliance (Town Planning Act), and that thorough public engagement is done and evidence is kept. In the past Council has received negative feedback that stakeholder engagement was not done or visible, yet the document is very important for property owners. The report must be aligned with the stakeholder and communication plan that will be followed to ensure that effective and efficient communication and visibility of the

processes of the preparation of the documents. The stakeholder engagement plan that will be focused on community and stakeholder engagement and also media relations management. This plan will guide the convening of stakeholder meetings, including community meetings for purposes of external and internal information gathering and presentation of progress reports for inputs, objections, representations; attend meetings on agreement with the Project Steering Committee, including community and staff meetings and; consider and incorporate submissions into the Town Planning Scheme. This further includes documenting all stakeholder inputs and evidence of engagements which includes minutes, attendance registers, pictures etc. Throughout the project, run in consultation with Council, a consistent and strong public media relations and publicity campaign for the drafting and implementation of the scheme, this will include drafting of information sharing articles, infographic presentations, graphic design, adverts, public notices, drafting responses to the media, drafting pamphlets, drafting fact sheets and social media engagement content items;

- 3.2.** To give a coherent, spatial meaning and physical form to the new developed Integrated Development Plan (IDP) Vision and Mission of the Municipal Council of Mbabane. The IDP is the highest Strategic Planning document of the City and all Budgetary Provisions for strategic objectives, programmes and projects for 5 years are contained in the IDP and the Scheme needs to recognise these strategic objective, programmes and projects and ultimately, harmonise in the Scheme the relevant one's and further make relevant Scheme proposals that can be included in the IDP in the next review.
- 3.3.** To facilitate urban development of the Capital City in a transparent, structured, orderly, and coordinated manner, through guiding decision making for all levels within Council and further to guide residents and stakeholders on spatial development of the city for the duration of the course of the Scheme. The Scheme must have clear development control checks and balances, standards, principles, approach towards development, and regulations that will guide users of the scheme on spatial development of the

city. The current approaches must be thoroughly reviewed and benchmarked against international urban planning trends.

- 3.4.** To enhance the competitive advantage of the Capital City's commercial activities, tourism, social and recreational facilities. It is also to develop a well-defined, structured urban form, and to introduce clear approaches, frameworks for encouragement and management of mixed-use development zones and co-existence of formal and informal businesses within commercial and non-commercial zones. The current scheme does not clearly articulate how mixed-use developments can be encouraged and managed through land use change. The current scheme also does not address informal business land uses. The City has a big challenge regarding placement of vendors/informal businesses, and this must be clearly addressed in terms how, where should vendors/informality be placed within the formal areas including within the commercial zones of the inner city.
- 3.5.** To ensure climate change discourse is brought into the scheme by ensuring safeguards are in place for environmental protection and conservation for sustainable local area development and urban resilience, and to provide public open space management framework as well as green building frameworks are incorporated into the Scheme. The current Scheme does not have any provisions for climate change, smart cities, new urban agenda, sustainability, green building practices, urban resilience, circular economy, etc. Through the new Scheme, Council's objective is to bring in these global best practices to make them alive and realised in the City's physical development. The Development code needs to make provision for guidelines on the incorporation of water harvesting and, solar, solutions in developments e.g. residential or commercial. The Scheme must be accompanied with Implementation tools and Scorecards for these best practices and concepts to enable effective performance evaluation, monitoring and reporting.
- 3.6.** To provide clear, best, and maximum utilisation of land in the city. The city is currently facing challenges with high demand for new land parcels for proposed developments, yet land seems to be limited or occupied by wetlands, passive public open spaces, steep rocky slopes, mountains, old

government buildings and offices nearby the inner city, old commercial buildings, large tracks of plots of low density single family residential homes, parking requirements, informal residential areas, highway division, poor utilisation of prime land within the inner city etc. There is need to come up with an innovative, forward-looking framework that will ensure that the available land is utilised more efficiently going into the future. The Town Planning Scheme should also incorporate land banking, as per critical development needs in the urban area. This will ensure that prime land is secured and protected for future developments as informed by projections on future growth of the urban area. Identification of such land can also be done from assessing land parcels that area underutilised yet have the potential for development. Desktop study on assessing land ownership and developed or undeveloped land parcels.

- 3.7.** To ensure that the stakeholders and residents are thoroughly and evidently engaged in the shaping of the spatial development and future growth of the Capital City. Council will require a stakeholder engagement plan and a report of evidence of engagement of residents and stakeholders. Council is currently facing numerous complaints from stakeholders and residents that the current Scheme was prepared without their inputs; hence they were not aware of zoning changes which are now impacting on their property valuations. To close this gap, Council has resolved to have a comprehensive stakeholder engagement process to ensure that the new urban planning framework is inclusive and bottom-up driven. The scheme must provide a statutory and operational basis for public involvement in the processes of the review of the scheme. The consultant is expected to conduct a thorough stakeholder engagement process in various engagement mediums.
- 3.8.** To assess all current and future infrastructure and service's needs of the city taking into consideration current demands and current levels of service. The scheme should come up with a city infrastructure master plan that will guide capital investment programmes for the city. The infrastructure masterplan must come up with estimation of infrastructure and planning proposals, development cost, evaluation of financing options and phased project

implementation over the next few years. Phasing of infrastructure plan should be done according to priority, with assessment of key areas that will unlock development in the urban area.

- 3.9.** The Scheme must be intentional and not ambiguous about the creation of a conducive investment environment and creation of sustainable liveable environments within the city. The separationists and rigid zonal planning are the current planning regime of the existing scheme and there is a need to rethink how planning should be framed in order to create liveable spaces and further attract business into the city. An Exodus of Businesses study was undertaken by Council and the study has findings and recommendation that the new Scheme should consider in order to attract new businesses to establish in Mbabane and further to retain businesses in the city especially the large cooperate entities that seem to be migrating to Ezulwini Town. The scheme must be clear and intentional about identify areas to be prioritised for business establishment. Designation of business sites should cater for the different sectors, whether big or small scale, whilst looking into key growth enablers for the economy, e. g expansion of the industrial.
- 3.10.** To designate desirable land uses and provide clarity on what may or may not occur on a property and to provide guidelines and principles for discretionary approval of proposed land uses within the city that are not explicitly stated in the Scheme.
- 3.11.** To promote the certainty of land use which protects property values and creates investor confidence,
- 3.12.** To protect the amenity of adjacent land uses and to provide a clear framework for co-existence of different incompatible uses at times within properties (plots), same buildings/developments, and in general within townships.
- 3.13.** To enable the efficient movement of persons and goods. Transportation issues and planning must be incorporated in the scheme. The scheme must come up with new proposals for improving connectivity (linkages of different areas/new road connection and upgrades proposals) within the city. There exists a need to deal with traffic congestion within the

inner city and to identify land for truck stopovers and satellite stopovers for public transport vehicles in order to create efficient movement of goods and persons. The Scheme must address these challenges. Transportation planning in the city should be smarter and promote a green urban environment with less carbon emissions. The transportation network must incorporate designs that will also include cycling, walking and jogging lanes in the city. Linkages in the city should also create an enabling environment for economic activity in the city.

- 3.14. To promote the local city economy. Council has Local Economic Development priorities, and the Scheme must be alive to these challenges to be seen promoting all economic sectors. Through the neighbourhood commercial zoning district, the designation of specific economic sites within townships can also encourage Local Economic Development activity through empowerment of residents within the different townships.
- 3.15. To protect natural resources including biodiversity and ecosystems.
- 3.16. To protect unique areas or features of the Capital City such as monuments, heritage building and cultural and sacred sites, tourist sites and many more.
- 3.17. As outlined above in the subject topic: **The need for the Inner-City Urban Design Framework**, the scope of the work includes the development of the inner-city urban design framework. This framework is a sub-output of the main town planning scheme which zooms into the finer details of planning of the inner city of Mbabane which includes the currently defined Central Business District and surrounding areas. Council has realised that the areas around the CBD have changed in character over the years. Some of the areas have also not seen much growth and some have regressed as the buildings are now old and unattractive for commercial use. These buildings include those in Betfusile Street, Mdada Street, Dzeliwe, Msakato Street, Zwide Street, Gwamile Street, Shiefeld Road and around the Swazi Plaza, to mention but a few areas with no significant development over the past years. It is against this backdrop where Council would like to be intentional about re-igniting development of the inner city and the consultant is expected to

provide detailed urban design framework with a newly defined Inner-city demarcation that will be used for a focus area for promotion, redefining, re-characterisation, redevelopment, renewal and development. This scope of the consultant will further deal with addressing issues of accessibility, transportation, legibility, create an environment that fosters property owners to redesign, redevelop, revamp, re-purpose their properties in to fulfil the new visions of the inner-city precincts as to be defined/demarcated by the consultant. Address issues of spaces for informal trading, parking, pedestrian walkways, street art and furniture, arts and culture, sports and recreation, pedestrianisation of streets, and tourism. It should also address issues of landscaping, security, recreation, connectivity, address issues of mixed uses and bring about a night life vision for the inner city(the framework should identify and clearly define distinctive and unique spaces that can be utilised as public realms within the urban area which purposely connects pedestrian movement and invite activity). Currently, the inner city is a place that “sleeps”, there is no 24-hour city element and this affects tourism and businesses. The framework must be consulted with the property owners of the defined inner city to get buy-in as the success of the development proposals from the framework lies with the property owners’ investments.

- 3.18.** To protect cultural resources and places of religious and cultural significance.
- 3.19.** To manage land use changes through appropriate review and redesign of existing processes.
- 3.20.** To provide a means and procedures of enforcement of the scheme including punitive measures associated with contraventions of the scheme.
- 3.21.** To ensure the preservation of land for longer-term uses.
- 3.22.** To provide for the foundation on which other Council strategies, policies and plans are based on.
- 3.23.** To ensure that there is direct linkage with the municipal valuation roll processes in terms of land categorisations by land use and zoning and linkage/uploading of new files the Municipal GIS system.

