



The Game changer of South Coast development

## RAY NKONYENI LOCAL MUNICIPALITY

### CALL FOR PROPOSALS FOR THE APPOINTMENT OF A PANEL OF ATTORNEYS FOR A PERIOD OF THREE YEARS

NOTICE NO. 118 OF 2022  
TENDER NO: 8/2/RNM0375

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**BID AMOUNT BASED ON/GUIDED BY CURRENT TARIFF OF CHARGES IN  
TERMS OF MAGISTRATE, HIGH AND SUPERIOR COURT RULES OF  
PRACTICE BY DEFAULT. (SERVICE PROVIDER TO ATTACH TARIFF  
CHARGES FOR EASE OF REFERENCE)**

Department: Corporate Services  
P.O. BOX 5  
PORT SHEPSTONE  
4240

JULY 2022

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**RAY NKONYENI LOCAL MUNICIPALITY**

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TENDER NO: RNM0375

**CALL FOR PROPOSALS FOR THE APPOINTMENT OF A PANEL OF ATTORNEYS  
FOR A PERIOD OF THREE YEARS**

The Ray Nkonyeni Local Municipality hereby invites proposals from competent and experienced service providers with relative experience with regard to the provision of Legal Services for a three-year period.

Bid documents can be downloaded free from the e-tenders portal <https://etenders.treasury.gov.za> also on the Ray Nkonyeni Municipality website [www.rnm.gov.za](http://www.rnm.gov.za) from Friday, 08 July 2022.

The contract period is 3 (three) years and the contract will not be subject to a guaranteed quantum work nor can the Municipality guarantee that all successful bidders will receive work. The procedure for the evaluation of tenders will be based on functionality and BBEE. Any bids which fail to meet the minimum threshold of 60 out of 100 points for functionality will be disqualified, thereafter only qualifying bids will be evaluated in terms of the 80/20 preference point system. Ray Nkonyeni Local Municipality subscribes to the Broad Based Black Economic Empowerment Act (BBEEA) Act 53 of 2003, Preferential Procurement Policy Framework Act, 2017.

<b>FUNCTIONALITY</b>		
<b>CRITERIA</b>	<b>MAXIMUM POINTS</b>	<b>VERIFICATION METHOD (BREAKDOWN TO BE CONTAINED IN BID DOCUMENT)</b>
EXPERIENCE WITH SOUTH AFRICAN GOVERNMENT LEGAL SERVICES IN THE PAST SIX YEARS	50	Duly Signed Letters of Appointment/Instruction Letters, in the last six years related to Legal Services pertaining to Government.
EXPERIENCE OF MOST SENIOR PROFESSIONAL PER CATEGORY OF LAW (ADMITTED ATTORNEY)	30	Company/Entity Profile, Organogram, CVs with certified copies of all qualifications plus admission certificates of all Attorneys (Foreign Qualifications must be verified by SAQA and verification attached).
CAPACITY & CAPABILITY	20	Certified Copy of Utility Bill/Lease Agreement if Bill is in Lessors name and Company/Entity Profile, Organogram and CV's of all staff members
<b>TOTAL</b>	<b>100</b>	

Completed tender documents in a sealed envelope, clearly marked "Tender No. 8/2/RNM0375 Call for Proposals for the Appointment of a Panel of Attorneys for a period of three years" must be deposited in the tender box at the Municipal Offices at 10 Connor Street, Port Shepstone, no later than 12h00 on Friday, 12<sup>th</sup> August 2022 after which all tenders will be opened in public.

All tender enquiries with regards to this tender are to be directed to Manager: Legal & Compliance, Ms. Ronitha Davenarain on 072 875 1372.

Compulsory tender briefing will be held at the Council Chambers at 09h00 on Friday, 22 July 2022.

