

Bid 8/2013



**C a c a d u**

DISTRICT MUNICIPALITY

Province of the Eastern Cape

progress through development

**REVIEW AND IMPLEMENTATION OF  
THE CACADU DISTRICT  
MUNICIPALITY'S TRADE &  
INVESTMENT AND TOURISM  
MARKETING STRATEGY**

**SERVICE LEVEL AGREEMENT**

**APRIL 2013**

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**DEFINITIONS:** In this Contractual Agreement, unless the context indicates otherwise, the following words and expressions shall have the meaning assigned to them below:

- “Agreement” means this Contractual Agreement entitled ‘Review and Implementation of the Cacadu District Municipality’s Trade & Investment and Tourism Marketing Strategy’
- “The Client” means the Cacadu District Municipality
- “Service Provider”, means Boomtown Strategic Brand Agency
- “The Project” means the ‘Review and Implementation of the Cacadu District Municipality’s Trade & Investment and Tourism Marketing Strategy’
- “Deliverable” means the specific aim, objectives, outcomes and results by the Service Provider as required in terms of this Agreement and in the original *Call for Proposals for Review and Implementation of the Cacadu District Municipality’s Trade & Investment and Tourism Marketing Strategy’ (BID No. 08/2013)*
- “Project Management” means a methodical approach to planning and guiding project processes from start to finish;
- “Implementation Funds” means the amount of R1 105,036.20 (VAT inclusive) for the review of the strategy, including funds for implementation over the duration of the project.
- “Project work plan” means the work plan for the implementation of the project, prepared by the Service Provider, presented and adopted by the Client.
- “Period of Contract Agreement” means the period commencing on the 24 April 2013 to 30 June 2015.

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## 1. INTRODUCTION

The Client has its head office in Port Elizabeth, and administers the district known as the Cacadu District in the Eastern Cape Province. In terms of the Client's business model, it regards its core function as support and capacity building targeted at local municipalities in its area.

This contract governs the activities of the Service Provider in assisting the client to provide professional services for the Review and Implementation of the Cacadu District Municipality's Trade & Investment and Tourism Marketing Strategy.

## 2. APPOINTMENT OF THE SERVICE PROVIDER

The Client appoints the Service Provider for the purpose of implementing the project and the Service Provider shall act as an independent contractor, and has no authority to enter into agreements binding the client, unless agreed to by the client.

The Service Provider accepts the appointment on the terms and conditions as stated herein.

## 3. SERVICES REQUIRED

The services required by the client include, but are not necessarily limited to, the review and implementation of the Cacadu District Municipality's trade & investment and tourism marketing strategy. The activities associated with the review and implementation are more fully described in the Bid Documents (Bid 08/2013), the Service Provider's submission and will be based on outcomes of the Marketing Strategy Review Workshop to be held with Cacadu District local tourism organisations.

## 4. THE PROJECT WORK PLAN

The Service Provider undertakes to fulfill its responsibilities as per the project work plan, which is attached as Annexure 1 to the Service Level Agreement. The project work plan may be amended if agreed to by both parties, as detailed in section 12 of this Service Level Agreement. In addition to the project work plan the client may require additional marketing services on an ad hoc basis. The Service Provider will submit a quotation, upon request from the client, and will proceed with such ad hoc work if the quotation is approved by the client.

## 5. THE IMPLEMENTATION FUNDS

The total cost of the service is **R1 105,036.20 (VAT inclusive)** for the strategy review, which includes the cost of implementation. This is the amount quoted by the Service Provider for the strategy review in their submission and accepted by the client.

The payment of fees will be made on submission of a VAT Invoice at the agreed milestones, as per the project work plan or request by the client for a quotation for ad hoc services.

**6. PROJECT MANAGEMENT TEAM**

The Service Provider undertakes that the Project Team will consist of persons qualified, competent and experienced.

**7. PROJECT MANAGEMENT & REPORTING**

Project implementation will be managed by Economic Development Department. The Service Provider will report to the Project Manager: Tourism Development and Marketing.

The Service Provider will be required from time to time to attend scheduled meetings related to marketing activities of the client. The costs and disbursements related to these meetings are included in the project budget.

In addition stakeholder engagement meetings may be convened by the Client of which the Service Provider will be expected to attend. The costs and disbursements related to these meetings are included in the project budget.

**8. CONDUCT AND PERFORMANCE STANDARDS**

By accepting appointment in terms of this agreement, the Service Provider warrants that it has the necessary expertise, experience and administrative infrastructure to perform the duties expected of it and hereby:

- a) undertakes to perform its duties in terms of this agreement with utmost care and diligence and in accordance with the dictates of the profession of the Service Provider

The Service Provider shall exercise all reasonable skill, care and diligence in the performance of the work under the Agreement and shall carry out all of its responsibilities as such.