- 3.24.** To identify areas of opportunities from external factors that may influence the city's growth dynamics, direction, property values, infrastructure provision, and development potential. The city has a plan for expanding the boundaries of the city into the peri-urban areas and this together with other external factors needs be articulated in the Scheme to provide Council clear opportunities presented by the external factors.
- 3.25.** To create a "5minute city" environment within the urban area in particular within the Inner City. Through the scheme, this concept will encourage the development of mix land uses that promote proximity to residential apartment, public facilities and services by creating an urban environment that integrates movement networks and development. This would encourage prioritisation of pedestrian movement to encourage a healthy and safe society that is not dependent on private vehicles.
- 3.26.** Assessment on strengths, weaknesses, opportunities and threats for the urban area.
- 3.27.** In addition to the above, the Consultant must note that the preparation of the Mbabane Town Planning Scheme is a process centred around public participation with expert value addition from the consultancy team of experts. The Scheme is expected to bring together key aspects of the city's development including spatial, economic, social, environmental, infrastructural, and legal and global best practice considerations. This should take place in a way that enhances sustainable development through empowerment, growth and equity for the short, medium and long term. It will also guide spatial development of the city and the best and maximum use of all available land in the city going into the near future. The scheme should be further harmonized with key Council strategic document and mainly the new Integrated Development Plan which allocates the scarce resources of Council in order to ensure developmental imperatives are met in all the 12 wards of the City of Mbabane.
- 3.28. The scope of work is not limited to the above, but further entails the following:**

3.28.1. **Background Study:** The consultant will be expected to undertake a mandatory background study of the city. The background study must be comprehensive, all-encompassing to include a comprehensive land use analysis, land zoning analysis, land audit, land cover analysis, population and demographics, housing and property analysis, area analysis, commercial and industrial analysis, including small and informal business analysis, education, hospitality, informal and formal land. government, social and community sector analysis, church/mosque use of land analysis, social and recreational land use analysis, open spaces analysis, infrastructure analysis, transportation analysis, urban sociology analysis. Identify what's missing in the city analysis, financial resources analysis for the city, development constraints analysis, development opportunity analysis, political, economic, disaster management (DRR) analysis, environmental, social, legal, technological, institutional capacity and operational analysis, public participation and community engagement analysis, city communication with residents and stakeholder analysis, community and stakeholder engagement structures, analysis.

3.28.2. The background study stage shall not be limited to the above, but shall also include physical assessment, surveys, fresh data capturing and desktop reviews of all necessary documentation/studies/policies/strategies which include the following:

- The New 2024-2028 Integrated Development Plan (IDP)
- The Old 2019 – 2024 IDP and progress reports
- Sample of Planning Reports on Township, Rezoning, Special Consent, Variance, Home Office, Land Lease, Crown Land Disposal Applications.
- Smart City Framework of Council
- Customer Satisfaction Survey Reports
- Public Transport Strategy
- City Economic Development Strategy
- ISO9001 System and Procedures relevant to the Scheme.

- Annual Operating Plan
- Capital Improvement Plan
- Exodus of Business in Mbabane Study
- Climate Change Strategy for the City
- Infrastructure Maintenance Plan
- Public Transport Strategy Report
- State of the Environment Report
- Environmental Management Strategies
- Parks and Recreation Strategies
- Waste Management Strategy & bye-law
- Disaster Management by-law
- Municipality's Baselines studies and surveys
- Urban Upgrading Project Progress Reports.

All these documents will be made available to the consultant.

Structure Plan

3.29. Structure Plan - The objectives of the Structure Plan are to:-

- a) The structure plan needs to clearly express the vision of the town spatially which must also be guided by the organisations overall vision.
- b) Formulate a common vision for the local authority taking cognizance of the town's role with the national and regional context
- c) Facilitate and guide the implementation of capital and other future projects.
- d) Serve as an enabling framework to release the full developmental potential of the local authority.
- e) To form the basis for decisions regarding the allocation of development of land in terms of various land uses and activities.
- f) To form the basis of decisions regarding the future allocation of resources and the provision of service infrastructure.
- g) Bring about the creation of an environment, which is conducive to facilitating new investment, particularly housing delivery and job opportunities.
- h) Encourage and facilitate the development of self-sustaining communities within the local authority especially town boards.

3.30. Development Plan - The Development Plan should consider the following.

- a) A 10 year plan with short (3 year) medium (5 year) and long (10 year) goals, policies and development frameworks focused on promoting and guiding physical development for the local authority to implement.
- b) An analysis of the service and infrastructure developments that will be required in the LA for each planning period for the Council//Board to anticipate work with the Service provider.
- c) An analysis of impacts of the growth and development of the local authority.
- d) An implementation timetable and cost implications for the plan.

3.31. Development Code - The development Code should consider the following:-

- e) Establishment of a defined process of establishing new townships within the urban area in line with the existing legislation e.g. the Human Settlements Authority.
- f) Review the current land use categories and to bring them in line with the National Physical Development Code guidelines.
- g) Need to include a Clause in the Scheme to permit the scheme to be extended to incorporate areas, which maybe included when extending the urban boundaries.
- h) The need to accommodate “Existing Use Rights”
- i) Review the current parking requirements for the various land use categories. These requirements should be flexible enough to allow for negotiation when competing with other business nodes outside the urban area for new development.
- j) Protection of existing buildings – there is a need to be flexible to be able to permit minor alterations and changes of use before having to comply with the scheme.
- k) Include definitions or interpretations for land uses
- l) Review the range of plot sizes and investigate what minimum viable plot size can be permitted.
- m) Review the plot coverage schedule.

3.32. Develop a draft of the different output documentation and mapping of the Town Planning Scheme and present it to Council and the Ministry of Housing and Urban Development at a strategic planning meeting to be held on a different date to be agreed upon for the duration of the project until Council and the Town Planning Board has approved the Scheme.

3.33. Facilitate fully Council’s spatial planning workshops to be held at external venues outside or within Swaziland, for management, executive committee, Rate Payers Association, Local Community Committees, and Councillors separately.

- 3.34.** Preparing the workshop programmes.
- 3.35.** Providing a record of the proceedings of the workshops;
- 3.36.** Preparing a full report of the workshops;
 - 3.36.1. Incorporate all deliberations and resolutions reached at the workshops into the Final Draft of the Town Planning Scheme to be submitted to Management and Council by the end of Work Plan of the Preparation of the Scheme.
 - 3.36.2. The Town Planning Scheme which will have the following minimum components to it;
 - 1. The Background Stud
 - 2. The Structure Plan,-
 - 3. The Development Plan,-
 - 4. The Development Code,-
 - 5. The Inner City Upgrading and Urban Design Framework
 - 6. The Stakeholder Engagement and Media Relations Management Report with Annexures of Evidence of Engagement and Information and Educational Materials
 - 7. Geographic Information System alignment and Files Incorporation

4. INFORMATION REQUIRED FROM TENDERERS

Council will require the tenderers to submit the following information alongside the tender documents:

4.1. CRUCIAL DOCUMENTS AT TENDER OPENING

At tender opening the Council will consider the following:

1. Certified copy of Certificate of Incorporation or equivalent.
2. Certified copy of Current Form J and form C or equivalent;
3. Certified copy of Valid Trading License or equivalent;
4. Original Valid Tax compliance certificate or equivalent.
5. Certified copy of Labour Compliance Certificate or equivalent
6. Certified copy of Eswatini National Provident Fund certificate or equivalent
7. Copy of Valid Police Clearance of Company Directors
8. Copy of Tender Receipt or proof of EFT payment

NOTE: The above stated documents must be submitted in a separate envelope for clear identification.

4.2. RELEVANT EXPERIENCE OF FIRM/CONSULTANT/JOINT VENTURE

The consultant must submit the following key information:

1. Number of Completed Projects for Towns/Cities or private entities within the last 10 years (projects done before 2014 do not count) for project costs of more than E500,000 (projects below this threshold do not count), for the Preparation of the following types of Documents:
 - a. Town Planning Schemes
 - b. Local and Regional Spatial Development Frameworks

- c. Land Use Management System/Schemes.
2. Number of Completed Projects for Towns/Cities or private for the Preparation of the following types of Plans:
 - a. Transport Master Plans
 - b. Public Transport Strategies
 - c. Urban Roads Designs
 - d. Connectivity Roads and Transportation Plans
 - e. Pedestrianization and Cycling Transportation Strategies
 3. Number of Completed Projects for Towns/Cities for the Preparation of the following types of Plans:
 - a. Urban Renewal Projects
 - b. Urban Design Frameworks
 - c. Urban Design Master Plans
 - d. Precinct Plans
 4. Number of Completed Projects for Towns/Cities for the Preparation of the following types of Plans:
 - a. Strategic Environmental Assessment
 - b. Environmental Audit
 - c. Climate Change Strategies
 - d. Green Building Strategies and or Codes
 - e. Environmental and Social Management Plans and Strategies
 - f. State of the Environment Reports
 - g. Environmental Impact Assessments
 - h. Disaster Management Plans
 5. Number of Completed Projects for Towns/Cities for the Preparation of the following types of Plans:
 - a. Socio-Economic Surveys
 - b. Local Economic Development Strategies
 - c. Economic Development Strategies

- d. Field Data Collection, Data Analysis and Reporting
- e. Feasibility Studies
- f. Tourism Development Strategies
- g. Micro and Small Business Development Strategies

6. A detailed reference list stating the required information above to prove that the Consultant has undertaken work of similar nature per the criteria stated above must be submitted including the size (area of locality) of client, year of project, duration of project and the total cost of the work done must be clearly stated and submitted.
7. The reference list must be a detailed listing of a contact name, address and telephone numbers of at least five (5) years of clients who can be contacted in order to obtain a reference and verification.

8. Ownership of Consultancy

Ownership of the Consultancy firm shall need to be proven and or stated by way of producing relevant documents – Current Form J and Certificate of Incorporation. **Joint ventures and subcontracting may be considered but must be clearly stated. However, local content must be 51% or more.**

9. Qualification of Staff to be assigned.

Tenderers shall list all individual key professional expert that will be involved in this assignment and describe, in brief, their professional and academic background as well as their experience demonstrating their competence. The CVs will be evaluated to determine expertise of executing the respect work of their expertise within the project This will be in the form of CVs. For each of the key professional, to show evidence of qualifications, experience, and competence/certification, submit for each person the following:

1. Submit Comprehensive Curriculum Vitae (CVs) for each member of the team
2. Certified Copies Academic Certificates
3. Submit Valid Certified Copies Professional Body Certification/Membership and/or together with Letters of Good Standing if applicable (where the certificate does not indicate validity period).

