



**TENDER NO.: SC 1637/2015**

**SALE OF UNREGISTERED ERF 11457 (PORTION OF ERF 243), MOUNT PLEASANT, HERMANUS FOR COMMUNITY SERVICES**

**PROCUREMENT DOCUMENT**

<b>NAME OF TENDERER:</b>	
<b>Total Bid Price (Exclusive of VAT) <i>(refer to page 34):</i></b>	

**AUGUST 2015**

**PREPARED AND ISSUED BY:**

Directorate: Finance:  
Supply Chain Management Unit  
Overstrand Municipality  
PO Box 20, Hermanus, 7200

**CONTACT FOR ENQUIRIES  
REGARDING SPECIFICATIONS:**

Anja Kotze  
Manager: Property Management  
**Tel. Number: 028 316 3724**

<b>KLEINMOND</b> Private Bag X3 Kleinmond; 7195 Tel: 028 271 8100 Fax: 028 271 4678	<b>HERMANUS</b> PO Box 20 Hermanus; 7200 Tel: 028 313 8000 Fax: 028 313 8048	<b>STANFORD</b> PO Box 84 Stanford; 7210 Tel: 028 341 0640 Fax: 028 341 0445	<b>GANSBAAI</b> PO Box 26 Gansbaai; 7220 Tel: 028 384 0111 Fax: 028 384 0241
<b>TENDER DETAILS</b>			
TENDER NUMBER:	<b>SC1637/2015</b>		
TENDER TITLE:	<b>SALE OF UNREGISTERED ERF 11457 (PORTION OF ERF 243), MOUNT PLEASANT, HERMANUS FOR COMMUNITY SERVICES</b>		
CLOSING DATE:	<b>2015/10/02</b>	CLOSING TIME:	<b>12H00</b>
SITE MEETING:	DATE: <b>N/A</b>	TIME:	<b>N/A</b> COMPULSORY: <b>N/A</b>
SITE MEETING ADDRESS:	<b>N/A</b>		
CIDB GRADING REQUIRED:	<b>NO</b>	LEVEL AND CATEGORY:	<b>N/A</b>
BID BOX NO:	<b>2</b>	SITUATED AT: Overstrand Municipal Building, Magnolia Avenue, Hermanus. The bid box is generally open 24 hours a day, 7 days a week.	
OFFER TO BE VALID FOR:	<b>90</b>	DAYS FROM THE CLOSING DATE OF BID.	
<b>TENDERER DETAILS (Please indicate postal address for all correspondence relevant to this specific tender)</b>			
NAME OF TENDERER:			
NAME OF CONTACT PERSON:			
PHYSICAL ADDRESS:		POSTAL ADDRESS:	
TELEPHONE #:		FAX NO.:	
E-MAIL ADDRESS:			
TENDER AMOUNT (EXCLUDING VAT) :			
DATE:			
SIGNATURE OF TENDERER:			
CAPACITY UNDER WHICH THIS BID IS SIGNED:			
<b>PLEASE NOTE:</b>			
1. Tenders that are deposited in the incorrect box will not be considered.			
2. Tender box deposit slot is 28cm x 2.5cm.			
3. Mailed, telegraphic or faxed tenders will not be accepted.			
4. If the bid is late, it will not be accepted for consideration.			
5. Bids may only be submitted on the Bid Documentation provided by the Municipality.			
<b>ENQUIRIES MAY BE DIRECTED TO:</b>			
	ENQUIRIES REGARDING BID PROCEDURES	TECHNICAL ENQUIRIES	
CONTACT PERSON:	<b>BLAKE D'OLIVEIRA</b>	<b>ANJA KOTZE</b>	
TEL. #	<b>028 313 5016</b>	<b>028 316 3724</b>	

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**PART A – ADMINISTRATIVE REQUIREMENTS IN  
TERMS OF THE SUPPLY CHAIN MANAGEMENT POLICY**

<b>1. CHECKLIST</b>
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**PLEASE ENSURE THAT THE FOLLOWING FORMS HAVE BEEN DULY COMPLETED AND SIGNED AND THAT ALL DOCUMENTS AS REQUESTED, ARE ATTACHED TO THE TENDER DOCUMENT:**

<b>Certificate of Clarification Meeting Attendance</b> Is the form duly completed and signed by both tenderer and agent of the Overstrand Municipality?	Yes	No	
<b>Authority to Sign a Bid</b> Is the form duly completed and is a <b>certified copy</b> of the <b>resolution</b> attached?	Yes	No	
<b>Tax Clearance Certificate</b> Is an <b>ORIGINAL</b> and <b>VALID</b> Tax Clearance Certificate attached?	Yes	No	
<b>MBD 4</b> (Declaration of Interest) Is the form duly completed and signed?	Yes	No	
<b>MBD 8</b> (Declaration of Past Supply Chain Practices) Is the form duly completed and signed?	Yes	No	
<b>MBD 9</b> (Certificate of Independent Bid Determination) Is the form duly completed and signed?	Yes	No	
<b>MBD 15</b> (Certificate of Payment of Municipal Accounts) Is the form duly completed and signed? Are the <b>Identity numbers, residential addresses</b> and <b>municipal account numbers</b> of <b>ALL</b> members, partners, directors, etc. provided on the form as requested?	Yes	No	
<b>Specifications</b> Is the form duly completed and signed?	Yes	No	
<b>Form of Offer</b> Is the form duly completed and signed?	Yes	No	

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

**2. TENDER NOTICE & INVITATION TO TENDER****TENDER NO. SC 1637/2015****SALE OF UNREGISTERED ERF 11457 (PORTION OF ERF 243), MOUNT PLEASANT, HERMANUS  
FOR COMMUNITY SERVICES**

Tenders are hereby invited for: **Sale of Unregistered Erf 11457 (Portion of Erf 243), Mount Pleasant, Hermanus for Community Purposes.**

Tender documents, in English, are obtainable from **Friday, 28 August 2015**, at the offices of the Supply Chain Management Unit, Overstrand Municipality, Magnolia Avenue, Hermanus, from Ms. Rita Neethling Tel. 028 313 8064, between 08h30 and 15h30. Alternatively the documents can be downloaded from the website: [www.overstrand.gov.za](http://www.overstrand.gov.za)

Sealed tenders, with “**Tender No. SC1637/2015: Sale of Unregistered Erf 11457 (Portion of Erf 243), Mount Pleasant, Hermanus for Community Purposes.**” clearly endorsed on the envelope, must be deposited in **Tender Box No. 2** at the offices of the Overstrand Municipality, Magnolia Avenue, Hermanus. Bids may only be submitted on the bid documentation provided by the Municipality.

**The closing date and time of the tender is on Friday, 02 October 2015 at 12h00** and will be opened in public immediately thereafter in the SCM Committee Room, Hermanus Administration.

**Tenders must be valid for 90 days after the closing date.** Tenders shall be evaluated in terms of the Preferential Procurement Regulations, 2011.

The Overstrand Municipality does not bind itself to accept the highest or any tender and reserves the right to accept any or none of the tenders submitted, as it may deem expedient. Tenders are subject to the Supply Chain Management Policy and the Administration of Immovable Property Policy of the Overstrand Municipality.

Please refer enquiries to **Ms. A Kotze** at telephone number: **028 316 3724**.