**NOTE TO BIDDERS ON CONDITIONS OF THE BID:**

- The Supply Chain Management Policy of Ray Nkonyeni Municipality will apply. The Council reserves the right not to accept the lowest bid or any bid and reserves the right to accept the whole or part of the bid, or to reject all bids and cancel the notice to bid;
- Bids that are submitted late, incomplete, not initialled on each page, unsigned or by facsimile, electronically or not completed in black ink will be rejected and not accepted for further evaluation;
- Service providers are required to obtain the bid documents before the clarification meeting, and bring the bid document with them on the day of the clarification meeting;
- In respect of the compulsory clarification meeting, NO late comers will be entertained, and they will not be allowed to sign the attendance register;
- Only service providers registered in the Central Supplier Database (CSD) will be considered, attach proof of registration-failure to attach will result in your bid not being evaluated further.
- Members or Directors of Companies or Service Providers who are state employees are not allowed to bid or quote;
- Letter of Good Standing from the Legal Practise Council and Proof of Professional Indemnity Insurance (Attorneys Fidelity Fund Cover or similar) must be attached to each Bid as part of the compulsory pre-qualifying documents required-non submission will result in disqualification;
- Unsuccessful bidders will be informed of the Bid outcome through the Municipal website. Aggrieved unsuccessful bidders will be allowed to lodge, within fourteen (14) days of the decision or action, a written objection or complaint to the Office of the Municipal Manager through email, [mm@rnm.gov.za](mailto:mm@rnm.gov.za). Complaints or objections received after fourteen (14) days of the date of the notice **will not** be entertained; and
- The original bid document plus TWO **extra** (02) copies must be submitted, failure to submit two copies will result in disqualification.
- Bids submitted are to be valid for a period of **120 days**.

S M Mbili  
MUNICIPAL MANAGER

Ray Nkonyeni Municipality  
10 Connor Street  
P O Box 5  
PORT SHEPSTONE  
4240

**ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS  
(NOT TO BE RE-TYPED)**

**NB!!!! Please attach copies of the following documents.**

- **Company registration documents.**
- **Certified copy of ID documents of directors/owners/members/  
shareholders.**
- **Copy of a valid Tax Compliance Status PIN Sheet.**
- **CSD Registration**
- **Certified copy of BBEE Certificate /SWORN AFFIDAVIT**
- **Declarations (MBD 4, 6.1, 8 & 9).**
- **Joint Venture agreements (where applicable)**
- **Letter of good standing of the firm from Legal Practise Council**
- **Proof of Professional Indemnity Insurance  
(Attorneys Fidelity Fund Cover)**


<h1>STANDARD FORMS</h1>
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THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. THIS BID WILL BE EVALUATED AND ADJUDICATED ACCORDING TO THE FOLLOWING CRITERIA:

1. Relevant specifications
2. Value for money
3. Capability to execute the contract
4. PPPFA & associated regulations

**NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE**

**RAY NKONYENI MUNICIPALITY  
STANDARD FORM FOR BIDS**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE RAY NKONYENI MUNICIPALITY**

BID NUMBER:	8/2/RNM0375	CLOSING DATE:	12 August 2022	CLOSING TIME:	12:00
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DESCRIPTION Call for proposals for the appointment of a Panel of Attorneys for a period of three years

**THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).**

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX  
SITUATED AT:

RAY NKONYENI MUNICIPALITY

10 CONNOR STREET

PORT SHEPSTONE

4240

**SUPPLIER INFORMATION**

NAME OF BIDDER			
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POSTAL ADDRESS			
----------------	--	--	--

STREET ADDRESS			
----------------	--	--	--

TELEPHONE NUMBER	CODE		NUMBER	
------------------	------	--	--------	--

CELLPHONE NUMBER			
------------------	--	--	--

FACSIMILE NUMBER	CODE		NUMBER	
------------------	------	--	--------	--

E-MAIL ADDRESS			
----------------	--	--	--

VAT REGISTRATION NUMBER			
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TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
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B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes  <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes  <input type="checkbox"/> No
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**[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]**

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
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TOTAL NUMBER OF ITEMS OFFERED	TOTAL BID PRICE	R
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SIGNATURE OF BIDDER	DATE	
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CAPACITY UNDER WHICH THIS BID IS SIGNED			
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<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>		<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
DEPARTMENT	TREASURY(SCM)	CONTACT PERSON	Ronitha Davenarain
CONTACT PERSON	Bongani Mfenqa	TELEPHONE NUMBER	039 688 2130
TELEPHONE NUMBER	039-3128304	FACSIMILE NUMBER	N/A
FACSIMILE NUMBER	N/A	E-MAIL ADDRESS	ronitha.davenarain@rnm.gov.za
E-MAIL ADDRESS	bongani.mfenqa@rnm.gov.za		