4. EVALUATION OF TENDERS

- i. Council intends to award the contract on the basis of proven ability by the tenderer to carry out the assignment, a clear understanding of the issues, relevant experience, a rigorous approach to managing the collating of the available data and an ability to complete specific elements of the assignment on time.
- ii. The Evaluation Committee, appointed by the Client shall evaluate the proposals on the basis of the following factors and their weighting:

PRELIMINARY EXAMINATION

- a. **Preliminary Examination of Mandatory Documentation Required.** The Evaluation Committee will examine the minimum documentary requirements, to check **whether all the documents have been submitted**, signed and are in order in accordance to the Crucial Documents required at Tender Opening. The documents will be evaluated on a Yes/No Basis:

Below is the Tender Mandatory Documentation Submission Checklist

| No. | Documentation | Comply (YES/NO) |
|------------|---|------------------------|
| 1 | Original Valid Tax compliance certificate or equivalent; | |
| 2 | Certified copy of Valid Trading License or equivalent; | |
| 3 | Certified copy of Certificate of Incorporation or equivalent; | |

| | | |
|---|--|--|
| 4 | Certified copy of Current Form J and form C or equivalent; | |
| 5 | Certified copy of Labour Compliance Certificate or equivalent | |
| 6 | Certified copy of Eswatini National Provident Fund certificate or equivalent | |
| 7 | Copy of Valid Police Clearance of Company Directors | |
| 8 | Copy of Tender Receipt or proof of EFT payment | |

The Client/Purchaser/MCM reserves the right to reject any Proposal at this stage.

TECHNICAL EVALUATION

a. Key Professional Staff; Qualifications and Competence for the assignment (25);

For each of the key professional, to show evidence of qualifications, experience, and competence/certification, submit for each person the following:

- 1. Submit Comprehensive Curriculum Vitae (CVs) for each member of the team**
- 2. Certified Copies Academic Certificates**
- 3. Submit Valid Certified Copies Professional Body Certification/Membership and/or together with Letters of Good Standing** if applicable (where the certificate does not indicate validity period).

Below is the list of the minimum key experts required for this assignment.

| No. | Professional Staff Profile Required | Points |
|------------|---|---------------|
| 1 | <p>Team Leader – Professionally Registered Town Planner, or Civil Engineer or Architect.</p> <p>i. Town Planner as Team Leader must have Masters Level Qualification in Urban Planning (Msc/M./Mphil. Urban Planning/Town and Regional Planning)</p> <p>ii. Architect as Team Leader must have Masters Level Qualification in Architecture (MTech, Msc./March/Mphi Architecture)</p> | 6 |

| | | |
|----|---|---|
| | <p>iii. Civil Engineer as Team Leader must have Degree in Civil Engineering (Bsc/B.Eng Civil Engineering)</p> <p>iv. Team Leader must have at least 15 years work experience.</p> <p>v. Team Leader must be Professionally Registered with a Council for Registration of Professionals and must be valid and in good standing with the Council.</p> | |
| 2 | <p>* Urban Planner (BSc./B. Town and Regional Planning), with at least 10 years' work experience and professionally registered.</p> <p>(*Note the Team Leader and Urban/Town Planner cannot be the same person).</p> | 5 |
| 3 | <p>* Professionally Registered Civil Engineer (Bsc/B.Eng) with at least 15 years' work experience specialising in Building Construction, Urban Roads, Municipal Infrastructure, Transportation Infrastructure.</p> <p>(*Note the Team Leader and Civil Engineer cannot be the same person).</p> | 5 |
| 4 | <p>Communication and Public Relations Specialist with at least Degree in Public Relations or Marketing or Journalism.</p> | 2 |
| 5 | <p>Environmental Scientist with Degree in Environmental Science.</p> | 2 |
| 6 | <p>Geographic Information System Specialist or Land Surveyor with GIS Expertise. Degree in Geographical and or Earth Science Studies (BSc Land Survey or BSc/B. Geomatics/Geography or Bsc/B. GIS)</p> | 1 |
| 7 | <p>Urban Design Specialist with a Masters Degree in Urban Design</p> | 1 |
| 8 | <p>Property Law Specialist with a Degree in Law (LLB)</p> | 1 |
| 9 | <p>Property Valuer with a Degree in Property Studies (Bsc/B. Property Valuation/Land Economy)</p> | 1 |
| 10 | <p>Sociology and Statistics or Economic Expert</p> | 1 |

| | | |
|--------------|---|------------------|
| | Demographic and Economic Expert with a Degree in Urban Sociology or Statistics or Economics | |
| Total | | 25 Points |

(*Team Leader and Planner or Civil Engineer cannot be the same person).

b. Experience of the Consultant (Company/Joint Venture Experience) in Executing Projects of similar nature (25)

Specific experience of the tenderer related to the assignment is required. Below is criterion to be used to evaluate the consultant's experience in executing projects of similar nature.

| No. | Project Requirement Criterion | Points |
|------------|---|---------------|
| 1 | Number of Completed Projects for Towns/Cities or private entities within the last 10 years (projects done before 2014 do not count) for project costs of more than E500,000 (projects below this threshold do not count), for the Preparation of the following types of Documents: <ul style="list-style-type: none"> ▪ Town Planning Schemes ▪ Local and Regional Spatial Development Frameworks ▪ Land Use Management System/Schemes | 20 |
| 2 | Number of Completed Projects for Towns/Cities or private entities for the Preparation of the following types of Plans: <ul style="list-style-type: none"> ▪ Transport Master Plans ▪ Public Transport Strategies ▪ Urban Roads Designs ▪ Connectivity Roads and Transportation Plans ▪ Pedestrianisation and Cycling Transportation Strategies | 5 |
| 3 | Number of Completed Projects for Towns/Cities or private entities for the Preparation of the following types of Plans: | 5 |

| | | |
|---|---|---|
| | <ul style="list-style-type: none"> ▪ Urban Renewal Projects ▪ Urban Design Frameworks ▪ Urban Design Master Plans ▪ Precinct Plans targeting specific areas of a City/Town | |
| 4 | <p>Number of Completed Projects for Towns/Cities for the Preparation of the following types of Plans:</p> <ul style="list-style-type: none"> ▪ Strategic Environmental Assessment ▪ Environmental Audit ▪ Climate Change Strategies ▪ Green Building Strategies and or Codes ▪ Environmental and Social Management Plans and Strategies ▪ State of the Environment Reports ▪ Environmental Impact Assessments ▪ Disaster Management Plans | 5 |
| 5 | <p>Number of Completed Projects for Towns/Cities for the Preparation of the following types of Plans:</p> <ul style="list-style-type: none"> ▪ Socio-Economic Surveys ▪ Local Economic Development Strategies ▪ Economic Development Strategies ▪ Field Data Collection, Data Analysis and Reporting ▪ Feasibility Studies ▪ Tourism Development Strategies ▪ Mirco and Small Business Development Strategies \ | 5 |

Submit A detailed reference list stating the required information per work type category to proof that the Consultant has undertaken work of similar nature per the criterions stated above.

The letters from the institutions must be submitted to indicating the details of the engagement such as **project name, year of project, duration of project and the total cost of the work** done must be clearly stated and submitted. The reference list must be a **detailed listing of a contact name, address and telephone numbers of the clients** who can be contacted in order to obtain a reference and verification or confirmations.

c. Approach and Methodology (30);

Below is the evaluation criteria that will be used to evaluate the approach and methodology. The evaluation committee will be looking for details that the consultant intends to follow regarding the effective provision of the professional services required for the development of the Master Plan.

The approach and methodology must demonstrate a practical, logical, and feasible approach in carrying out the objectives of the project and scope of work as well clearly demonstrate that the consultant can fulfil the project deliverables and specific requirements of the project. It must creatively and effectively address public and stakeholder participation will be addressed throughout the project Addresses challenges or problems specifically related to the planning of the city of Mbabane and must achieve the project objective.

| No. | Scoring (for whole or each sub-element where applicable) | Maxium Points |
|-----|--|---------------|
| 1 | <p>Excellent = 30 points</p> <p>The project objectives and scope of work and all the important issues articulated in the terms of reference are undoubtedly unpacked one-by-one and clearly interpreted and understood. The approach is an innovative and efficient and is clear and logical, wholistic (brings all the various elements together), consistent and integrated manner such</p> | 30 |

| | | |
|---|--|----|
| | <p>that there is no doubt that the consultant understands the assignment requirements. The Consultant presents an outstanding technical knowledge and understanding of Mbabane's urban sociological, environmental and infrastructural dynamics. The proposed approach and methodology details ways to improve the project outcomes and the quality of the outputs. The proposed methodology unpacks how the phases of the project will be undertaken in order clearly come-up with the required outputs. The consults unpacks clearly an understanding of the gaps of the current scheme and how that can be improved through the new Scheme. The consultant understands that Council requires a scheme that will have supporting legal instruments and supporting plans such as the inner-city urban design framework and the zoning that will ensure real physical development of the City. The methodology and approach unpack how marketing, communication, stakeholder and community engagement issues will be management. The consultant demonstrates how community level engagement will be handled, mass public communication and direct engagement of affected property owners will be handled as well as how the evidence of the engagements will be handled. The approach and methodology also include understanding the inherent risks associated with a project with wide public interest and involvement and presents methods of addressing these risks as the project progresses in order to meet timelines.</p> | |
| 2 | <p>Good = 25 points</p> <p>The project objectives and scope of work and all the important issues articulated in the terms of reference are</p> | 25 |

| | | |
|----|---|----|
| | <p>understood. The consult touches on the elements to a fair degree of measure, but not exceptionally and comprehensively. The consultant demonstrates that they can deliver on the project with a standard and general approach and methodology. The consultant's output quality will be of acceptable standard, but not exceptional. The risk management approach is there but exceptionally demonstrating full appreciation and understanding of the nature of dynamics of the city of Mbabane.</p> | |
| 3 | <p>Acceptable = 20 points</p> <p>The approach and methodology is basic, generic and not necessary tailored to address the specific project objectives. The approach does not meaningfully deal with the critical characteristics, objectives and scope of work of the project. The risk management plan, stakeholder engagement plan and overall quality are basic and generic and do not demonstrate high level of technical application and expertise and understanding of the nature of the project and expectations.</p> | 20 |
| 4 | <p>Poor = 10 points</p> <p>The approach and methodology is there, but is poor, and is unlikely to satisfy the project objectives and scope of work. The consultant does not understand the issues articulated in the terms of reference and is clearly not experienced in the field of the project requirements. The consultant has misunderstood certain aspects of the terms of reference.</p> | 10 |
| 5. | <p>None-responsive = 0 points</p> <p>The is no clearly defined approach and methodology. There is</p> | 0 |

| | | |
|--|--|--|
| | no response that can be evaluated and the tenderer failed to address the methodology and approach in a manner that can be evaluated. There is nothing to evaluate. | |
|--|--|--|

d. Workplan and Timelines (5)

Consultants are to ensure that their Methodology and Work Plan is self-explanatory and **MUST** link the work plan to the Actual Staff Assigned. You must clearly show how each team member will contribute and the expected outcomes from each team member.