**3. AUTHORITY TO SIGN A BID**

**1. SOLE PROPRIETOR (SINGLE OWNER BUSINESS) AND NATURAL PERSON**

1.1. I, \_\_\_\_\_, the undersigned, hereby confirm that I am the sole owner of the business trading as \_\_\_\_\_.

OR

1.2. I, \_\_\_\_\_, the undersigned, hereby confirm that I am submitting this tender in my capacity as natural person.

SIGNATURE:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

**2. COMPANIES AND CLOSE CORPORATIONS**

2.1. If a Bidder is a **COMPANY**, a certified copy of the resolution by the board of directors, duly signed, authorising the person who signs this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the company **must be submitted with this bid**, that is, before the closing time and date of the bid

2.2. In the case of a **CLOSE CORPORATION (CC)** submitting a bid, a **resolution by its members**, authorizing a member or other official of the corporation to sign the documents on their behalf, **shall be included with the bid**.

**PARTICULARS OF RESOLUTION BY BOARD OF DIRECTORS OF THE COMPANY/MEMBERS OF THE CC**

Date Resolution was taken	
Resolution signed by (name and surname)	
Capacity	
Name and surname of delegated Authorised Signatory	
Capacity	
Specimen Signature	

Full name and surname of ALL Director(s) / Member (s)			
1.		2.	
3.		4.	
5.		6.	
7.		8.	
9.		10.	
Is a <b>CERTIFIED COPY</b> of the resolution attached?		<b>YES</b>	<b>NO</b>

SIGNED ON BEHALF OF COMPANY / CC:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	



**3. PARTNERSHIP/TRUST**

We, the undersigned partners in the business trading as \_\_\_\_\_ hereby authorize Mr/Ms \_\_\_\_\_ to sign this bid as well as any contract resulting from the bid and any other documents and correspondence in connection with this bid and /or contract for and on behalf of the abovementioned partnership.

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner		Signature	
SIGNED ON BEHALF OF PARTNERSHIP:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

**4. CONSORTIUM**

We, the undersigned consortium partners, hereby authorize \_\_\_\_\_ (Name of entity) to act as lead consortium partner and further authorize Mr./Ms. \_\_\_\_\_ To sign this offer as well as any contract resulting from this tender and any other documents and correspondence in connection with this tender and / or contract for and on behalf of the consortium.

The following particulars in respect of each consortium member must be provided and signed by each member:

Full Name of Consortium Member	Role of Consortium Member	% Participation	Signature
SIGNED ON BEHALF OF PARTNERSHIP:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

#### 4. GENERAL CONDITIONS OF TENDER

1. Sealed tenders, with the “**Tender Number and Title**” clearly endorsed on the envelope, must be deposited in the **tender box indicated** at the offices of the Overstrand Municipality, Magnolia Avenue, Hermanus.
2. The tender must be lodged by the Tenderer in the tender box in the Main Cash Hall, Hermanus Municipal Offices, Magnolia Avenue, Hermanus
3. **PLEASE NOTE:**
  - 3.1. Tenders that are deposited in the incorrect box will not be considered.
  - 3.2. Tender box deposit slot is 28cm x 2.5cm.
  - 3.3. Mailed, telegraphic or faxed tenders will not be accepted.
  - 3.4. Documents may only be completed in black ink.
  - 3.5. The use of correction fluid/tape is not allowed.
  - 3.6. In the event of a mistake having been made, it shall be crossed out in ink and be accompanied by an initial at each and every alteration.
  - 3.7. Alterations or deletions not signed by the Tenderer may render the tender invalid.
  - 3.8. All bids must be submitted in writing on the official forms supplied (not to be re-typed)
  - 3.9. All prices shall be quoted in South African currency and be **EXCLUSIVE of VAT**.
4. Any Tender received after the appointed time for the closing of Tenders shall not be considered but shall be filed unopened with the other Tenders received or may be returned to the Tenderer at his request.
5. Tenders may not be telefaxed to the Municipality and therefore any tenders received by fax will **not** be considered.
6. A separate Tender box is provided for the reception of Tenders and no Tender will be considered which, subsequent to the closing hour for Tenders, may be found in another box.
7. Tenders shall be opened in public at the Hermanus Municipal Offices as soon as possible after the closing time for the receipt of tenders.
8. The Municipality shall have the right to summarily disqualify any Tenderer who, either at the date of submission of this tender or at the date of its award, is indebted to the Municipality in respect of any rental, levies, rates and/or service charges; ALTERNATIVELY;
  - 8.1. That an agreement be signed whereby the Tenderer agrees that a percentage or fixed amount at the discretion of the Municipality, be deducted from payments due to him for this tender, until the debt is paid in full.
  - 8.2. The tenderer shall declare **all** the Municipal account numbers in the Overstrand Area for which the enterprise or the proprietors or directors in their personal capacity is/ are responsible or co-responsible.
9. This bid will be evaluated and adjudicated according to the following criteria:
  - 9.1. Relevant specifications
  - 9.2. Financial means and expertise
  - 9.3. Capability to perform in terms of the contract
10. The following terms shall be interpreted as indicated:
  - 10.1. “*Closing time*” means the date and hour specified in the bidding documents for the receipt of bids.
  - 10.2. “*Corrupt practice*” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

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- 10.3. “Day” means calendar day.
- 10.4. “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 10.5. “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.
- 10.6. Unless otherwise indicated in the bidding documents, the Municipality shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 10.7. Invitations to bid are usually published in locally distributed news media and on the municipality’s website.

<b>5. MBD 2 – TAX CLEARANCE CERTIFICATE REQUIREMENTS</b>
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It is a condition of bid that the taxes of the successful bidder **must** be in order, or that satisfactory arrangements have been made with South African Revenue Services (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement, bidders are required to complete in full the TCC 0001 form, "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be accepted.
4. In bids where Consortia / Joint Ventures / Sub-Contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za)
6. Applications for the Tax Clearance Certificates may also be made via e-Filing. In order to use this provision, taxpayers will need to register with SARS as e-Filers through the website [www.sars.gov.za](http://www.sars.gov.za)



**6. MBD 4 – DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid:

3.1.	<b>Full Name of bidder or his or her representative</b>													
3.2.	<b>Identity Number</b>													
3.3.	<b>Position occupied in the Company (director, shareholder <sup>2</sup> etc.)</b>													
3.4.	<b>Company Registration Number</b>													
3.5.	<b>Tax Reference Number</b>													
3.6.	<b>VAT Registration Number</b>													
3.7.	<b>Are you presently in the service of the state?</b>	YES		NO										
3.7.1.	If so, furnish particulars:													
3.8.	<b>Have you been in the service of the state for the past twelve months?</b>	YES		NO										
3.8.1.	If so, furnish particulars:													

<sup>1</sup> MSCM Regulations: "in the service of the state" means to be –

1. a member of –
  - i. any municipal council;
  - ii. any provincial legislature; or
  - iii. the National Assembly or the National Council of Provinces;
2. a member of the board of directors of any municipal entity;
3. an official of any municipality or municipal entity;
4. an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
5. a member of the accounting authority of any national or provincial public entity; or
6. an employee of Parliament or a provincial legislature.