**9. OWNERSHIP OF MATERIAL**

The Service Provider hereby acknowledges that all reports and marketing collateral in print, electronic or any other recorded format or material produced by the him/her in furtherance of this Agreement in their final form and upon full payment by the Client shall become the property of the Client, which shall be entitled to use same for any purpose whatsoever and without payment to the service provider in addition to/other than the implementation funds of the project. For any marketing material or creative artwork developed or produced by the Service Provider for the Client in furtherance of this Agreement, with Client's corporate identity copyrights must be reserved for the ownership of the Client.

**10. CESSION**

It is agreed that neither party is entitled to cede or assign any of the rights, duties or obligations it has in terms of this Agreement without notice to the other party.

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**11. WHOLE AGREEMENT**

This Contract Agreement constitutes the whole Agreement between the parties and no representations, either verbal or written, made by either party during the tenure of this Agreement shall be of any force or effect unless agreed to by both parties, reduced to writing and annexed hereto as an addendum.

**12. VARIATIONS AND CANCELLATION**

No agreement varying, adding to, deleting from or cancelling this Agreement shall be effective unless reduced to writing and signed by or on behalf of the Parties.

**13. BREACH**

Any Party may terminate this Agreement by reason of the material breach of the Agreement by another Party. Such termination shall be without prejudice to any other claim that any Party may have, whether under this Agreement or in law, including any claim for damages.

For the purposes of this clause a breach shall be deemed to be material if it goes to the root of the Agreement, and the Party committing the breach fails to rectify the breach within 30 (thirty) days of receipt of written notice from the Party calling on it to do so, or within such longer period of notice that may reasonably be required to rectify the breach; or

If any Party commits any non-material breach of this Agreement then the other Party may claim specific performance or damages or both, as the case may be, but shall have no right of termination.

**14. DISPUTE RESOLUTION**

When a formal dispute has been registered, before referring the matter for arbitration, the parties must promptly convene a meeting between themselves or their representatives, to determine the nature of the dispute, including the precise issues that are in dispute in order to identify and agree on an appropriate mechanism or procedure, other than the judicial proceedings, that are available to the parties to assist them in settling the dispute. The parties must make every reasonable effort to settle the dispute in terms of such mechanism or procedure.

**15. ARBITRATION**

Any dispute between the Parties in regard to:

- (a) the interpretation of;
- (b) the effect of;
- (c) the Parties' respective rights and obligations in terms of;
- (d) a breach of;
- (e) any matter arising out of;

this Agreement or consequent upon the termination thereof shall be referred to and finally resolved by arbitration, by an arbitrator to be appointed by the Arbitration Foundation of South Africa ("AFSA") in accordance with the AFSA rules and regulations, which arbitrator's

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findings shall be subject to an appeal in terms of the AFSA rules, and may be made an order of court.

**16. PREVAILING LEGISLATION**

The terms and conditions of this Agreement shall be interpreted and governed in accordance with the laws of the Republic of South Africa.

**17. TERMINATION OF AGREEMENT**

Should the Service Provider conduct itself in a manner that is contrary to the conditions of this Agreement, the Client may terminate this Agreement forthwith without any prejudice to any other rights it may have.

**18. DOMICILIUM CITANDI ET EXECUTANDI**

The Cacadu District Municipality chooses as its domicilium citandi et executandi for all purposes arising from this Agreement:

**Standard Bank Building  
32 Govan Mbeki Avenue  
Port Elizabeth  
6001**

Boomtown Strategic Brand Agency chooses as its domicilium citandi et executandi for all purposes arising from this Agreement:

**1 Bridge Street  
Upper valley road and Brick makers  
Baakens Valley  
South End  
Port Elizabeth  
6001**

Either party may change its domicilium citandi et executandi by means of a written notice to the other party, provided that such domicilium shall be a physical address within the Province of the Eastern Cape, Republic of South Africa.

All notices contemplated under this Agreement shall be delivered by hand or sent by pre-paid registered post, in which event such notice shall be deemed to have been received by the addressee 14 (fourteen) business days after the proven date of posting.

*P. M. K.*  
*J. B.*  
*T. M.*

Thus done and signed by the CACADU DISTRICT MUNICIPALITY by D.M. PILLAY

at PORT ELIZABETH this 06<sup>TH</sup> day of MAY 2013

D. Pillay

Signed for CACADU DISTRICT MUNICIPALITY

As witnessed:

1. [Signature]

2. [Signature]

Thus done and signed by BOOMTOWN STRATEGIC BRAND AGENCY by

LAVUZO BANAGANI

at P.E this 02 day of MAY 2013

Signed for BOOWNTOWN STRATEGIC BRAND AGENCY

As witnessed:

1. [Signature]

2. [Signature]