Below is an indication of how points will be awarded based on how well the Consultant presents the Project Management plan:

| | Criteria | Points |
|--|-----------------|---------------|
|--|-----------------|---------------|

| | | |
|---|--|---|
| 1 | <p>Workplan and Timeline</p> <p>The workplan supports the scope of work and effectively defines and leads to deliverables required, particularly those of the key stakeholders for the assignment:</p> <ol style="list-style-type: none"> i. The workplan supports the scope of work and effectively defines and leads to deliverables required, particularly those of the key stakeholders for the assignment (1) ii. The workplan is aligned and clearly linked with the Project Approach and Methodology (1) iii. GANTT CHART available that outlines all the expected activities, deliverables, considers periods for data gathering and analysis, public and stakeholder participation, workshops, meetings, corrections, presentations, public-advertising periods, approval stages, incorporation of comments/inputs per stage, risk factors etc. (1) iv. Table describing tasks, output and responsible professional expert and consolidation and quality controls of documentation. (1) v. The Proposed Timeline Presents a clear and feasible timeline within the proposed timeline by Council for completion of the assignment considering public and stakeholder participation, workshops, meetings, approval stages, incorporation of comments/inputs per stage, risk factors etc. (1) | 5 |
|---|--|---|

FINANCIAL EVALUATION

Financial proposal – the evaluation will follow a **Least-Cost Evaluation Method**. Only financial proposals of consultant's obtaining a minimum score of 80% will be considered.

Consultants are, therefore, required to ensure that the methodology and work plan is self explanatory, and you **MUST** link the work plan to the actual staff assigned. You must clearly show how each team member will contribute.

Please note: Financial proposals of firms whose technical proposals do not meet the required standard will not be opened and will be returned to the firm unopened.

5. PAYMENT SCHEDULE

The Consultant shall be paid as follows of the period of the contract duration:

- a. 10% upon submission and approval of the Inception Report and Stakeholder Engagement and Media Relations Management Work Plan
- b. 40% upon submission and approval of Background Study, Structure Plan, Development Plan, Development Code and the Inner City Upgrading and Urban Design Framework.
- c. 20% upon submission and approval of the 2nd Draft Consolidated Town Planning Scheme and the Urban Design Framework;
- d. 10% after the Management and Council retreat and Council Approval
- e. 20% after submission and approval of the Consolidated Volumes of Reports names the Town Planning Scheme, Inner City Urban Design Framework and Stakeholder Engagement Outcome Report by the Town Planning Board

Note: Approval means once comments have been addressed by each level of authority being Management, Council and the Ministry of Housing and Urban Development's Town Planning Board.

6. REPORTING ARRANGEMENTS

The consultant will work closely and report periodically to the Director of Community Services and when necessary to the delegated officials comprising of the project team.

7. TECHNICAL PROPOSAL

- a. In preparing the Technical Proposal, tenderers are expected to examine the Scope of Work in detail. Information deficiencies in providing the information requested may result in rejection of a proposal.
- b. While preparing the Technical Proposal, tenderers must give particular attention to the following:
 - Legally binding Joint Ventures are welcome, only with approval of the Client;
 - It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it;

8. FINANCIAL PROPOSAL

Financial proposals must be broken down for better understanding and consideration. They must include all costs e.g., VAT and Expressed in Emalangeni.

Quotations should be made on the understanding that no additions will be made on the grounds of price inflation or a failure to foresee the scope of work involved.

Please ensure that the financial proposal is itemised, clearly detailing costs for the following:

- ✓ Preparation of the Volumes of Documents Comprising the Town Planning Scheme and the Inner City Urban Design Framework
- ✓ Stakeholder Management Costs which also include Internal and External Meetings and Workshop costs

9. SUBMISSION OF PROPOSALS

Tenderers should address their technical and financial proposals **UNDER SEPARATE ENVELOPES** to the Chief Executive Officer by no later than **12noon**

(1200Hrs) on Friday the 24th MAY 2024. Any documents received after this date will be returned unopened to the tenderer.

SECTION 1. INSTRUCTIONS TO TENDERERS

1.0 Introduction

1.1 The Municipal Council of Mbabane now invites sealed Bids from Qualified Consultants to offer the above-mentioned services.

1.2 Cost of Tendering

The Tenderer shall bear all costs associated with the preparation and submission of his tender, and the Municipal Council of Mbabane, hereinafter referred to as 'the Purchaser', will not be responsible or liable for these costs, regardless of the conduct or outcome of the tendering process.

2.0 The Tender Documents

2.1 Content of Tender Documents

The goods required, tendering procedures and contract terms are prescribed in the Tender Documents. In addition to the Invitation for Tenders, the Tender Documents include:

- (a) Instructions to Tenderers;
- (b) General Conditions of Contract;
- (d) Terms of Reference
- (e) Tender Form;
- (f) Tender Eligibility Form;

2.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Documents. Failure to furnish all information required by the Tender Documents or submission of a tender not substantially responsive to the Tender Documents in any respect will be at the Tenderer's risk and may result in rejection of its tender.

3. Clarification of Tender Documents

3.1 A prospective Tenderer requiring any clarification of the Tender Documents may notify the Purchaser in writing or by facsimile at the Purchaser's mailing address indicated in the Invitation for Tenders. The Purchaser will respond in writing to any request for clarification of the Tender Documents which it receives no later than 7 days prior to the deadline for submission of tenders prescribed by the Purchaser. Written copies of the Purchaser's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Tenderers which have received the

Tender Documents.

Clarification requests must be sent in writing by electronic mail to the Client's address chaziled@mbabane.org.sz

4. Amendment of Tender Documents

- 4.1 At any time prior to the deadline for submission of tenders, the Purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, modify the Tender Documents by amendment.
- 4.2 The amendment will be notified in writing or by facsimile to all prospective Tenderers which have received the Tender Documents and will be binding on them.
- 4.3 In order to afford prospective Tenderers reasonable time in which to take the amendment into account in preparing their tender, the Purchaser may, at its discretion, extend the deadline for the submission of tenders.

C. Preparation of Tenders

5. Language of Tender

- 5.1 The Tender prepared by the Tenderer and all correspondence and documents related to the tender exchanges by the Tenderer and the Purchaser, shall be written in the English language, provided that any printed literature furnished by the Tenderer may be written in another language so long as accompanied by an English translation of its pertinent passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

6. Documents Comprising the Tender

- 6.1 The tender prepared by the Tenderer shall comprise the following components:
 - (a) A completed Tender Form and Price Schedule
 - (b) A completed Tender Eligibility form

7. Tender Form

- 7.1 The Tenderer shall complete the Tender Form and the Price Schedule furnished in the Tender Documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity and prices.

8. Tender Prices

- 8.1 The Tenderer shall indicate on the appropriate Price Schedule attached to

these documents the unit prices and total Tender Prices of the goods it proposes to supply under the Contract, including all customs duties, sales and other taxes payable on the goods if this Contract is awarded

- 8.2 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not be subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and rejected.

9. Tender Currency

- 9.1 The prices for goods and services to be supplied by the tenderer shall be quoted in Emalangeni

10. Tender Security

- 10.1 The Tenderer shall furnish, as part of its tender, a tender security/(ies) in the specified amounts.
- 10.2 The tender security is required to protect the Purchaser against the risk of Tenderer's conduct which would warrant the security's forfeiture.
- 10.3 The tender security shall be in Emalangeni, and shall be in one of the following forms:
- (a) A bank guarantee or irrevocable Letter of Credit issued by a bank located in the Purchaser's country or abroad but acceptable to the Purchaser, in the form provided in the Tender Documents or another form acceptable to the Purchaser and valid for 30 days beyond the validity of the tender
- 10.4 Any tender not accompanied by the bid security shall be considered as non-responsive and rejected by the Purchaser
- 10.5 The tender security of unsuccessful Tenderers will be discharged/returned as promptly as possible but not later than 30 days after the expiration of the period of tender validity.
- 10.6 The successful Tenderer's tender security will be discharged upon the Tenderer executing the Contract and furnishing the performance security if required.
- 10.7 The tender security may be forfeited:
- (a) if a Tenderer withdraws its tender during the period of tender validity specified by the Tenderer on the Tender Form; or
 - (b) in case of a successful Tenderer, if the Tenderer fails:

- (i) to sign the Contract; or
- (ii) to furnish the performance security if required.

11. Period of Validity of Tenders

- 11.1 Tenders shall remain valid for **120 days** after the date of tender opening prescribed by the Purchaser. A tender valid for a shorter period may be rejected by the Purchaser as non-responsive.
- 11.2 In exceptional circumstances, the Purchaser may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing (or by facsimile). The tender security shall also be suitably extended. A Tenderer may refuse the request without forfeiting its tender security. A Tenderer granting the request will not be required nor permitted to modify its tender.

12. Format and Signing of Tender

- 12.1 The Tenderer shall prepare one original and four copies of the tender documents, clearly marking each 'Original' and 'Copy', as appropriate. In the event of any discrepancy between them, the original shall govern.
- 12.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the Tenderer or a person or persons duly authorized to bind the Tenderer to the Contract. The latter's authorization shall be indicated by a written power-of-attorney accompanying the tender. All pages of the tender, except for un-amended printed literature, shall be initialled by the person or persons signing the tender.
- 12.3 The tender shall contain no inter-lineation, erasures or overwriting except as necessary to correct errors made by the Tenderer, in which case such corrections shall be initialled by the person or persons signing the tender.