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



<b>3.9.</b>	<b>Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?</b>	<b>YES</b>		<b>NO</b>	
3.9.1.	If so, furnish particulars:				
<b>3.10.</b>	<b>Are you aware of any relationship (family, friend, other) between a bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?</b>	<b>YES</b>		<b>NO</b>	
3.10.1.	If so, furnish particulars:				
<b>3.11.</b>	<b>Are any of the company's directors, managers, principal shareholders or stakeholders in the service of the state?</b>	<b>YES</b>		<b>NO</b>	
3.11.1.	If so, furnish particulars:				
<b>3.12.</b>	<b>Is any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in the service of the state?</b>	<b>YES</b>		<b>NO</b>	
3.12.1.	If so, furnish particulars:				
<b>3.13.</b>	<b>Do you or any of the directors, trustees, managers, principal shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?</b>	<b>YES</b>		<b>NO</b>	
3.13.1.	If so, furnish particulars:				



3.14. Please provide the following information on ALL directors/shareholders/trustees/members below:			
Full Name and Surname	Identity Number	Personal Income Tax Number	Provide State <sup>3</sup> Employee Number

**NB:**  
**a) PLEASE ATTACH CERTIFIED COPY(IES) OF ID DOCUMENT(S)**  
**b) PLEASE PROVIDE PERSONAL INCOME TAX NUMBERS FOR ALL DIRECTORS / SHAREHOLDERS / TRUSTEES / MEMBERS, ETC.**

**4. DECLARATION**

I, the undersigned (name) \_\_\_\_\_, certify that the information furnished in paragraph 3 above is correct.

I accept that the state may act against me should this declaration prove to be false.

SIGNATURE		DATE	
NAME OF SIGNATORY			
POSITION			
NAME OF COMPANY			

<sup>3</sup> MSCM Regulations: "in the service of the state" means to be –

1. a member of –
  2. any municipal council;
  3. any provincial legislature; or
  4. the National Assembly or the National Council of Provinces;
5. a member of the board of directors of any municipal entity;
6. an official of any municipality or municipal entity;
7. an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
8. a member of the accounting authority of any national or provincial public entity; or
9. an employee of Parliament or a provincial legislature.



**7. MBD 8 – DECLARATION OF BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

1. This Municipal Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The bid of any bidder may be rejected if that bidder, or any of its directors have:
  - 3.1. abused the municipality’s / municipal entity’s supply chain management system or committed any improper conduct in relation to such system;
  - 3.2. been convicted for fraud or corruption during the past five years;
  - 3.3. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - 3.4. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
4. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

4.1	Is the bidder or any of its directors listed on the National Treasury’s database as a company or person prohibited from doing business with the public sector? <i>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the audi alteram partem rule was applied).</i>	<b>Yes</b>	<b>No</b>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <i>(To access this Register enter the National Treasury’s website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon “Register for Tender Defaulters” or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).</i>	<b>Yes</b>	<b>No</b>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	<b>Yes</b>	<b>No</b>
4.3.1	If so, furnish particulars:		



4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	<b>Yes</b>	<b>No</b>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	<b>Yes</b>	<b>No</b>
4.5.1	If so, furnish particulars:		

**5. CERTIFICATION**

I, the undersigned (full name), \_\_\_\_\_, certify that the information furnished on this declaration form true and correct.

I accept that, in addition to cancellation of a contract, action may be taken against me should this declaration prove to be false.

SIGNATURE:		NAME (PRINT):	
CAPACITY:		DATE:	
NAME OF FIRM:			



**8. MBD 9 – CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. This Municipal Bidding Document (MBD) must form part of all bids invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>4</sup> Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
3. Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - 3.1. take all reasonable steps to prevent such abuse;
  - 3.2. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - 3.3. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
4. This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

**CERTIFICATE OF INDEPENDENT BID DETERMINATION:**

In response to the invitation for the bid made by:

**OVERSTRAND MUNICIPALITY**

I, the undersigned, in submitting the accompanying bid, hereby make the following statements that I certify to be true and complete in every respect:

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - 5.1. has been requested to submit a bid in response to this bid invitation;

<sup>4</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.



- 5.2. could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
- 5.3. provides the same goods and services as the bidder and/or is in the same line of business as the bidder
- 6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>5</sup> will not be construed as collusive bidding.
- 7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - 7.1. prices;
  - 7.2. geographical area where product or service will be rendered (market allocation)
  - 7.3. methods, factors or formulas used to calculate prices;
  - 7.4. the intention or decision to submit or not to submit, a bid;
  - 7.5. the submission of a bid which does not meet the specifications and conditions of the bid; or
  - 7.6. bidding with the intention not to win the bid.
- 8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No. 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 or any other applicable legislation.

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<sup>5</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.



**9. MBD 15 – CERTIFICATE FOR PAYMENT OF MUNICIPAL SERVICES**

**DECLARATION IN TERMS OF CLAUSE 112(1) OF THE MUNICIPAL FINANCE MANAGEMENT ACT (NO.56 OF 2003) - (To be signed in the presence of a Commissioner of Oaths)**

I, \_\_\_\_\_, \_\_\_\_\_ (full name and ID no.), hereby acknowledge that according to SCM Regulation 38(1)(d)(i), the Municipality may reject the tender of the tenderer if any municipal rates and taxes or municipal service charges owed by the Tenderer or any of its directors/members/partners to the Overstrand Municipality, or to any other municipality or municipal entity, are in arrears for more than 3 (three) months.

I declare that I am duly authorised to act on behalf of \_\_\_\_\_ (name of the firm) and hereby declare, that to the best of my personal knowledge, neither the firm nor any director/member/partner of said firm is in arrears on any of its municipal accounts with any municipality in the Republic of South Africa, for a period longer than 3 (three) months.

I further hereby certify that the information set out in this schedule and/or attachment(s) hereto is true and correct. The Tenderer acknowledges that failure to properly and truthfully complete this schedule may result in the tender being disqualified, and/or in the event that the tenderer is successful, the cancellation of the contract.

PHYSICAL BUSINESS ADDRESS(ES) OF THE TENDERER	MUNICIPAL ACCOUNT NUMBER

**FURTHER DETAILS OF THE BIDDER’S Director / Shareholder / Partners, etc.:**

Director / Shareholder / partner	Physical address of the Business	Municipal Account number(s)	Physical residential address of the Director / shareholder / partner	Municipal Account number(s)

**NB:** Please attach certified copy(ies) of ID document(s)  
 If the entity or any of its Directors/Shareholders/Partners, etc. rents/leases premises, a copy of the rental/lease agreement must be submitted with this tender.

Signature	Position	Date

<p style="text-align: center;"><b>COMMISSIONER OF OATHS</b></p> <p>Signed and sworn to before me at _____, on this _____ day of _____ 20__</p> <p>by the Deponent, who has acknowledged that he/she knows and understands the contents of this Affidavit, it is true and correct to the best of his/her knowledge and that he/she has no objection to taking the prescribed oath, and that the prescribed oath will be binding on his/her conscience.</p> <p><b>COMMISSIONER OF OATHS:-</b></p> <p>Position: _____</p> <p>Address: _____</p> <p>Tel: _____</p>	<p><b>Apply official stamp of authority on this page:</b></p>
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## **PART B – SPECIFICATIONS AND PRICING SCHEDULE**

<b>10. SPECIFICATIONS</b>
---------------------------

**SCOPE OF TENDER****1. INTRODUCTION**

- 1.1. The Overstrand Municipality has decided to dispose of the property known as unregistered Erf 11457 (a portion of Erf 243), Mount Pleasant, Hermanus,  $\pm 2023\text{m}^2$ , for community purposes. The Municipality owns the land.
- 1.2. The document is self-explanatory and interested parties are encouraged to read through it carefully, so as to familiarise themselves with both the overall intent of Council, as well as with the procedures for the award.
- 1.3. The tender is subject to the conditions as set out in the tender documents and to the most recent Supply Chain Management Policy and the Administration of Immovable Property Policy of the Overstrand Municipality, as amended, approved and adopted by Council.