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>	
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.	
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE	
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.	
1.4. THE BID OFFER MUST BE SIGNED BY A PERSON AUTHORIZED TO SIGN ON BEHALF OF THE BIDDER;	
1.5. A BIDDER WHO SUBMITTED A BID AS A JOINT VENTURE HAS INCLUDED AN ACCEPTABLE JOINT VENTURE AGREEMENT WITH HIS/HER BID;	
1.6. ONLY A CONSOLIDATED B-BBEE CERTIFICATE, ISSUED BY A SANAS APPROVED VERIFICATION AGENCY, WILL BE ACCEPTABLE FOR THE CLAIMING OF PREFERENCE POINTS WHERE BIDDERS SUBMITTED THEIR BID AS A JOINT VENTURE / CONSORTIUM;	
1.7. A BIDDER WHO IS A JOINT VENTURE HAS INCLUDED MBD 4, 8 & 9 FOR EACH ENTITY IN THE JOINT VENTURE / CONSORTIUM WITH HIS/HER BID	
1.8. THE BIDDER OR A COMPETENT AUTHORISED REPRESENTATIVE OF THE CONTRACTOR WHO SUBMITTED THE BID MUST ATTEND THE COMPULSORY CLARIFICATION MEETING OR SITE INSPECTION;	
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.	
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN 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 <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a> .	
2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.	
2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.	
2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.	
2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.	
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>	
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID. NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: .....

## EVALUATION OF TENDER OFFERS

It should be noted that functionality is included in this bid as criteria and will be assessed in terms of the evaluation criteria below. Any bid which fails to meet the minimum threshold of 60 points out of 100 points per category of law for the functionality, will be disqualified, thereafter only qualifying bids will be evaluated in terms of the 80/20 preference points system.

### 7.4 FUNCTIONALITY

FUNCTIONALITY		
CRITERIA	MAXIMUM POINTS	VERIFICATION METHOD (BREAKDOWN TO BE CONTAINED IN BID DOCUMENT)
EXPERIENCE WITH SOUTH AFRICAN GOVERNMENT LEGAL SERVICES IN THE PAST SIX YEARS	50	Duly Signed Letters of Appointment/Instruction Letters, in the last six years related to Legal Services pertaining to Government.
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CAPACITY & CAPABILITY	20	Certified Copy of Utility Bill/Lease Agreement if Bill is in Lessors name and Company/Entity Profile, Organogram and CV's of all staff members
TOTAL	100	



**PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPF ACT) POINTS TO BE CLAIMED AS FOLLOWS:**

Points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

A bid will not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 20 points respectively for B-BBEE.

## GENERAL CONDITIONS OF CONTRACT TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information inspection
6. Patent Rights
7. Performance security
8. Inspections, tests and analyses
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental Services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Variation orders
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Anti-dumping and countervailing duties and rights
25. Force Majeure
26. Termination for insolvency
27. Settlement of Disputes
28. Limitation of Liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. Transfer of contracts
34. Amendments of contracts
35. Prohibition of restrictive practices

## General Conditions of Contract

1. **Definitions**
- 1.1 The following terms shall be interpreted as indicated:
- 1.2 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- 1.3 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.4 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.5 "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.
- 1.6 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.7 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.8. "Database application form" means the application form required by the Ray Nkonyeni Municipality to be filled in by the successful Bidder, following the award of the contract, for inclusion on the RNM database before payment is made.
- 1.9 "Day" means calendar day.
- 1.10 "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.11 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.12 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.
- 1.13 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.14 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

- 1.15 "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.
- 1.16 "GCC" means the General Conditions of Contract.
- 1.17 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.18 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the bid will be manufactured.
- 1.19 "Local content" means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 1.20 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.21 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.22 "Project site," where applicable, means the place indicated in bidding documents.
- 1.23 "Purchaser" means the organization purchasing the goods.
- 1.24 "Republic" means the Republic of South Africa.
- 1.25 "SCC" means the Special Conditions of Contract.
- 1.26 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.27 "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.28 "Tort" means in breach of contract.