D. Submission of Tenders

13. Submission of Tenders

The Municipal Council of Mbabane wants to provide all bidders with the opportunity to submit tenders in a safe, convenient and secure manner. Tenders should be submitted physically to Council Civic Offices within the stipulated deadline.

- i. The Technical and Financial Tenders must be attached in separate and clearly marked envelopes.
- ii. Tenders received beyond the stipulated date and time will be declined/rejected.

Tenders must be submitted physically to Council Civic Offices not later than 12noon (1200hrs), Friday, 24th May 2024 at which time the Tenders will be opened in public. Tenders will not to be opened before 12noon (1200Hrs), Friday, 24th May 2024. The Municipal Council of Mbabane reserves the right to accept or reject any tender without giving reasons thereof and does not bind itself to accept the lowest or any tender.

14. Deadline for Submission of Tenders

- 14.1 Tenders must be received by the Purchaser at the specified address no later than **12noon (1200Hrs) on Friday the 24TH MAY 2024..**
- 14.2 The Purchaser may, at its discretion, extend this deadline for submission of bids by amending the Tender Documents, in which case all rights and obligations of the Purchaser and Tenderers previously subject to the deadline will thereafter be subject to the deadline as extended.

15. Late Tenders

- 15.1 Any tender received by the Purchaser after the deadline for submission of tenders prescribed by the Purchaser, will be rejected and returned unopened to the Tenderer.

16. Modification and Withdrawal of Tenders

- 16.1 The Tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification or withdrawal is received by the Purchaser prior to the deadline prescribed for submission of tenders.
- 16.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions of Clause 16. A withdrawal notice may also be sent by facsimile but followed by a signed confirmation copy, post marked not later than the deadline for submission of tenders.
- 16.3 No tender may be modified subsequent to the deadline for submission of tenders.
- 16.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the Tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security.

E. Tender Opening and Evaluation

17. Opening of Tenders by Purchaser

(i) the purchaser will open technical proposals as per Public Procurement regulations 76 (1)-(10)

(ii) The purchaser will open financial proposals as per Public Procurement regulations 81 (1)-(8)

17.1 The Purchaser will open all tenders, in the presence of Tenderers' representatives who choose to attend, at the time and in the specified place. The Tenderers' representatives who are present shall sign a register evidencing their attendance.

17.2 The Tenderers' names, tender prices, modifications, tender withdrawals and the presence or absence of the requisite tender security and such other details as the Purchaser, at its discretion, may consider appropriate will be announced at the opening.

17.3 The Purchaser will prepare minutes of the tender opening.

18. Clarification of Tenders

18.1 To assist in the examination, evaluation and comparison of tenders the Purchaser may at his discretion, ask the Tenderer for clarification of its tender. The request for clarification and the response shall be in writing and no change in price or substance of the tender shall be sought, offered or permitted.

19. Evaluation of Tenders

19.1 Preliminary

The Purchaser will examine the tenders to determine whether they are complete, whether the required bid security has been furnished and whether the documents have been properly signed and a power of attorney attached giving authority to the signatory to sign the documents as well as whether the tenders are generally in order.

Prior to the evaluation of price, the Purchaser will determine the substantial responsiveness of each tender to the Tender Documents and a minimum of 70% should be achieved on technical evaluation to qualify for price evaluation of that proposal. For purposes of these Clauses, a substantially responsive tender is one which conforms to all the terms and conditions of the Tender Documents without material deviations.

Criteria for Preliminary Evaluation to determine substantial responsiveness

| No. | Documentation | Comply (YES/NO) |
|------------|--|----------------------------|
| 1 | Original Valid Tax compliance certificate; | |

| | | |
|---|--|--|
| 2 | Certified copy of Valid Trading License; | |
| 3 | Certified copy of Certificate of Incorporation; | |
| 4 | Certified copy of Current Form J and form C; | |
| 5 | Certified copy of Labour Compliance Certificate | |
| 6 | Certified copy of Eswatini National Provident Fund certificate | |
| 7 | Copy of Valid Police Clearance of Company Directors | |
| 8 | Copy of Tender Receipt or proof of Purchase / EFT payment | |

In addition to the above, the following will be checked:

| | |
|--|---|
| 1. Tender Validity: | Equal or longer than the specified 90 days period. |
| 2. Power of Attorney or Signing Authority. | Attached with tender documents, signed by Board of Directors and all tender documents pages initialed by authorized signatory |
| 3. Tender Forms | Bidders must complete and signed the tender forms attached to this document |

19.2 Evaluation of Price

Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:

- (a) where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
- (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected.

The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, **with the concurrence of the Bidder**, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid will be rejected, and the Bid Security maybe forfeited.

20. Contacting the Purchaser

20.1 No Tenderer shall contact the Purchaser on any matter relating to its tender, from the time of the tender opening to the time the Contract is awarded.

20.2 Any effort by a Tenderer to influence the Purchaser in the Purchaser's tender evaluation, tender comparison or contract award decisions may result in the

rejection of the Bidder's tender.

F. Award of Contract

21. Post-qualification

- 21.1 The Purchaser will determine to its satisfaction whether the Tenderer selected as having submitted the lowest evaluated responsive tender is qualified to satisfactorily perform the Contract.
- 21.2 The determination will take into account the Tenderer's financial, technical and production capabilities. It will be based upon an examination of the documentary evidence of the submitted Tenderer's qualifications as well as such other information as the Purchaser deems necessary and appropriate.
- 21.3 An affirmative determination will be a prerequisite for award of the Contract to the Tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Purchaser will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

22. Award Criteria

- 22.1 The Purchaser will award the Contract to the successful Tenderer whose tender has been determined to be substantially responsive and whose Price has been determined as the lowest evaluated.

23. Purchaser's right to vary Quantities at Time of Award

- 23.1 The Purchaser reserves the right at the time of award of Contract to increase or decrease by up to 15% the quantity of goods and services specified in the Schedule of Requirements without any change in unit price or other terms and conditions.

24. Purchaser's Right to Accept Any Tender and to Reject Any or All Tenders

- 24.1 The Purchaser reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the Purchaser's action.

25. Notification of Award

- 25.1 Prior to the expiration of the period of tender validity, the Purchaser will notify the successful Tenderer in writing by registered letter sent by email or to the tenderers address, that its tender has been accepted.
- 25.2 The notification of award will constitute the formation of the Contract.
- 25.3 Upon the successful Tenderer's furnishing of performance security, the Purchaser will promptly notify each unsuccessful Tenderer and will discharge its tender security.

25.4 An Intention to Award notice will be published on the Eswatini Public Procurement Regulatory Authority (ESPPRA) website for a period of ten (10) working days. Any objections may be formally communicated in writing to:

The Chief Executive Officer
Municipal Council of Mbabane
Civic Offices
Mahlokohla street
P.O. Box 1
Mbabane

26. Signing of Contract

26.1 At the same time as the Purchaser notifies the successful Tenderer that its tender has been accepted, the Purchaser will send the Tenderer the Contract Form provided in the Tender Documents, incorporating all agreements between the parties.

26.2 Within 30 days of receipt of the Contract Form, the successful Tenderer shall sign and date the Contract and return it to the Purchaser.

27. Performance Security

27.1 Within 30 days of the receipt of notification of award from the Purchaser, the successful Tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the Tender Documents or another form acceptable to the Purchaser.

27.2 Failure of the successful Tenderer to comply with the requirement of Clause 27.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Purchaser may make the award to the next lowest evaluated tenderer or call for new tenders.

DECLARATION OF ELIGIBILITY

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

[>>>Name of Consultancy firm, Address, and Date>>>]

To: The Chief Executive Officer
Municipal Council of Mbabane
Mahlokohla street
P.O. Box 1, Mbabane

Dear Sirs,

RE: TENDER NUMBER:

We hereby declare that:-

- a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- b) I/We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we are not the subject of legal proceedings for any of the foregoing;
- c) I/We have fulfilled our obligations to pay taxes and social security contributions;
- d) I/We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- e) I/We do not have a conflict of interest in relation to the procurement requirement.
- f) I/We do not have any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of five years preceding the commencement of procurement proceedings;
- g) I/We are not subject to suspension in accordance with section 55, and none of its directors or officers have been involved in a tenderer or supplier currently subject to suspension.

Signed
Authorised Representative

Date

PERFORMANCE SECURITY FORM

To: Municipal Council of Mbabane

WHEREAS hereinafter called the Supplier has undertaken, in pursuance of Contract No..... dated.....2024 to supply

.....
(Description of Goods and Services) hereinafter called the Contract.

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with the Supplier’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Supplier a Guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of (Amount of the Guarantee in Words and Figures) and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limit of (Amount of Guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

The guarantee is valid until the expiration of the period of guarantee on the goods and services supplied.

Signature and Seal of Guarantors.....
.....
.....

Date
Address.....
.....
.....

TENDER FORM

Date.....2024

Contract No 2 of 2024

TO: Municipal Council of Mbabane
Civic Offices
Mahlokohla Street
PO Box 1
Mbabane

Gentlemen:

Having examined the Tender Documents including Addenda Nos....., the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver

.....
.....(description of Services) in conformity with the said Tender Documents.

We undertake, if our tender is accepted, to commence delivery within(Number) days and to complete delivery of all the items specified in the Contract within (Number) days calculated from the date of receipt of your Notification of Award.

If our tender is accepted we will obtain the guarantee of a bank in a sum not exceeding 10% of the Contract Price for the due performance of the Contract.

We agree to adhere by this tender for a period of 90 days from the date fixed for tender opening under Clause 22 of the Instruction of Tenderers and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal contract is prepared and executed, this tender, together with your written acceptance thereof and your notification of award, shall constitute a binding contract between us.

We understand that **you may accept one or more items from our tender** and that you are not bound to accept the lowest or any tender you may receive.

Dated this.....day of.....2024..

Signature:.....

(In the Capacity of):.....

Duly Authorized to sign tender for and on behalf of.....

FINANCIAL PROPOSAL SUBMISSION FORM

[Note to Consultancy firm s: This Financial Proposal Submission Form should be on the letterhead of the Consultancy firm(s) and should be signed by a person with the proper authority to sign documents that are binding on the entity. It should be included by the Consultancy firm in its financial proposal.]