**2. THE TENDER PROCESS**

The process to be followed in this proposal shall be as follow:

- 2.1. The submission of a tender price as well as information regarding the source of funds and the financial offer made must be clearly set out in the bidder's submission as per the requirements set out in **Paragraph 7 – Submission Requirements and Evaluation**, of this document.
- 2.2. The submissions will be evaluated and adjudicated by a duly constituted evaluation and adjudication committee.
- 2.3. Overstrand Municipality does not bind itself to accept the highest or any tender and reserves the right to accept any or none of the tenders submitted, as it may deem expedient. Furthermore the Municipality reserves the right to award to any bidder of the Municipality's choice to ensure a fair and equitable distribution of the Municipality's property to all people of the Western Cape Province in particular, and RSA in general.
- 2.4. The decision of the Municipality will be final.
- 2.5. A Deed of Sale similar to the one attached, per Annexure **C** to the tender documentation, will be entered into with the successful bidder as soon as possible after the tender has been awarded. Should the successful bidder fail or neglect to conclude the Deed of Sale with the Municipality within the time period specified by the Municipality in writing, the terms and conditions of this tender and the policies referred to and this agreement shall be binding on both parties and enforceable by them.
- 2.6. Payment of 10% (ten per cent) of the agreed purchase price is required and payable within 10 days of date of request in writing thereof by the Municipality. The successful bidder shall be obliged to furnish the Municipality within 14 days after being requested thereto with a bank or other acceptable guarantee for the payment of the balance of the purchase price by registration of the transfer in the Deeds Office.
- 2.7. The transfer of the ownership of the property to the successful bidder will proceed after the Municipal Council has approved the transfer in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) and the Deed of Sale have been signed. It must be noted that the successful bidder will be liable for the costs of the required advertisement, placed in terms of Section 14 of Local Government: Municipal Finance Management Act (Act 56 of 2003) as well as all costs related to the transfer of the property.

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**3. THE ROLE OF THE PROPERTY WITHIN THE NATURE OF ITS LOCALITY**

- 3.1. The site is situated in Malva Street, Mount Pleasant, Hermanus. (See Annexure **A**)
- 3.2. The property may only be used for community purposes as defined in paragraph 5.2 below.

**4. PROPERTY DESCRIPTION AND ZONING RIGHTS**

- 4.1. Erf no. and size: Unregistered Erf 11457 (a portion of erf 243) Hermanus, ±2023m<sup>2</sup> in extent.  
The approved surveyor general diagram of the property is attached per Annexure **B**.
- 4.2. Zoning status: The current zoning of the property is Community Zone 1.
- 4.3. The surrounding land uses vary and include Institutional, Business and Residential Zone.

**5. DEVELOPMENT PARAMETERS**

- 5.1 Development Directives  
The property is zoned for Community Zone 1 and the original planning approval also allowed for it to be used for institutional purposes.  
For the purpose of this tender the use of the subject property will be limited to the primary use rights of the Community Zone 1 zone and Institutional use.
- 5.2 Non-Developable area.  
The property is earmarked for the development of a community facility, which includes, but is not limited to, the primary use rights of a clinic, crèche and day care centre.  
Development should comply with the provisions of the relevant Scheme Regulations as promulgated.
- 5.3 Accesses and Road provision  
The property borders on Malva Street, Mount Pleasant, Hermanus. Access to the property will be from such road that has been approved by the Director: Infrastructure and Planning, Overstrand Municipality. See the location map attached per Annexure **A**.
- 5.4 Height Restrictions  
The height of the building is limited to 2 storeys at a height of 8m measured from the base level to the top of the roof.
- 5.5 Not Allowed  
Any use other than that mentioned in paragraph 3.2 above.
- 5.6 Allowed Uses  
The property may only be used for the purpose which complies with the primary uses allowed in terms of Community Zone 1 and institutional.
- 5.7 Parking  
All the required parking must be provided on-site. Parking must be provided as stipulated in the relevant Zoning Scheme.
- 5.8 Coverage:  
50%.

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**6. INFRASTRUCTURE**

- 6.1. The successful bidder and/or his appointed developer must submit an engineering services report with reference to the services required and the capacity thereof for approval thereof by the Director: Infrastructure and Planning of the Overstrand Municipality before commencement of the development. Any required upgrades will be for the account of the bidder. A service agreement for all the services, including water, sewerage, electricity, roads, storm water and refuse removal services will be finalised with the Manager: Engineering Services. The bidder must enter into service agreements with the Overstrand Municipality for all the services, including water, sewerage, electricity, storm water and refuse removal before the commencement of the development.
- 6.2. The bidder shall at its own costs construct the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided.
- 6.3. The successful bidder shall be responsible for all costs relating to the connections for water, sewerage and electricity supply to the property and any other services, if needed.
- 6.4. The bulk infrastructure must be constructed by the bidder. Bulk infrastructure includes all services excluding the services required for the development itself. Bulk Services Levies will be payable by the bidder according to the prescribed fees as contained in Council's budget, which fee varies from year to year. Bulk Services Levies will be payable together with the building plan approval fee.

**7. SUBMISSION REQUIREMENTS AND EVALUATION**

- 7.1. Submissions are invited from all parties with the financial means to submit an offer for the purchase of the property.
- 7.2. **The bidders are required to submit a tender deposit of five thousand rand (R5,000.00) on submission of the tender.** This amount must be in the form of a bank guaranteed payment (only guarantee by a registered financial institution) or cheque in favour of the Overstrand Municipality and valid for 90 days from the date of the closure of the tender. Failure to comply with this requirement will lead to the disqualification of the bidder. This guarantee/cheque will be returned to the unsuccessful bidders after the awarding process has been completed. The tender deposit will be forfeited by a bidder should he cancel/withdraw his tender at any time after the closing date of the tender.
- 7.3. A guarantee by a registered financial institution or any other acceptable proof of financial ability and resources to honour the bid is required.

**8. SALE "VOETSTOOTS" AND SUBJECT TO CONDITIONS:**

The property is sold as it stands, "voetstoots", and the Municipality shall not be responsible for any defects in the property either patent or latent. The property is moreover sold subject to all conditions and servitudes mentioned or referred to in the current and/or prior title deeds of the property and to all such other conditions and servitudes which may exist in regard thereto. The Municipality shall not be required to point out the boundary beacons of the property and shall not be liable for any deficiency in the extent of the property which may be revealed on any survey or re-survey, and shall not benefit by any excess.

**9. ACCEPTANCE**

The tender shall remain irrevocably open for acceptance by the Municipality for a period of 90 days calculated from the date of the closing of tenders.