- 1.29 “Turnkey” means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.30 “Written” or “in writing” means hand-written in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, Contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a fee for documents may be charged.
- 3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information inspection**
- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specifications, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third Party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.
- 7. Performance security**
- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque.
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.
- 8. Inspections, tests and analyses**
- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

- 8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract goods may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.
- 9. Packing**
- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.
- 10. Delivery and documents**
- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.
- 11. Insurance**
- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.
- 12. Transportation**
- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified.
- 13. Incidental services**
- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts** 14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and;
  - (b) in the event of termination of production of the spare parts:
    - (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty** 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.



- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.
- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.
- 16.5. Payment will only be made if the supplier has filled in and submitted the necessary database application form to the satisfaction of the Chief Financial Officer.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and Services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.
- 18. Variation orders**
- 18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all sub-contracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.
- 21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties**
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.
- 23. Termination for default**
- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
  - (b) if the supplier fails to perform any other obligation(s) under the contract; or

- (c) if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier 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 supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, 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 purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (a) the name and address of the supplier and / or person restricted by the purchaser;
  - (b) the date of commencement of the restriction;
  - (c) the period of restriction; and
  - (d) 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.

- 23.7 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 Bid 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.

- 24. Anti-dumping and countervailing duties and rights** 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase, when, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favorable difference shall on demand be paid forthwith by the supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.
- 25. Force majeure** 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.  
25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- 26. Termination for insolvency** 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of disputes** 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.  
27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier 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.  
27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.  
27.4 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.
- 28. Limitation of liability** 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the Supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties ,license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

- 33. **Transfer of contracts** 33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser.
- 34. **Amendment of contracts** 34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed  
  
by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.
- 35. **Prohibition of restrictive practices** 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998 as amended, an agreement between, or concerted practice by , firms or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/ are or a contractor(s) was / were involved in collusive bidding.
  - 35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.
  - 35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

**No contract will be awarded to a person who has failed to submit a copy of Tax Compliance Status PIN from the South African Revenue Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.**

I certify that I have the appropriate authority to furnish the above-mentioned information and that the above information is correct at the time of completion.

Name:	Signature:
Designation:	Date:

\*\*\*\*\*

## **CALL FOR PROPOSALS FOR THE APPOINTMENT OF THE PANEL OF ATTORNEYS FOR A PERIOD OF THREE YEARS**

### **1. INTRODUCTION**

The Ray Nkonyeni Municipality requires services of suitably qualified, skilled and experienced firms of attorneys with relative experience to provide a wide range of legal services to the municipality. It is the intention of the municipality to appoint law firms for a period of Three (3) years.

#### **1.1 Alteration or Withdrawal of Bids**

Bidders may withdraw their proposals by written notification to the Municipal Manager in the details provided.

#### **1.2 Costs for Preparation of Proposals**

The costs incurred by Bidders in respect of the attendance of any briefing or presentation meetings, if necessary, or costs incurred in preparing any proposal/ presentation will be borne by the bidder and the municipality shall in no way be liable to re-imburse such costs incurred.

#### **1.3 Ownership of Bids and Presentations**

The municipality shall on receipt of any bid in response to this invitation to bidders, and submitted in accordance with the procedure set out herein, shall become the owner thereof and the municipality shall not be obliged to return any document therein.

#### **1.4 Ethics**

Any attempt by an interested bidder to obtain confidential information or enter into unlawful agreements with competitors or influence the evaluation and /or any of the bid committees or the municipality during the process of evaluation of the bids/ proposals will lead to the rejection of its bid / proposal in its entirety.

The bidder must declare any business or other interests it has with the municipality or any employee of the municipality as per the declaration of interest form annexed hereto, failing which the bidder shall be automatically disqualified from further participation in the Bid or call for proposals. The disqualification will be applicable at any stage of the bidding / or engagement process.

#### **1.5 Cancellation of Tender Process**

The municipality shall be entitled, within its sole and entire discretion, to cancel this Bid / Call for Proposals at any time and shall notify the interested service providers accordingly. The municipality shall in no way be liable for any damages whatsoever, including, without limitation, damages for loss of profit, in any way connected with the cancellation of this tender. The publication of the tender does not commit the municipality to appoint any of the qualifying tenderers.

#### **1.6 Disclaimer**

Interested bidders are required to conduct their own due diligence in respect of the municipality and its business operations and the nature and scope of the services required.