[>>>Location>>>]

[>>>Date>>>]

Procurement Reference No: [>>>insert Proposal Reference number>>>]

To: [>>>Name and address of Procuring Entity>>>]

Dear Sirs:

We, the undersigned, declare that:

- (a) We offer to provide the consulting services for [>>insert a brief description of the Services>>] in conformity with your Request for Proposals and our technical and financial proposals;
- (b) The schedule of prices of our proposal is attached.
- (c) Our proposal shall be valid for a period of [>>specify the number of calendar days>>] days from the date fixed for the proposal submission deadline in accordance with the Request for Proposals, and it shall remain binding upon us, subject to any modifications resulting from negotiations, and may be accepted at any time before the expiration of that period;
- (d) We understand that you are not bound to accept any proposal that you receive;

Dated on _____ day of _____, _____ *[insert date of signing]*

Name: *[insert complete name of person signing the proposal]*

In the capacity of *[insert legal capacity of person signing the proposal]*

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the proposal for and on behalf of: *[insert complete name of Tenderer]*

Summary of Proposal or Activity Cost

[Note to Consultancy firm s: Consultancy firm(s) may reproduce this form in landscape format with additional columns, rows or fields]

[Commissions and gratuities, if any, paid or to be paid to agents by Consultancy firm(s) and related to the assignment should be listed]

| Cost item | Cost (SZL) |
|--|-------------------|
| Fees (provide detailed rates and descriptions) | |
| Reimbursable costs ¹ (provide detailed rates and descriptions) | |
| % fee increases in subsequent years, describe basis for increase (if applicable) | |
| Local taxes (provide detailed rates and descriptions) | |
| Total | |

[The above table may be expanded to include more categories and types of relevant data and information as appropriate]

¹ Local transportation costs are not to be included, if local transportation is being made available by the Agency. Similarly, the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Agency.

SECTION 2. GENERAL CONDITIONS OF CONTRACT

Terms and Conditions

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- Statement of intent

1. Definitions and interpretations

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7. Obligation of the Council

8. Warranties and Indemnities

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16. Addresses

17. Costs

STATEMENT OF INTENT

WHEREAS the Council is desirous to prepare the Mbabane Town Planning Scheme and its supporting strategies and supporting documents.

WHEREAS the Council is desirous to ensure the Town Planning Scheme is prepared in consultative manner, submitted, presented and corrected/updated/comments incorporated on behalf of Council in all the necessary meetings including Council Management, Council, Public and Stakeholders meetings, the Ministry of Housing and Urban Development and the Town Planning Board.

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

THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATIONS

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

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

between the Council and the Consultant.

“Business Day” means any day of the week

“Commencement date” means the 1st July 2024.

| | |
|-----------------------------------|---|
| “Confidential information” | means proprietary information made available to a party pertaining to the other party or its business, which includes, but is not limited to all information that has a commercial value and is not available to the public; |
| “Services,” | means the Preparation of Town Planning Scheme and all other services relevant to the assignment. |
| “Signature Date” | means the date on which this agreement is signed by the party that signs it; |
| “Termination Date” | means the date on which this agreement is terminated in terms of the Service Level Agreement. |
| “Parties” | means the Council and the Consultant shall mean either one of them, as the context may require |

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

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

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

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

2. ENGAGEMENT FOR SERVICES

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

Notwithstanding anything to the contrary, this agreement does not constitute an agreement of employment, partnership, joint venture or, save as expressly stated otherwise, agency between Council and the Consultant and shall not give rise to any relationship of employer and employee, master and servant, save as expressly stated otherwise. Accordingly, neither party shall have power to conclude a contract in the name of the other, to grant or pledge credit of the other, to incur liabilities on behalf of the other, or to employ any person on behalf of the other and neither party shall hold itself out to have such power or purport to exercise any such power.

3. DURATION

Notwithstanding the date of signature hereof, this agreement shall commence on the **1st July 2024 and end 18 month after.**

4. OBLIGATIONS OF THE CONSULTANT

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

- 4.1. Prepare the Town Planning Scheme of the City and the Inner City Urban Design Framework.
- 4.2. Prepare a supplementary accompanying comprehensive report on the entire stakeholder engagement, communication, and visibility of the processes of the preparation and implementation of the Town Planning Scheme and Urban Design Framework. The objective of this report is ensure legislative compliance (Town Planning Act), and that thorough public engagement is done and evidence is kept. In the past Council has received negative feedback that stakeholder engagement was not done or visible, yet the document is very important for property owners. The report must be aligned with the stakeholder and communication plan that will be followed to ensure that effective and efficient communication and visibility of the processes of the preparation of the documents. The stakeholder engagement plan that will be focused on community and stakeholder engagement and also media relations management. This plan will guide the convening of stakeholder meetings, including community meetings for purposes of external and internal information gathering and presentation of progress reports for inputs, objections, representations; attend meetings on agreement with the Project Steering Committee, including community and staff meetings and; consider and incorporate submissions into the Town Planning Scheme. This further includes documenting all stakeholder inputs and evidence of engagements which includes minutes, attendance registers, pictures etc. Throughout the

project, run in consultation with Council, a consistent and strong public media relations and publicity campaign for the drafting and implementation of the scheme. This will include drafting of information sharing articles, infographic presentations, graphic design, adverts, public notices, drafting responses to the media, drafting pamphlets, drafting fact sheets and social media engagement content items;

- 4.3.** To give a coherent, spatial meaning and physical form to the new developed Integrated Development Plan (IDP) Vision and Mission of the Municipal Council of Mbabane. The IDP is the highest Strategic Planning document of the City and all Budgetary Provisions for strategic objectives, programmes and projects for 5 years are contained in the IDP and the Scheme needs to recognise these strategic objective, programmes and projects and ultimately, harmonise in the Scheme the relevant one's and further make relevant Scheme proposals that can be included in the IDP in the next review.
- 4.4.** To facilitate urban development of the Capital City in a transparent, structured, orderly, and coordinated manner, through guiding decision making for all levels within Council and further to guide residents and stakeholders on spatial development of the city for the duration of the course of the Scheme. The Scheme must have clear development control checks and balances, standards, principles, approach towards development, and regulations that will guide users of the scheme on spatial development of the city. The current approaches must be thoroughly reviewed and benchmarked against international urban planning trends.
- 4.5.** To enhance the competitive advantage of the Capital City's commercial activities, tourism, social and recreational facilities, and a well-defined, structured urban form, and to introduce clear approaches, frameworks for encouragement and management of mixed-use development zones and co-existence of formal and informal businesses within commercial and non-commercial zones. The current scheme does not clearly articulate how mixed-use developments should be managed and encouraged through land use change and further the current scheme does not address informal business land uses. The City has a bug challenge regarding placement of vendors/informal businesses, and this must be clearly addressed in terms how, where should vendors/informality be placed within the formal areas including within the commercial zones of the inner city.

- 4.6.** To ensure climate change discourse is brought into the scheme by ensuring safeguards are in place for environmental protection and conservation for sustainable local area development and urban resilience, and to provide public open space management framework as well as green building frameworks are incorporated into the Scheme. The current Scheme does not have any provisions for climate change, smart cities, new urban agenda, sustainability, green building practices, urban resilience, circular economy, etc and through the new Scheme, Council's objective is to bring in these global best practices and concepts and to make them alive and realised in the City's physical development. The Development code needs to make provision for guidelines on the incorporation of water harvesting and, solar, solutions in developments e.g. residential or commercial. The Scheme must be accompanied with Implementation tools and Scorecards for these best practices and concepts to enable effective performance evaluation, monitoring and reporting.
- 4.7.** To provide clear, best, and maximum utilization of land in the city. The city is currently facing challenges with high demand for new land parcels for proposed developments, yet land seems to be limited or occupied by wetlands, passive public open spaces, steep rocky slopes, mountains, old government buildings housing and offices nearby the inner city, old commercial buildings, large tracks of plots of low density single family residential homes, parking requirements, informal residential areas, highway division, poor utilization of prime land within the inner city etc. There is need to come up with an innovative, forward-looking framework that will ensure that the available land is utilised more efficiently going into the future. The Town Planning Scheme should also incorporate land banking, as per critical development needs in the urban area. This will ensure that prime land is secured and protected for future developments as informed by projections on future growth of the urban area. Identification of such land can also be done from assessing land parcels that area underutilised yet have the potential for development. Desktop study on assessing land ownership and developed or undeveloped land parcels.
- 4.8.** To ensure that the stakeholders and residents are thoroughly and evidently engaged in the shaping of the spatial development and future growth of the

Capital City. Council will require a stakeholder engagement plan and a report of evidence of engagement of residents and stakeholders. Council is currently facing numerous complaints from stakeholders and residents that the current Scheme was prepared without their inputs; hence they were not aware of zoning changes which are now impacting on their property valuations. To close this gap, Council has resolved to have a comprehensive stakeholder engagement process to ensure that the new urban planning framework is inclusive and bottom-up driven. The scheme must provide a statutory and operational basis for public involvement in the processes of the review of the scheme. The consultant is expected to conduct a thorough stakeholder engagement process in various engagement mediums.

4.9. To assess all current and future infrastructure and service's needs for the city taking into consideration current demands and current levels of service. The scheme should come up with a city infrastructure master plan that will guide capital investment programmes for the city. The infrastructure masterplan must come up with estimation of infrastructure and planning proposals, development cost, evaluation of financing options and phased project implementation over the next few years to 20 years. Phasing of infrastructure plan should be done according to priority, with assessment of key areas that will unlock development in the urban area.

4.10. To ensure that the Scheme is intentional and not ambiguous about the creation of a conducive investment environment and creation of sustainable liveable environments within the city. The separationists and rigid zonal planning are the current planning regime of the existing scheme and there is a need to rethink how planning should be framed in order to create liveable spaces and further attract business into the city. An Exodus of Businesses study was undertaken by Council and the study has findings and recommendation that the new Scheme should consider in order to attract new businesses to establish in Mbabane and further to retain businesses in the city especially the large cooperate entities that seem to be migrating to Ezulwini Town off late. The scheme must be clear and intentional about identify areas to be prioritised for business establishment. Designation of business sites should cater for the different sectors, whether big or small

scale, whilst looking into key growth enablers for the economy, e. g expansion of the industrial.