**10. VALUE OF THE PROPERTY**

The indicative price is R136,000.00 (VAT exclusive).

SIGNATURE		NAME (PRINT)	
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NAME OF FIRM			

ANNEXURE A – LOCALITY MAP



SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			



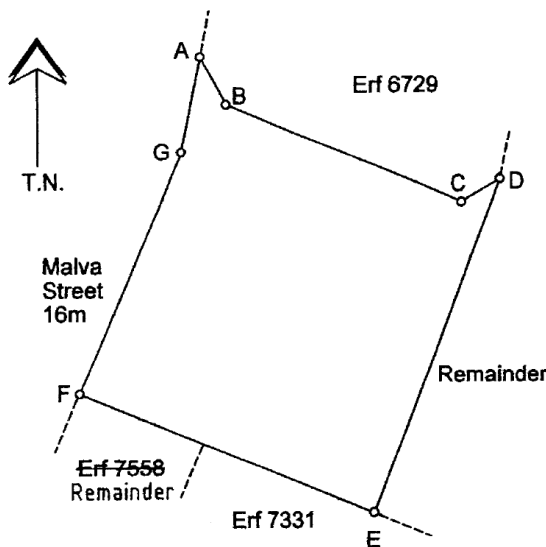
ANNEXURE B – DIAGRAM

CERTIFIED COPY FOR REGISTRATION  
 FOR SURVEYOR-GENERAL (W-2013)  
 DATE: 25 OCT 2013

HUGH WATERS HERMANUS

SIDES Metres	ANGLES of DIRECTION	COORDINATES Y	System WG 19°		S.G.No. 198/2013
			X		
	<b>Constants</b>		+ 0.00	+3800 000.00	Approved
AB	7,73	A	- 19 843,46	+ 10 148,32	 for Surveyor-General 24.10.2013
BC	35,87	B	- 19 847,10	+ 10 155,14	
CD	6,35	C	- 19 880,25	+ 10 168,84	
DE	50,36	D	- 19 885,85	+ 10 165,85	
EF	44,40	E	- 19 867,74	+ 10 212,85	
FG	36,73	F	- 19 826,70	+ 10 195,90	
GA	13,90	G	- 19 840,74	+ 10 161,96	
		5AC20e	- 19 869,16	+ 9 981,89	
		6AC20e	- 20 228,17	+ 10 103,60	

Beacon Descriptions : G - 12mm iron peg in tarmac; all others - 12mm iron peg



Scale 1:750

The figure ABCDEFG represents 2023 square metres of land being

ERF 11457(A PORTION OF ERF 243) HERMANUS

situate in the Overstrand Municipality

Administrative District of Caledon Province of the Western Cape

Surveyed in October 2012  
By me

*Waters*

H R WATERS (PLS 0816) Professional Land Surveyor

This Diagram is annexed to No. dated i.t.o Registrar of Deeds	The original diagram is 3795/1921 Grant (Filed as Plan 224)	File No.S/2479 S.R.No 87/2013 Comp : AINW-1172(M3866) AINW-1181(M3867) LPI CO130013
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ERF 11457 HERMANUS

EXEMPT FROM PROVISIONS OF ACT  
 70 OF 1970  
 SECTION 1 (1g)

APPROVED IN TERMS OF SECT. 26  
 OF ORD. 16/1985  
 REF 7/2/13/2 Hmp 1/4/57  
 DATE 09 October 2012

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			



**ANNEXURE C – DRAFT DEED OF SALE**

**DEED OF SALE**

**UNREGISTERED ERF 11457 (PORTION OF ERF 243) MOUNT PLEASANT, HERMANUS**

entered into between

**OVERSTRAND MUNICIPALITY**

herein represented by \_\_\_\_\_

in his capacity as Municipal Manager  
(hereinafter called the **SELLER**)

and

\_\_\_\_\_  
OF \_\_\_\_\_

(hereinafter called the **PURCHASER**)

**WHEREAS** the **SELLER** called for tenders for the sale of Municipal Property, being unregistered Erf 11457 (a portion of Erf 243) Mount Pleasant, Hermanus for community purposes

**AND WHEREAS** the Bid Adjudication Committee resolved on \_\_\_\_\_ that the tender be awarded to the **PURCHASER**, the minutes attached hereto marked annexure A;

**NOW THEREFORE THE PARTIES AGREE** that the **SELLER**, pursuant to the authority conferred upon it by the Administration of Immovable Property Policy of the Overstrand Municipality, hereby agrees to sell to the **PURCHASER** and the **PURCHASER** hereby agrees to purchase from the **SELLER** the property, upon the following terms and conditions:

**1. PROPERTY**

The property is known as:

**UNREGISTERED ERF 11457 (A PORTION OF ERF 243) HERMANUS**, in the Overstrand Municipality, Division of Caledon, Western Cape Province

situated in Malva Street, Mount Pleasant, Hermanus

**EXTENT: 2023 (TWO THOUSAND AND TWENTY THREE) SQUARE METRES**

As indicated on surveyor general plan nr SG198/2013 attached hereto marked Annexure B

**(hereinafter called the “Property”)**

**2. PURCHASE PRICE**

2.1 The purchase price is the sum of R\_\_\_\_\_ (\_\_\_\_\_ (VAT excluded), being the tendered amount for the property.

2.2 A deposit equal to 10% of the full purchase price is payable within 10 days of date of request in writing thereof by the **SELLER**.

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- 2.3 The balance of the purchase price shall be paid to the **SELLER** on date of registration of the transfer of the property to the **PURCHASER**. The **PURCHASER** will furnish the **SELLER** with a bank or other acceptable guarantee for the payment of the said balance purchase price against registration of the transfer within the required 14 (**FOURTEEN**) days after being requested thereto.
- 2.4 In the event of the purchase price being paid by the **PURCHASER** prior to registration of transfer it shall be paid to the transferring attorneys to be held in trust in an interest bearing account, interest to accrue to the **PURCHASER**, pending the registration of the transfer.
- 2.5 The **SELLER** is a vendor for the purposes of this transaction and accordingly Value Added Tax at the prescribed rate is payable on the purchase price.
- 2.6 Should the sale of the property be delayed for any reason whatsoever the purchase price shall annually be revised based on the market related value of the property determined by an independent professional valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000).

**3. SALE "VOETSTOOTS" AND SUBJECT TO CONDITIONS**

- 3.1 The property is sold as it stands, "voetstoots", and the **SELLER** shall not be responsible for any defects in the property either patent or latent. The property is moreover transferred subject to all conditions and servitudes mentioned or referred to in the current and/or prior title deeds of the property and to all such other conditions and servitudes which may exist in regard thereto. The **SELLER** shall not be required to point out the boundary beacons of the property and shall not be liable for any deficiency in the extent of the property which may be revealed on any survey or re-survey, and shall not benefit by any excess.
- 3.2 The **PURCHASER** shall be responsible for obtaining the appropriate land use rights in terms of the provisions of the applicable legislation.

**4. POSSESSION**

Possession and vacant occupation of the property shall be given to the **PURCHASER** on date of registration of the transfer.

**5. RISK**

Risk regarding the property shall pass to the **PURCHASER** on date of possession.