The municipality accepts no responsibility for the fairness, accuracy or completeness of any information or opinions, for any errors, omissions or misstatements, negligent or otherwise, made by any person in the bid or at any compulsory briefing session.

The municipality accepts no liability for any loss incurred by any person(s) due to events or action taken as a consequence of the preparation and dissemination of this tender request.

## 2 TERMS OF REFERENCE

It is the intention of the municipality to establish its Panel of Attorneys by this invitation to bid. Firms who are appointed to the Panel of Attorneys will receive instructions on an ad-hoc basis as and when the need for legal services is required.

### 2.1 Category of Services

The purpose of establishing this panel proposed is to provide on-going legal support with specific reference to matters that are on litigation, alternatively where litigation has been instituted against the municipality and also where counsel's opinions are sought. The task herein will require provision of legal support as afore-stated over a period three (3) years.

Below are categories of core services that the firms/consortiums submitting bids in response to this invitation should register their interest to perform according to their expertise:

- 2.1.1 **Litigation-** General litigation in the Magistrates Court, Higher Courts, Labour Court and through private Arbitrations which arises from litigation initiated against the municipality and defended debt collection matters.
- 2.1.2 **Commercial Contracts:** Assist with the drafting and vetting a wide range of commercial contracts e.g. lease agreements, joint venture agreements etc.
- 2.1.3 **Conveyancing Work:** Attending to the registration of property transfers, cancellation and application of lost title deeds etc.
- 2.1.4 **Labour Law:** CCMA conciliation briefings, CCMA Arbitrations and review and Labour Court Trials.
- 2.1.5 **Town Planning, Building Control and Environmental Law**
- 2.1.6 **Debt and Arrear Rates Collection:** Collecting monies due and payable to the municipality.
- 2.1.7 **Legal Opinions/Forensic Services/Other non-specified Legal/Legal Support Services:** Prepare Legal Opinions on a wide range of matters on short notice in respect of all the services listed, Prepare Forensic Reports in line with statutory obligations/requirements of the Municipality, the author of which must be in a position to testify and authenticate such report in a court of law or other competent forum, if and when required to do so, Provide legal assistance/support in other non-specified areas of law as and when required.

## 3. SCOPE OF WORKS

The scope of work when providing the legal services as per categories listed above to include but will not be limited to the following (further scope and service levels will be contained in a Service Level Agreement with successful Bidders):

- a) Provide support/representation to the Municipality by way of handling matters that the municipality is faced with or is instituting litigation.
- b) Support and guide the Legal Services department in settling litigation disputes on different matters that are in litigation.
- c) Assist the Legal Services in obtaining counsel's opinion where same is sought by our Legal Services department or appointed representative.
- d) When called upon to do so, analyse and give an opinion, propose appropriate course of action and prepare reports to the Legal Services department and any related department as requested from time to time and/or as per Service Level Agreement between the parties.



- e) Provide any other legal support and specialist assignments as may be required from time to time.
- f) Appoint other professionals eg. Town Planners, Architects, Technical Experts, in consultation with the Legal & Compliance Section that will assist the Municipality in undertaking the necessary legal processes.

#### 4. MINIMUM REQUIREMENTS

The minimum requirements are meant to determine which Bids are responsive and therefore to be assessed further. The information required in this section is critical to enable the municipality to conduct proper and fair evaluation and therefore failure to copy may lead to automatic disqualification. Interested firms/consortia must, at the very least, clearly demonstrate as follows:

<b>FUNCTIONALITY</b>		
<b>CRITERIA</b>	<b>MAXIMUM POINTS</b>	<b>VERIFICATION METHOD</b>
EXPERIENCE WITH SOUTH AFRICAN GOVERNMENT LEGAL SERVICES IN THE PAST SIX YEARS	50	Duly Signed Letters of Appointment/Instruction Letters, in the last six years related to Legal Services pertaining to Government.
EXPERIENCE OF MOST SENIOR PROFESSIONAL PER CATEGORY OF LAW (ADMITTED ATTORNEY)	30	Company/Entity Profile, Organogram, CVs with certified copies of all qualifications plus admission certificates of all Attorneys (Foreign Qualifications must be verified by SAQA and verification attached).
CAPACITY & CAPABILITY	20	Certified Copy of Utility Bill/Lease Agreement if Bill is in Lessors name and Company/Entity Profile, Organogram and CV's of all staff members
TOTAL	100	