- 4.11.** To designate desirable land uses and provide clarity on what may or may not occur on a property and to provide guidelines and principles for discretionary approval of proposed land uses within the city that are not explicitly stated in the Scheme.
- 4.12.** To promote the certainty of land use which protects property values and creates investor confidence,
- 4.13.** To protect the amenity of adjacent land uses and to provide a clear framework for co-existence of different incompatible uses at times within properties (plots), same buildings/developments, and in general within townships.
- 4.14.** To enable the efficient movement of persons and goods. Transportation planning must be incorporated in the scheme and or infrastructure master plan and the masterplan must come up with new proposals for improving connectivity (linkages of different areas/new road connection and upgrades proposals) within the city. There exists a need to deal with traffic congestion within the inner city and to identify land for truck stopovers and satellite stopovers for public transport vehicles in order to create efficient movement of goods and persons. The Scheme must address these challenges. Transportation planning in the city should be smarter and promote a green urban environment with less carbon emissions. The transportation network must incorporate designs that will also include cycling, walking and jogging lanes in the city. Linkages in the city should also create an enabling environment for economic activity in the city.
- 4.15.** To promote the local city economy. Council has Local Economic Development priorities, and the Scheme must be alive to these challenges to be seen promoting all economic sectors. Through the neighbourhood commercial zoning district, the designation of specific economic sites within townships can also encourage Local Economic Development activity through empowerment of residents within the different townships.
- 4.16.** To protect natural resources including biodiversity and ecosystems.

- 4.17.** To protect unique areas or features of the Capital City such as monuments, heritage building and cultural and sacred sites, touristic sites and many more.
- 4.18.** To prepare the Inner-city Urban Design Framework. This framework is a sub-output of the main town planning scheme which zooms into the finer details of planning of the inner city of Mbabane which includes the currently defined Central Business District and surrounding areas. Council has realised that the areas around the CBD have changed in character over the years. Some of the areas have also not seen much growth and some have regressed as the buildings are now old and unattractive for commercial buildings in the city centre such as properties in Betfusile Street, Mdada Street, Dzeliwe, Msakato Street, Zwide Street, Gwamile Street, Shiefield Road and around the Swazi Plaza, to mention but a few areas with no significant development over the past years. It is against this backdrop where Council would like to be intentional about re-igniting development of the inner city and the consultant is expected to provide detailed urban design framework with a newly defined Inner-city demarcation that will be used a focus area for promotion, redefining, re-characterisation, redevelopment, renewal and development. This scope of the consultant will further deal with addressing issues of accessibility, transportation, legibility, create an environment that fosters property owners to redesign, redevelop, revamp, re-purpose their properties in to fulfil the new visions of the inner-city precincts as to be defined/demarcated by the consultant. Address issues of spaces for informal trading, parking, pedestrian walkways, street art and furniture, arts and culture, sports and recreation, pedestrianisation of streets, tourism, address issues of landscaping, security, recreation, connectivity, address issues of mixed uses and bring about a night life vision for the inner city(the framework should identify and clearly define distinctive and unique spaces that can be utilised as public realms within the urban area which purposely connects pedestrian movement and invite activity). Currently, the inner city is a place that “sleeps”, there is no 24-hour city element and this affects tourism and businesses. The framework must be consulted with the property owners of the defined inner city to get buy-in as the success of the development proposals from the framework lies with the property owners’ investments.

- 4.19.** To protect cultural resources and places of religious and cultural significance.
- 4.20.** To manage land use changes through appropriate review and redesign of existing processes.
- 4.21.** To provide a means and procedures of enforcement of the scheme including punitive measures associated with contraventions of the scheme.
- 4.22.** To ensure the reservation of land for longer-term uses.
- 4.23.** To provide for the foundation on which other Council strategies, policies and plans based on and also that there is direct linkage with the municipal valuation roll processes in terms of land categorisations by land use and zoning.
- 4.24.** To identify areas of opportunities from external factors that may influence the city's growth dynamics, direction, property values, infrastructure provision, and development potential. The city has a plan for expanding the boundaries of the city into the peri-urban areas and this together with other external factors needs be articulated in the Scheme to provide Council clear opportunities presented by the external factors.
- 4.25.** To create a "5minute city" environment within the urban area. Through the scheme, this concept will encourage the development of mix land uses that promote proximity to residential apartment, public facilities and services by creating an urban environment that integrates movement networks and development. This would encourage prioritisation of pedestrian movement to encourage a healthy and safe society that is not dependent on private vehicles.
- 4.26.** Assessment on strengths, weaknesses, opportunities and threats for the urban area.
- 4.27.** In addition to the above, the Consultant must note that the preparation of the Mbabane Town Planning Scheme is a process centred around public participation with expert value addition from the consultancy team of experts. The Scheme is expected to bring together key aspects of the city's development including spatial, economic, social, environmental, infrastructural, and legal and global best practice considerations. This should take place in a way that enhances sustainable development through empowerment, growth and equity for the short, medium and long term. It will

also guide spatial development of the city and the best and maximum use of all available land in the city going into the near future. The scheme should be further harmonized with key Council strategic document and mainly the new Integrated Development Plan which allocates the scarce resources of Council in order to ensure developmental imperatives are met in all the 12 wards of the City of Mbabane.

4.28. The scope of work is not limited to the above, but further entails the following:

4.28.1. **To prepare a Background Study:** The consultant will be expected to undertake a mandatory background study of the city. The background study must be comprehensive, all-encompassing to include a comprehensive land use analysis, land zoning analysis, land audit, land cover analysis, population and demographics, housing and property analysis, area analysis, commercial and industrial analysis, including small and informal business analysis, education, hospitality, informal and formal land. government, social and community sector analysis, church/mosque use of land analysis, social and recreational land use analysis, open spaces analysis, infrastructure analysis, transportation analysis, urban sociology analysis, what's missing in the city analysis, financial resources analysis for the city, development constraints analysis, development opportunity analysis, political, economic, disaster management (DRR) analysis, environmental, social, legal, technological, institutional capacity and operational analysis, public participation and community engagement analysis, city communication with residents and stakeholder analysis, community and stakeholder engagement structures, analysis.

4.28.2. The background study stage shall not be limited to the above, but shall also include physical assessment, surveys, fresh data capturing and desktop reviews of all necessary documentation/studies/policies/strategies which include the following:

- The New 2024-2028 Integrated Development Plan (IDP)
- The Old 2019 – 2024 IDP and progress reports

- Sample of Planning Reports on Township, Rezoning, Special Consent, Variance, Home Office, Land Lease, Crown Land Disposal Applications.
- Smart City Framework of Council
- Customer Satisfaction Survey Reports
- Public Transport Strategy
- City Economic Development Strategy
- ISO9001 System and Procedures relevant to the Scheme.
- Annual Operating Plan
- Capital Improvement Plan
- Exodus of Business in Mbabane Study
- Climate Change Strategy for the City
- Infrastructure Maintenance Plan
- Public Transport Strategy Report
- State of the Environment Report
- Environmental Management Strategies
- Parks and Recreation Strategies
- Waste Management Strategy & bye-law
- Disaster Management by-law
- Municipality's Baselines studies and surveys
- Urban Upgrading Project Progress Reports.

To prepare the Structure Plan - The objectives of the Structure Plan are to:-

- i) The structure plan needs to clearly express the vision of the town spatially which must also be guided by the organisations overall vision.
- j) Formulate a common vision for the local authority taking cognizance of the town's role with the national and regional context
- k) Facilitate and guide the implementation of capital and other future projects.
- l) Serve as an enabling framework to release the full developmental potential of the local authority.
- m) To form the basis for decisions regarding the allocation of development of land in terms of various land uses and activities.
- n) To form the basis of decisions regarding the future allocation of resources and the provision of service infrastructure.
- o) Bring about the creation of an environment, which is conducive to facilitating new investment, particularly housing delivery and job opportunities.
- p) Encourage and facilitate the development of self-sustaining communities within the local authority especially town boards.

4.29. To prepare the Development Plan - The Development Plan should consider the following.

- n) A 10 year plan with short (3 year) medium (5 year) and long (10 year) goals, policies and development frameworks focused on promoting and guiding physical development for the local authority to implement.
- o) An analysis of the service and infrastructure developments that will be required in the LA for each planning period for the Council//Board to anticipate work with the Service provider.
- p) An analysis of impacts of the growth and development of the local authority.
- q) An implementation timetable and cost implications for the plan.

4.30. To the Development Code - The development Code should consider the following:-

- r) Establishment of a defined process of establishing new townships within the urban area in line with the existing legislation e.g. the Human Settlements Authority.
- s) Review the current land use categories and to bring them in line with the National Physical Development Code guidelines.
- t) Need to include a Clause in the Scheme to permit the scheme to be extended to incorporate areas, which maybe included when extending the urban boundaries.
- u) The need to accommodate "Existing Use Rights"
- v) Review the current parking requirements for the various land use categories. These requirements should be flexible enough to allow for negotiation when competing with other business nodes outside the urban area for new development.
- w) Protection of existing buildings – there is a need to be flexible to be able to permit minor alterations and changes of use before having to comply with the scheme.
- x) Include definitions or interpretations for land uses
- y) Review the range of plot sizes and investigate what minimum viable plot size can be permitted.
- z) Review the plot coverage schedule.

4.31. Develop a draft the different output documentation and mapping of the Town Planning Scheme and present it to Council and the Ministry of Housing and Urban Development at a strategic planning meeting to be held at a different date to be agreed upon for the duration of the project until Council and the Town Planning Board has approved the Scheme.

4.32. Facilitate fully Council's spatial planning workshops to be held at external venues outside or within Swaziland, for management, executive

committee, Rate Payers Association, Local Community Committees, and Councillors separately.

4.33. Preparing the workshop programmes.

4.34. Providing a record of the proceedings of the workshops;

4.35. Preparing a full report of the workshops;

4.35.1. Incorporate all deliberations and resolutions reached at the workshops into the Final Draft of the Town Planning Scheme to be submitted to Management and Council by the end of Work Plan of the Preparation of the Scheme.