**6. RATES AND TAXES**

The **PURCHASER** shall be responsible for rates, taxes and service charges (including availability fees) in respect of the property as from the date of registration of the transfer and shall pay such rates and taxes and service charges upon request by the transferring attorneys.

**7. TRANSFER**

7.1 Transfer shall be passed by the **SELLER's** attorneys, \_\_\_\_\_, Hermanus as soon as possible after fulfilment of the suspensive condition contained in this agreement.

**8. COSTS**

- 8.1 The **PURCHASER** shall pay the costs of this agreement and all costs of transfer (including transfer duty or VAT) and any further costs relevant thereto, to the **SELLER's** attorneys upon being requested to do so.
- 8.2 The **PURCHASER** will pay the costs of the required advertisement, placed in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) to the **SELLER** upon being requested to do so.
- 8.3 The **PURCHASER** and **SELLER** will each pay their own cost relating to this Deed of Sale, i.e. consultation fees, etc.

SIGNATURE		NAME (PRINT)	
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## 9. RIGHTS ON BREACH OF CONTRACT

In the event of either party fails to comply with any conditions of this agreement by the due date thereof (which shall include failure to sign the necessary documentation to effect transfer when requested to do so or failure to provide any information required by the transferring attorneys for the purpose of effecting transfer) the aggrieved party shall be entitled to give the defaulting party 10 (TEN) business days written notice to remedy the breach. In the event of the defaulter failing to comply with such demand to remedy the breach within the time given, the aggrieved party shall be entitled, without prejudice to any other rights to which it may, in law, be entitled:

### 9.1 Should the aggrieved party be the **SELLER**:

- 9.1.1 to cancel this agreement without prejudice to the **SELLER'S** other legal rights and remedies to claim such damages as it may have suffered, in which event the **PURCHASER** shall have no retention; or
- 9.1.2 to enforce specific performance of this agreement and furthermore to recover any damages and interest.
- 9.1.3 The **PURCHASER** further undertakes, in the event of breach of contract by itself, to pay all attorney-and-own client costs plus VAT, collection commission and tracing costs plus VAT, if any, which the **SELLER** may incur in the enforcing or cancelling of this agreement or collecting any amount owing in terms of this agreement, including interest on any amount owing by the **PURCHASER** at the maximum rate allowed, from date such amount becomes due, until date of receipt of payment.
- 9.1.4 Where the **SELLER** selects to cancel the agreement in terms of paragraph 9.1.1 above, the **SELLER** may decide to impose a restriction penalty on the **PURCHASER** by prohibiting such **PURCHASER** from doing business with the public sector for a period not exceeding 10 years.
- 9.1.5 If a **SELLER** intends imposing a restriction on a **PURCHASER** or any person associated with the **PURCHASER**, the **PURCHASER** will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the **PURCHASER** fail to respond within the stipulated fourteen (14) days the **SELLER** may regard the **PURCHASER** as having no objection and proceed with the restriction.
- 9.1.6 Any restriction imposed on any person by the **SELLER** will, at the discretion of the **SELLER**, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchase actively associated.
- 9.1.7 If a restriction is imposed, the **SELLER** must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- 9.1.7.1 the name and address of the **PURCHASER** and / or person restricted by the **SELLER**;
- 9.1.7.2 the date of commencement of the restriction
- 9.1.7.3 the period of restriction; and
- 9.1.7.4 the reasons for the restriction.

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

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

9.2 Should the aggrieved party be the **PURCHASER**:

9.2.1 to cancel this agreement, to recover all payments made to the **SELLER** or the transferring attorneys in payment of the purchase price in terms hereof, without prejudice to the **PURCHASER'S** other legal rights and remedies to claim such damages as he may have suffered,

9.2.2 to institute proceedings to enforce specific performance of this agreement.

## 10. CANCELLATION

Should this agreement be cancelled for any reason whatsoever, the **PURCHASER** shall, if he is in possession of the Property, immediately be dispossessed of it and he agrees to give up possession and to vacate forthwith the Property hereby sold.

## 11. SERVICING OF PROPERTY

11.1 The **PURCHASER** and/or his appointed developer must submit an engineering services report with reference to the services required and the capacity thereof for approval thereof by the Director: Infrastructure and Planning of the Overstrand Municipality before commencement of the development. Any required upgrades will be for the account of the **PURCHASER**. A service agreement for all the services, including water, sewerage, electricity, roads, storm water and refuse removal services will be finalised with the Manager: Engineering Services. The **PURCHASER** must enter into service agreements with the **SELLER** (being the Overstrand Municipality) for all the services, including water, sewerage, electricity, roads, storm water and refuse removal before the commencement of the development.

11.2 The bulk infrastructure must be constructed by the **PURCHASER**. Bulk infrastructure includes all services excluding the services required for the development itself. Bulk Services Levies will be payable by the **PURCHASER** according to the prescribed fees as contained in Council's budget, which fee varies from year to year. Bulk Services Levies will be payable together with the building plan approval fee.

11.3 The **PURCHASER** shall be responsible for all costs relating to the connections for water, sewerage and electricity supply to the property and other services, if needed.

11.4 The **PURCHASER** shall at its own costs construct the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided.

## 12. DOMICILLIA AND NOTICES

12.1 The parties choose *domicilia citandi et executandi* at their respective addresses set out in Schedule 1 hereto, at which addresses all notices and legal process in relation to this agreement or any action arising therefrom may be delivered and/or served.

12.2 Any notice given by one of the parties to the other ("the addressee") which:

12.2.1 is delivered by hand to the addressee's *domicilium citandi et executandi* shall be deemed to have been received by the addressee at the time of delivery;

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- 12.2.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at its *domicilium citandi et executandi* shall be deemed to have been received by the addressee on the 3rd business day after the date of posting;
- 12.2.3 is sent by fax or electronic mail to the addressee’s *domicilium citandi et executandi* shall be deemed to have been received on the business day following the date of transmission thereof.
- 12.3 Either party shall be entitled on written notice to the other, to change its address as set out in Schedule A hereto to an address in the Republic of South Africa.

**13. DISPUTE RESOLUTION**

- 13.1 If any dispute or difference of any kind whatsoever arises between the **SELLER** and the **PURCHASER** in connection with or arising out of this agreement, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 13.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the **SELLER** or the **PURCHASER** may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 13.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law or alternatively by means of arbitration proceedings.

**14. ARBITRATION**

- 14.1 Any dispute between the parties arising out of this agreement or its interpretation which is unable to be settled by mediation as set out in clause 13 above, shall be submitted to, and decided by arbitration on notice given by either party to the other.
- 14.2 The arbitration shall be held in Cape Town, informally, and otherwise in accordance with the terms of the provisions of the Arbitration Act No 42 of 1965 (as amended from time to time), it being intended that, if possible, it shall be held and concluded within 10 (ten) days after it has been demanded.
- 14.3 Save as otherwise specifically provided herein, the Arbitrator shall be, if the question in dispute is:
  - 14.3.1 primarily a legal matter, a practising Senior Advocate of the Cape Bar Society of not less than 5 (five) years’ standing;
  - 14.3.2 any other matter, an independent and suitably qualified person, as may be agreed upon, between the Parties to the dispute.
- 14.4 If agreement cannot be reached on whether the question in dispute falls under sub-clauses 14.3.1 or 14.3.2 and/or upon a particular Arbitrator, within 3 (three) days after the arbitration has been demanded, then the President, for the time being, of the Cape Law Society shall :
  - 14.4.1 determine whether the question in dispute falls under sub-clauses 14.3.1 or 14.3.2 and/or
  - 14.4.2 nominate the Arbitrator, within 7 (seven) days after the parties have failed to agree.
- 14.5 The Arbitrator shall give his decision within 5 (five) days after completion of the arbitration, and shall, in arriving at his decision, have regard to all terms and conditions of this agreement.
- 14.6 The Arbitrator may determine that the costs of the arbitration are to be paid either by one or other of the disputing parties, or apportioned between them.
- 14.7 The decision of the Arbitrator shall be final and binding and may be made an order of the High Court of South Africa, upon application of either party.
- 14.8 This clause shall survive the termination of this agreement.