Functionality Criteria and Indicators are broken down as follows:

CRITERIA	Category of law	INDICATORS			
		Experience of most senior professional (3-4 years)	Experience of most senior professional (5-7 years)	Experience of most senior professional (8-10 years)	Experience of most senior professional (More than 10 years)
EXPERIENCE OF MOST SENIOR PROFESSIONAL PER CATEGORY OF LAW (MAXIMUM 30 POINTS)	litigation	18	22.5	27	30
	Commercial contracts	18	22.5	27	30
	Conveyancing Work	18	22.5	27	30
	Labour Law	18	22.5	27	30
	Town Planning, Building Control & Environmental Law	18	22.5	27	30
	Debt & Arrear Rates Collections	18	22.5	27	30
	Legal Opinions/Forensic Services/Non-Specified Legal/Legal Support Services	18	22.5	27	30
CAPACITY & CAPABILITY (MAXIMUM 20 POINTS)	Number of staff at office in KZN (4)	Number of staff at office in KZN (5-7)	Number of staff at office in KZN (8-10)	Number of staff at office in KZN (More than 10)	
	12	15	18	20	
EXPERIENCE WITH SOUTH AFRICAN GOVERNMENT LEGAL SERVICES IN THE PAST SIX YEARS (MAXIMUM 50 POINTS)	(3 to 4 Letters of Appointments/Letters of Instructions)	(5 to 6 Letters of Appointments/Letters of Instructions)	(7 to 8 Letters of Appointments/Letters of Instructions)	(More than 8 Letters of Appointments/Letters of Instructions)	
	30	37.5	45	50	

## 5. FEES / PRICING

- a) The costs per legal matter will generally be based on/guided by the current fees in terms of the Magistrate, High and Superior Court Rules of Practice. Fees for collections work may be paid on contingency basis, where applicable, and where there are no prescribed fees for a specific work performed then the fees will be agreed upon on the basis of having submitted a quotation and motivation prior to the commencing of instructions as far as reasonably possible, for approval to the Manager: Legal & Compliance, which may be in the form of hourly rates or an all-inclusive fee, excluding or including necessary disbursements. Services where fees are normally covered by the relevant Court Tariff's, may also be negotiated to take the form of hourly rates. Manager Legal & Compliance, alternatively the Head of Dept. Corporate Services shall approve rates other than the prescribed Tariff, which is the default rate.
- b) The municipality reserves a right to negotiate any aspect of the proposed fees/ pricing disbursements with the preferred bidder(s) and shall not be bound to the fees/ pricing and disbursements submitted by any bidder(s).
- c) The same principle in "a)" above applies to appointment of Junior or Senior Counsel or other Professionals employed by Attorneys to assist with complicated matters i.e. The Manager: Legal and Compliance shall approve of the use of Counsel or other professionals as well as their Fees, after receiving motivation and quotations from at least three professionals.
- d) Fees per item undertaken, shall be raised regardless of how many professionals in the firm attended to it.

- e) Internal correspondence within a firm must not be raised as charges on the bills.
- f) Travelling Charges will be based on no more than AA Rates.
- g) Where tracing is required, no fees will be paid for no trace. It is the firm's responsibility to make Tracing Agents aware of this before sending instructions.
- h) Use of correspondents shall be allowed where necessary, however, fees per relevant tariff will be allowed for correspondents or all-inclusive fees (to be confirmed by the Municipalities Manager: Legal & Compliance) negotiated prior to commencing services. It is the responsibility of firms to ensure correspondents are correctly instructed in all aspects.
- i) Firms are to ensure that staff working on files and bills are made aware of the bid conditions and service level agreement between the firm and the Municipality and that bills are correctly drawn up and work planned accordingly.
- j) Contact Details (Name, e-mail, landline and cell number) are to be provided of the main professional(s) with whom key communication will be had for each instruction accepted. The Municipality must be timeously notified in the event of change of key contact persons.
- k) Bidders to note that the final payment for case allocated is subject to receipt of up to date report and/or final complete case file to the satisfaction of the municipality.

## **6. DURATION OF THE CONTRACT**

This contract will be effective for 36 months from the date of the signing of the Service Level Agreement post award.