4.35.2. The Town Planning Scheme which will have the following minimum components to it;

8. The Background Stud

9. The Structure Plan,-

10. The Development Plan,-

11. The Development Code,-

12. The Inner City Upgrading and Urban Design Framework

13. The Stakeholder Engagement and Media Relations Management Report with Annexures of Evidence of Engagement and Information and Educational Materials

14. Geographic Information System alignment and Files Incorporation

5. QUALITY OF CONTRACT PERSONNEL

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

6. FEES AND COSTS

6.1 As consideration for the Service to be provided by the Consultant in terms of this agreement, the Council shall pay the Consultant the sum of E_____

6.2 The Consultant shall be paid as follows:

1. 10% upon submission and approval of the Inception Report and Stakeholder Engagement and Media Relations Management Work Plan
2. 40% upon submission and approval of Background Study, Structure Plan, Development Plan, Development Code and the Inner City Upgrading and Urban Design Framework.
3. 20% upon submission and approval of the 2nd Draft Consolidated Town Planning Scheme and the Urban Design Framework;
4. 10% after the Management and Council retreat and Council Approval
5. 20% after submission and approval of the Consolidated Volumes of Reports names the Town Planning Scheme, Inner City Urban Design Framework and Stakeholder Engagement Outcome Report by the Town Planning Board

Note: Approval means once comments have been addressed by each level of authority being Management, Council and the Ministry of Housing and Urban Development's Town Planning Board.

- 6.2. The Council undertakes to pay the Consultant the fees contained in this clause 6 within 30 days of receipt of an invoice issued after the services have been rendered as per the contract.

7. OBLIGATION OF COUNCIL

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

8. WARRANTIES AND INDEMNITIES

- 8.1 The Consultant hereby warrants to the Council that it has the commercial

and technical expertise to render the Services to the Council.

- 8.2 The Consultant hereby warrants to the Council that it is duly authorized and has obtained all necessary approvals to enter into this agreement.
- 8.3 The Consultant hereby warrants to the Council that any person(s) employed by it to execute the services in terms of this agreement will be qualified and suitable to perform the services and shall perform the services properly, diligently, promptly, efficiently and in compliance with the laws of the Kingdom of Eswatini, Council's requirements and standards.
- 8.4 The Consultant hereby indemnifies and holds the Council harmless against any claim of any nature relating to any aspect of this agreement or any other cause whatsoever that the Consultant or any of its employees, directors, holding company or subsidiaries, might institute against the Council.
- 8.5 Save as otherwise set out in this agreement, the Consultant hereby indemnifies and holds the Council harmless against loss, damage, costs and/or expenses which the Consultant may suffer or incur and any claim which may be brought against the Consultant by any third party in respect of any loss, liability, damage, costs and/or expenses of any willful or negligent act or omissions on the part of the Consultant or any of its employees.

9 CONFIDENTIAL INFORMATION

9.1 Each party shall:

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

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

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

- 9.2.1 Confidential information which the receiving party can demonstrate is already in the public domain or becomes available to the public through no breach by the receiving party;
 - 9.2.2 Confidential information which was rightfully in the receiving party's possession without obligation of confidence prior to receipt from the disclosing party, as proven by its written records;
 - 9.2.3 Confidential information which can be proven to have been rightfully received by the receiving party from a third party without obligation of confidence;
 - 9.2.4 Confidential information which is independently developed by the receiving party as proven by its written records;
 - 9.2.5 Confidential information which is approved for release with the prior written consent of the disclosing party; and
 - 9.2.6 Disclosure of confidential information which is required by law to be disclosed or must be disclosed in order to comply with a judicial order or decree, provided that the receiving party has (where reasonably possible) given the disclosing party written notice of such request such that the disclosing party has an opportunity to defend, limit or protect such disclosure.
- 9.3 The rights and obligations in terms of this clause 8 are divisible from the rest of this agreement, and shall remain of full force and effect, notwithstanding termination of this agreement for any reason whatsoever, and shall continue to be effective indefinitely without limit in time.

10 *COPYRIGHT*

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

11 INDEMNITY AND LIMITATION OF LIABILITY

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

12 BREACH

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

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

13 TERMINATION

- 13.1 Notwithstanding the provisions of clause 3 and clause 11, either party may terminate this agreement with immediate effect by written notice if the other party:
- 13.1.1 Ceases or threatens to cease operating its business as a going concern;
- 13.1.2 If a judicial management or a curator ship order is made against it;

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

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

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

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

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

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

14 FORCE MAJEURE

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

14.2 For the purposes of this agreement "force majeure" shall mean any circumstance beyond the reasonable control of the party giving notice of force majeure ("the affected party") including, but not limited to terrorism,

revolution, invasion, insurrection, riot, civil commotion, mob violence, sabotage, blockade, embargo, boycott, the exercise of military or usurped power, fire, explosion, theft storm, flood, rain, draught, wind, lightning, or any other adverse weather condition, epidemic, quarantine, major accident, acts or restraints of government imposition, or restrictions or embargos on imports or exports.

14.3 Notwithstanding the provisions of clause 14.2, inability to meet a payment because of lack of funds shall in no circumstances be treated as an event of force majeure.

14.4 The affected party shall give notice thereof to the party not so affected ("the other party") immediately upon the occurrence of an event of force majeure and again immediately on the cessation thereof.

14.5 If the event the force majeure is in such a nature that it will result in the impossibility of performance of an obligation going to the root of this agreement, the other party shall be entitled, on receipt of this notice of the force majeure event, to terminate this agreement upon notice to the affected party, but shall not be entitled to recover any damages which it may suffer as a result of such premature termination.

14.6 If the event of force majeure is of such a nature that it will not result in the impossibility of performance of the obligation in question, but will delay the performance thereof, then the affected party shall be entitled to such extension of time in which to perform that obligation as may be reasonable in the circumstances, taking into account the interests of both parties, provided that if such force majeure situation persists for a period in excess of 30 (thirty) days, the other party shall be entitled to terminate this agreement, but shall not be entitled to recover any damages which it may suffer as a result of such premature termination.

15. GENERAL

15.1 Communications

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

15.2 Remedies

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

15.3 Severance

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

15.4 Survival of rights, duties and obligations

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

15.5 Entire Agreement

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

15.6 Assignment

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

15.7 Further Assurance

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

15.8 Good Faith

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

15.9 Jurisdiction

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

15.10

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

16. Addresses

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

MUNICIPAL COUNCIL OF MBABANE:

Physical address : Civic Offices, 1 Mahlokohla Street
Postal Address : P.O. Box 1, Mbabane, H100
Email Address : infor@mbabane.org.sz

Details of Service Provider:

Physical Address :
Postal Address :
Email Address :

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

16.5 Either party may by written notice to the other party change its address for the purposes of clause 15.1 to any other address (other than a post office box number) provided that the change shall become effective on the 5th (fifth) business day after the receipt of the notice.

17. COSTS

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

**THUS DONE AND SIGNED BY THE COUNCIL AT ON
THIS..... DAY OF 2024**

AS WITNESSES:

1

.....

For and on behalf of Council

2

**THUS DONE AND SIGNED BY THE CONSULTANT AT..... ON
THIS DAY OF..... 2024**

AS WITNESSES:

1

.....

For and on behalf of Consultant

2

APPENDIX A.

PERFORMANCE AND STANDARD OUTPUT

| DESIRED OUTCOMES | PERFORMANCE STANDARDS | MEASUREMENT TOOLS | TIMELINES/DUE DATES |
|---|--|--|------------------------------|
| Contract Signing and Inception report | <p>Appointment Letter</p> <p>Signing of Service Level Agreement (SLA)</p> <p>Meeting and Presentation of the Inception Report to Management of Council</p> | <p>Appointment letter</p> <p>Signed SLA</p> <p>Approval of the Inception Report by Council after Incorporation of Comments</p> | Month One after appointment |
| Stakeholder Engagement Plan and Media Relations Management Work Plan | <p>Meeting and Presentation of the Inception Report to Management of Council</p> | <p>Approval of the Stakeholder Engagement Plan Report by Council after Incorporation of Comments</p> | Month One after appointment |
| Draft report 1 | <p>Submission and presentation of an error free draft report to Council and presentation to Key Stakeholders, including Ministry of Housing and Urban Development (MHUD)</p> <p>1. Background Study, Structure Plan, Development Plan, Development Code and the Inner City Upgrading and Urban Design Framework.</p> | <p>Approval of the draft report by Council</p> | Month Five after appointment |
| Draft report 2 | <p>Submission and presentation of an error free draft report to Council and presentation to Key Stakeholders, including MHUD</p> <p>1. 2nd Draft Consolidated Town</p> | <p>Approval of the draft report by Council</p> | Month Six after appointment |

| | | | |
|--|---|--|----------------------------------|
| | Planning Scheme and the Urban Design Framework; | | |
| Draft report 3 | Submission and presentation of an error free draft report to Council and presentation to Key Stakeholders, including MHUD 2. 2 nd Draft Consolidated Town Planning Scheme and the Urban Design Framework; 3. | Approval of the draft report by Council | Month Seven after appointment |
| Internal Engagement of Council (Management and Council) | Management and Council retreat and Council Approval | Approval of Retreat Outcome Report and Incorporation of Comments into the Consolidated Town Planning Scheme and Urban Design Framework | Month Tenth after appointment |
| Draft report 3 | Submission and presentation of an error free draft report to Council and presentation to Key Stakeholders, including MHUD - Town Planning Scheme and the Urban Design Framework; | Approval of the draft report by Council | Month Fifteen after appointment |
| Draft report 4 | Submission and presentation of an error free draft report to Council and presentation to Stakeholders, including MHUD, Communities. - Town Planning Scheme and the Urban Design Framework; | Approval of the draft report by Council | Month Thirteen after appointment |
| Draft report 5 | Submission and presentation of an error free draft report to Council and presentation to Key Stakeholders, including | Approval of the draft report by Council | Month Eighteen after appointment |

| | | | |
|---------------------------------------|---|---|----------------------------------|
| | MHUD and Town Planning Board | | |
| Final Revised Reports Combined | Submission of Revised Reports Combined Reports and presentations of Reports to Council, key stakeholders including MHUD, and the Town Planning Board. These reports will be corrected until the Town Planning Board approves. | Approval of final Reports by Council and Town Planning Board. | Month Eighteen after appointment |