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NAME OF FIRM			



**15. GENERAL**

- 15.1 The **PURCHASER** shall not erect or cause or permit to be erected any buildings and or structures on the property until such time as the plans therefore have been approved by the Building Control Manager of the Overstrand Municipality.
- 15.2 No indulgence shown by the **SELLER** to the **PURCHASER** shall prejudice the **SELLER's** rights or be a novation of this agreement. Any indulgence in respect of extension of time or anything else granted by either party to the other will not be considered to impair any of the rights of such party in terms of this agreement or affect any rights whatsoever of such party.
- 15.3 The parties hereto acknowledge that this agreement constitutes the entire contract between them and that no other conditions, stipulations, warranties or representations whatsoever have been made by or on behalf of either party other than such as are included herein.
- 15.4 No amendment or consensual cancellation of this agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this agreement and no settlement of any dispute arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver or relaxation or suspension which is given or made, shall be strictly construed as relating to the matter in respect whereof it was made or given.
- 15.5 The headings in this agreement are included for the sake of convenience only and shall not be used for the purposes of interpretation.
- 15.6 The **SELLER** and the **PURCHASER** hereby consent to the jurisdiction of the Magistrate's Court for any action that might arise from this agreement. The parties, however, reserve the right at their sole discretion to institute such action in the High Court and to claim costs on the High Court scale.
- 15.7 Business days will mean any day of the week except Saturdays, Sundays or declared public holidays.
- 15.8 In the interpretation of this agreement, unless the context otherwise requires or indicates, words specifying:
  - 15.8.1 the singular shall include the plural and vice versa;
  - 15.8.2 any one gender shall include the other gender; and
  - 15.8.3 natural persons shall include juristic persons, trusts, partnerships and estates.
- 15.9 The headings in this agreement are included for the sake of convenience only and shall not be used for the purposes of interpretation.
- 15.10 This agreement may:
  - 15.10.1 be executed in separate counterparts, none of which need contain the signatures of all of the parties, each of which shall be deemed to be an original and all of which taken together constitute one agreement; and
  - 15.10.2 shall be valid and binding upon the parties thereto, notwithstanding that one or more of the Parties may sign a fax copy thereof and whether or not such fax copy contains the signature of any other party.
- 15.11 The **PURCHASER** shall not be entitled to cede, assign or transfer its rights or obligations in terms of or arising from this agreement to any party without the prior written consent of the **SELLER**, which consent shall not be unreasonably withheld.
- 15.12 The parties agree that each clause of this agreement shall be severable, the one from the other, and if any clause is found to be defective or unenforceable for any reason by any competent court, then the remaining clauses shall be and continue to be of full force and effect.

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15.13 The parties acknowledge that they have been free to secure independent legal and other advice as to the nature and effect of all the provisions of this agreement and that they have either taken such independent legal and other advice or dispensed with the necessity of doing so.

**16. SPECIAL CONDITIONS**

- 16.1 The property may only be used for the purpose which complies with the primary uses allowed in terms of Community Zone 1 and institutional.
- 16.2 The height of the buildings will be limited to 2 storeys at a height of 8m measured from the base level to the top of the roof.
- 16.3 The development should comply with the provisions the applicable Scheme Regulations as promulgated.
- 16.4 Should the **PURCHASER** not complete the development on the property within a period of 2 (TWO) years from date of the registration of transfer, which time period of 2 (TWO) years may on prior written application of the **PURCHASER** to the **SELLER** stating the reasons for the request, be extended by consent of the **SELLER** given under the hand of the Municipal Manager, which consent will not be withheld unreasonably, ownership of the property thereof shall revert back to the **SELLER**, and the **PURCHASER**, or its successors in title, shall:
  - 16.4.1 be compelled to sign the transfer documents within 7 days within receiving a notice to that effect, failing which the duly authorised agent of the **SELLER** is hereby appointed by the **PURCHASER** to sign such documentation, and
  - 16.4.2 be responsible for all transfer costs and statutory duties payable in connection with the retransfer of the property to the **SELLER** and/or any third party with regards to the purchase or retransfer of the property, and
  - 16.4.3 be entitled to a refund of the total purchase price mentioned in paragraph 2 hereof free of interest on the date of registration of transfer less any damages or loss incurred by the **SELLER**,

**and all the above mentioned conditions must be registered against the title deed of the property as a condition imposed by the Overstrand Municipality.**
- 16.5 Access to the property will be from such road that has been approved by the Director: Infrastructure and Planning, Overstrand Municipality.
- 16.6 All the required parking must be provided on-site. Parking must be provided as stipulated in the relevant Zoning Scheme
- 16.7 Coverage of 50% will be allowed on the property.

**17. SARS DECLARATION**

The **SELLER** confirms and the **PURCHASER** warrants and confirms that they have met all their tax obligations and commitments to the South African Revenue Services whether in their personal capacity (regarding the Purchaser) or otherwise (regarding the Seller and Purchaser), including but not limited to the fact that their tax returns and payment have been delivered and complied with. Should the transfer be delayed or cancelled as a result of a breach of this warranty by the **PURCHASER**, the **PURCHASER** will be liable for all costs incurred and damages suffered by the **SELLER**.

**18. LEGAL PERSON AS PURCHASER**

Should the **PURCHASER** be an incorporated company, a registered close corporation or other legal entity, the **SELLER** shall be entitled to require all directors of such company, members of such close corporation or trustees or office bearers of such other legal person to bind themselves jointly and severally as sureties for and co-principal debtors in solidum with the **PURCHASER** to the **SELLER** for the due and proper performance by the **PURCHASER** of all his obligations in terms hereof and to execute on demand deeds of suretyship in such form as may be required by the **SELLER**, and the signatory hereby warrants in favour of the **SELLER** that all such directors will so bind themselves and

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			



will so execute deeds of suretyship should the **SELLER** so require, which suretyship shall be signed within 7 (SEVEN) days of being presented to the Directors. Furthermore the signatory hereby warrants that he is duly authorised to sign this Deed of Sale for and on behalf of the company, close corporation or other legal person as the case may be. The signatory hereto, binds himself under renunciation of the exception of excussion and division, as surety and co-principal debtor to the **SELLER** of all the obligations of the **PURCHASER**.