## **7. COPYRIGHT**

The ownership and copyright in all documentation produced by the appointed firm or consortium in terms of this bid in the course of dealing with a particular case as instructed by the municipality shall remain with the Ray Nkonyeni Municipality.

## **8. QUALIFICATIONS**

### **a) Staff Qualifications**

All professional staff, save for candidate attorneys of the firm, should be in possession of a legal degree and be admitted to practice as an attorney. Conveyancers (where firms are bidding for Conveyancing Work) must be registered to practice as such in terms of the relevant rules of the Legal Practise Council. This information should be clear from the Firm Profile, CV's and certified copies of qualifications/certificates etc.

### **b) Professional Affiliations**

All professional staff must be members of and in good standing of the relevant Legal Practise Council and should detail such further professional organizations and associations they belong to e.g. Association of Insolvency Practitioners, Labour Law etc.<sup>29</sup>. The Firm must also be in good standing with the Legal Practise Council. This must be clear from the document submitted by the Bidder.

## **9. SUBMISSION OF BIDS**

Sealed proposals (including all required documentation) are to be placed in the Tender Box, at the Municipal Offices at 10 Connor Street, Port Shepstone no later than Friday, 12h00 on 12 August 2022.

## **10. THE EVALUATION CRITERIA**

Functionality is included in this bid as criteria, and will be assessed in terms of the evaluation criteria detailed above. Any bid which fails to meet the minimum threshold, of 60 out of 100 points , for functionality will be disqualified. Thereafter, only qualifying bids will be evaluated in terms of the 80/20 preference points system where 80 points is used for price only and 20 points for BBEEE. The Ray Nkonyeni Municipality subscribes to the Broad Based Black Economic Empowerment Act (BBBEEA), Act 53 of 2003, preferential Procurement Policy Framework Act, 2017

## **11. FURTHER ENQUIRIES**

Further enquiries can be addressed to the Manager: Legal & Compliance, Ms. Ronitha Davenarain: Tel: 072 875 1372.

The general conditions of contract are available at: [www.treasury.gov.za](http://www.treasury.gov.za)

**INDICATE CATEGORY OF LAW APPLIED FOR AND COMPLETE CHECKLIST FOR EVALUATION CRITERIA:**

AREA OF SERVICE	YES / NO	Number of years of experience of most senior professional (admitted Attorney) within firm pertaining to area of service being bid for:	Relevant Entity Profile with Organogram and CV's with certified copies of qualifications attached? Y/N
<b>Litigation-</b> General litigation in the Magistrates Court, Higher Courts, Labour Court, Superior Courts and through private Arbitrations which arises from litigation initiated against the municipality and defended debt collection matters.			
<b>Commercial Contracts:</b> Assist with the drafting and vetting a wide range of commercial contracts e.g. lease agreements, joint venture agreements etc.			
<b>Conveyancing Work:</b> Attending to the registration of property transfers, cancellation and application of lost title deeds etc.			
<b>Labour Law:</b> CCMA conciliation briefings, CCMA Arbitrations and review and Labour Court Trials.			
<b>Town Planning, Building Control and Environmental Law</b>			
<b>Debt and Arrear Rates Collection:</b> Collecting monies due and payable to the municipality.			
<b>Legal Opinions/Forensic Services/ Other non-specified Legal/Legal Support Services:</b> Prepare Legal Opinions on a wide range of matters on short notice in respect of all the services listed, Prepare Forensic Reports in line with statutory obligations/requirements of the Municipality, the author of which must be in a position to testify and authenticate such report in a court of law or other competent forum, if and when required to do so, Provide legal assistance/support in other non-specified areas of law as and when required.			
State Address of Office in KZN:			

Utility Bill for Office within KZN attached? YES/NO

State No. of Staff at office in KZN:

Company Profile and Organogram attached? YES/NO

Has your firm undertaken instructions relating to South African Government Legal Services in the past six years? YES/NO

Letters of Appointments/Letters of Instructions attached? YES/NO

Have you attached the Tariff of Charges per latest Government Gazettes for fees and charges relating to all South African Courts, where Applicable?

**PRICING SCHEDULE – FIRM PRICES  
(PURCHASES)**

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT**

Name of Bidder.....	Bid Number RNM0375
Closing Time 12H00	Closing Date 12 August 2022

- **BID AMOUNT BASED ON/GUIDED BY CURRENT TARIFF OF CHARGES IN TERMS OF MAGISTRATE, HIGH AND SUPERIOR COURT RULES OF PRACTICE. (SERVICE PROVIDER TO ATTACH TARIFF CHARGES FOR EASE OF REFERENCE.**

This quote/tender is valid for a period of 120 Days.

These prices quoted are firm and escalation will be applicable as per escalation in the magistrates and high court tariff, as published from time to time.

HAS A TAX COMPLIANCE STATUS PIN BEEN ATTACHED? YES/NO

I/We certify that the abovementioned information is correct and that we have due knowledge of the requirements of this Bid and have examined the document, Form of Tender, Specifications and requirements. We further agree that this Bid and the acceptance thereof by Council shall constitute a legal binding contract

Dated at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Authorised Signature (Tenderer)  
As Witnesses:

\_\_\_\_\_  
Print Name (Tenderer)

1) \_\_\_\_\_ 2) \_\_\_\_\_

\_\_\_\_\_  
S M MBILI  
Municipal Manager (For the Ray Nkonyeni Municipality)

As Witnesses:

1) \_\_\_\_\_ 2) \_\_\_\_\_

\_\_\_\_\_  
SUPPLIER'S SIGNATURE

\_\_\_\_\_  
DATE

- Required by: .....
- At: .....
- Brand and Model .....
- Country of Origin .....
- Does offer comply with specification? \*\_YES/NO
- If not to specification, indicate deviation(s) .....
- Period required for delivery .....
- \*\_Delivery: Firm/not firm
- Delivery basis (all delivery costs must be included in the bid price) .....

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

\*\*\* " all applicable taxes " includes value added tax, pay as you earn(PAYE), income tax , unemployment insurance fund (UIF) and skills development levies.

**\*Delete if not applicable**

## 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.

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

3.1 Full Name of bidder or his or her representative:.....

3.2 Identity Number: .....

3.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>):.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars. ....

.....

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

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

<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.



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

3.9.1 If yes, furnish particulars.....

.....

3.10 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? ..... **YES / NO**

3.10.1 If yes, furnish particulars.

.....

.....

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

3.11.1 If yes, furnish particulars

.....

.....

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

3.12.1 If yes, furnish particulars.

.....

.....

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

3.13.1 If yes, furnish particulars.

.....

.....

3.14 Do you or any of the directors, trustees, managers, principle 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. **YES / NO**

3.14.1 If yes, furnish particulars:

.....

.....

4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Employee Number

**CERTIFICATION**

I, \_\_\_\_\_ THE UNDERSIGNED CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

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

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

.....  
**Name of Bidder**



**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

a) The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable.

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	<b>POINTS</b>
<b>PRICE/FUNCTIONALITY</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

## 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)
 \end{array}$$

Where

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

$P_{\min}$  = Price of lowest acceptable bid

**4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR**

4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

A bid will not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 20 points respectively for B-BBEE.

**5. BID DECLARATION**

5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

**6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1**

6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)  
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

**7. SUB-CONTRACTING**

7.1 Will any portion of the contract be sub-contracted?

*(Tick applicable box)*

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

*(Tick applicable box)*

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
 .....  
 .....

8.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in

paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

<p>WITNESSES</p> <p>1. ....</p> <p>2. ....</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE: .....</p> <p>ADDRESS .....</p> <p>.....</p> <p>.....</p>
--



## 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:
  - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Bid 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.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Bid Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p><b>The Register for Bid Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>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?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.3.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
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?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

**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

.....  
Date

.....  
Position

.....  
Name of Bidder

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

1. This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> 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>2</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:
  - (a) take all reasonable steps to prevent such abuse;
  - (b) 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
  - (c) 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 (MBD9) must be completed and submitted with the bid:

<sup>1</sup>Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</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.

### CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_  
(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Municipality / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

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:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) 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>3</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:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation);
  - (c) methods, factors or formulas used to calculate prices;
  - (c) the intention or decision to submit or not to submit, a bid;

- (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
- (f) 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.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
POSITION

\_\_\_\_\_  
NAME OF BIDDER

<sup>3</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.