**19. AGREEMENT BINDING ON SUCCESSORS IN TITLE**

This agreement shall be binding on the administrators, executors, heirs, judicial managers and other successors-in-title of the parties, who shall not be entitled to terminate this agreement merely by reason of the death of a party. Each party indemnifies the other against any loss or damage of any nature whatsoever which the other may sustain if this agreement is not binding for any reason on the former's administrators, executors, heirs, judicial managers and/or other successors-in-title.

**20. SUSPENSIVE CONDITIONS**

- 20.1 This Agreement is subject to the fulfillment of the condition that the **SELLER** obtain and comply with all the necessary approvals including, but not limited to, the requirements of the Local Government: Municipal Finance Management Act, no 56 of 2003 (as to the necessary advertisement and Council's approval) as to the transfer of the Property to the **PURCHASER** within 60 (SIXTY) days from the date of notice of acceptance of the offer by the Municipality.
- 20.2 Should the suspensive condition not be fulfilled within the time period afforded, or any extended period as agreed to upon in writing between the parties, the Agreement shall lapse and neither party shall have any claim against each other.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

**DO NOT SIGN** \_\_\_\_\_  
On behalf of the **SELLER**

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

**DO NOT SIGN** \_\_\_\_\_  
On behalf of the **PURCHASER**

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			

<b>11. FORM OF OFFER AND ACCEPTANCE</b>
---

**1. OFFER**

The Municipality, identified in the Acceptance signature block, has solicited offers to enter into a contract in respect of the sale of the following property:

**UNREGISTERED ERF 11457 (A PORTION OF ERF 243), MOUNT PLEASANT, HERMANUS FOR COMMUNITY PURPOSES.**

The bidder, identified in the offer signature block, acknowledges that he/she has examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules and confirms that the tender is subject to the conditions as set out in this tender documentation, the terms of the most recent Supply Chain Management Policy and the Administration of Immoveable Property Policy of the Overstrand Municipality as approved and adopted by Council, and by submitting this offer has accepted the conditions of tender and the conditions as set out in the aforesaid policies.

By the representative of the bidder, deemed to be duly authorized, signing this part of this form of offer and acceptance, the bidder offers to perform all of the obligations and liabilities as described in the tender document including compliance with all its terms and conditions according to their true intent and meaning.

<b>THE OFFERED PURCHASE PRICE EXCLUSIVE OF VAT IS:</b>	
<b>UNREGISTERED ERF 11457 (A PORTION OF ERF 243), MOUNT PLEASANT, HERMANUS:</b>	<div style="font-size: 24px; font-weight: bold; margin-bottom: 10px;">R</div> <div style="margin-top: 20px;"><i>(In words):</i></div>

This offer may be accepted by the Municipality by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document, originally signed, to the bidder.

Signature(s)		
Name(s)		
Capacity		
For the tenderer:		
Name of witness:	<i>(Insert name and address of organisation)</i>	Date
Signature of witness:		



**2. ACCEPTANCE**

By signing this part of this Form of Offer and Acceptance, the Municipality identified below, accepts the bidder's offer. Acceptance of the bidder's offer shall form an agreement between the Municipality and the bidder upon the terms and conditions contained in this agreement, the tender data and specifications, the tender documentation and in the Deed of Sale to be concluded that is the subject of this agreement, a draft of which is attached hereto per Annexure C.

Payment of 10% (ten per cent) of the agreed purchase price is required and payable within 10 days of date of request in writing thereof by the Municipality. The successful bidder shall be obliged to furnish the Municipality within 14 days after being requested thereto with a bank or other acceptable guarantee for the payment of the balance of the purchase price by registration of the transfer in the Deeds Office. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement and subsequent forfeiture of any monies paid to the Overstrand Municipality.

Notwithstanding anything contained herein, this Agreement comes into effect and is binding between the parties on the date of dispatch of one fully completed copy of this document to the bidder, originally signed by the authorized official of the Overstrand Municipality.

Signature(s):		
Name(s):		
Capacity:		
<b>For the Owner:</b>	<b>Overstrand Municipality, Magnolia Avenue, Hermanus</b>	
Name of witness:		Date:
Signature of witness:		

<b>12. DECLARATION BY TENDERER</b>
------------------------------------

I / We acknowledge that I / we am / are fully acquainted with the contents of the conditions of tender of this tender document and that I / we accept the conditions in all respects.

I / We agree that the laws of the Republic of South Africa shall be applicable to the contract resulting from the acceptance of \*my / our tender and that I / we elect *domicillium citandi et executandi* (physical address at which legal proceedings may be instituted) in the Republic at:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I / We accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving in me / us under this agreement as the principal liable for the due fulfillment of this contract.

I / We furthermore confirm I / we satisfied myself / ourselves as to the corrections and validity of my / our tender; that the price quoted cover all the work / items specified in the tender documents and that the price(s) cover all my / our obligations under a resulting contract and that I / we accept that any mistake(s) regarding price and calculations will be at my / our risk.

I / We furthermore confirm that my / our offer remains binding upon me / us and open for acceptance by the Purchases / Employer during the validity period indicated and calculated from the closing date of the bid.

SIGNATURE		NAME (PRINT)	
CAPACITY		DATE	
NAME OF FIRM			
WITNESS 1		WITNESS 2	



**PART C – MOST IMPORTANT ASPECTS OF THE  
ADMINISTRATION OF IMMOVABLE PROPERTY  
POLICY OF THE OVERSTRAND MUNICIPALITY**

### 13. MOST IMPORTANT ASPECTS OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF THE OVERSTRAND MUNICIPALITY

#### **GENERAL PRINCIPLES**

2. *The Municipality may:*
- (a) *alienate or let or permit to be built upon, occupied, enclosed or cultivated any immovable property owned by the Municipality;*
  - (b) *grant a servitude, way leave, encroachment or other rights on any immovable property of which the Municipality is the owner*
    - (i) *subject to this policy document and the provisions of applicable legislation; or*
    - (ii) *unless it is precluded from so doing by law or the conditions under which such property was acquired by the Municipality.*

#### **DISPOSAL OR TRANSFER OF IMMOVABLE PROPERTY**

5. *The Municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a municipal immovable property needed to provide the minimum level of basic services, save where the transfer is to another organ of state, as provided for in section 14(6) of the MFMA read with Regulation 24 in Chapter 3 of the MATR.*
6. *A decision by the municipal council that a specific immovable property is not needed to provide the minimum level of basic municipal services, may not be reversed by the Municipality after that immovable property has been sold, transferred or otherwise disposed of in accordance with Section 14(3) of the MFMA.*
7. *Any transfer of ownership of immovable property must be fair, equitable, transparent, competitive and consistent with the supply chain management policy of the Municipality in accordance with Section 14(5) of the MFMA.*

#### **CONDITIONS OF SALE**

27. *All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.*
28. *Should existing services need to be relocated or secured by means of the registration of a servitude in favour of the Municipality as a result of the alienation of the immovable property, all related costs shall be for the account of the successful bidder/purchaser.*
30. *Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.*
31. *Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes.*
32. *The agreement of sale shall be finalised and concluded within 120 days from the date of the Municipality's official written request and registration must be affected within 120 days of signature of the agreement by both parties; failure to comply shall cause the sale to lapse.*
34. *A 10% deposit will be due and payable by the purchaser/successful bidder upon signature of the deed of sale.*
35. *Interest on the purchase price must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser.*