



TENDER NUMBER: 10/21/22

TENDER FOR THE APPOINTMENT OF SERVICE PROVIDER IN BA-PHALABORWA LOCAL MUNICIPALITY FOR THE:

Pool of Attorneys (Public Law and municipal Services, Town Planning and Environmental Law Services, Building and Construction Law Services, Labour Law services, Debt Collection Services, Property law, conveyancing and notarial registration services for a period of three (3) years

Ba-Phalaborwa Municipality hereby invites suitable professional services providers to render service), for the below listed project in the Ba-Phalaborwa Municipality of the Mopani District in Limpopo Province.

Tender documents are obtainable from Ba-Phalaborwa Municipality (civic Centre) during the following times: 07:00 to 12:00 and from 13:00 to 15:30 (Monday to Friday).

Below are the significant details per project: -

TENDER NUMBER	CIDB GRADING	DESCRIPTION	COMPULSORY BRIEFING SESSION			FUNCTIONALITY	EVALUATION CRITERIA	CLOSING DATE AND TIME	Minimum Score for functionality	CONTACT PERSON
			DATE	VENUE	COST					
10/21/22	N/A	Pool of Attorneys (Public Law and municipal Services, Town Planning and Environmental Law Services, Building and Construction Law Services, Labour Law services, Debt Collection Services, Property law, conveyancing and notarial registration services for a period of three (3) years	04/11/2021 @10H00	Municipal Activity Hall	Free at the municipal website and E-tender portal	Bidder's Capacity (20) Lead attorneys Qualification (30) Lead attorneys public sector Experience (30) Experience of key support staff (20)	N/A	30/11/2021 @ 10H00	70%	TS Mashale (015) 780 6300

BACKGROUND

Tenders are hereby invited from suitably qualified and experienced law firms employing admitted attorneys, conveyancers and notaries (the latter where applicable) to tender for the rendering of professional legal and advisory services to the Ba-Phalaborwa Municipality (“the Municipality”) as required from time to time for a period of three years.

The Municipality intends to establish a pool of attorneys comprising of sub – categories to render legal and advisory services in respect of the various categories of services as set out herein. The allocation of work will be issued as and when required from time to time and on a rotational basis. No assurance is given that any service provider on the panel will receive instructions during the term of the contract.

SCOPE OF WORK

- 1.1 Services required will be divided into the following 6 (six) categories of law. All categories of law include services related to Magistrate and High Court litigation, Labour Law, dispute resolution matters, as well as general including specialist conveyancing and notarial services.
- 1.2 Safe for regulated rates, prospective bidders will be required to indicate applicable rates as charged by the firm for time based and non-time based rates for contract purposes, which will be subject of negotiations.
- 1.3 Prospective bidders may tender for any or all of the categories of legal and advisory services required and must ensure that all the requirements of relevant legislation are adhered to throughout the contract period.
- 4.4 General Legal and advisory services:
General legal services are required in the following categories of service:
 - 4.4.1 **Public and Municipal Law Services**
The Municipality requires the services of law firms who have extensive capacity and experience in Public and Municipal Law.
 - 4.4.2 **Town Planning and Environmental Law Services**
The Municipality requires the services of law firms who have extensive capacity and experience in town planning and environmental law.
 - 4.4.3 **Building and Construction Law Services**
The Municipality requires the services of law firms who have extensive capacity and experience in building and construction law matters.
 - 4.4.4 **Labour Law Services**
The Municipality requires the services of law firms who have extensive capacity and experience in labour law matters.
 - 4.4.5 **Debt Collection Services**
The Municipality requires the services of law firms to attend to debt collection services, to ensure that monies due and payable to the Municipality are duly collected. This service shall also include taking the necessary actions against debtors placed under administration or debt review and deceased estate collections and act on behalf of the Municipality in business rescue and liquidation matters and executions and deregistration/re-registration of legal entities where the Municipality has a vested interest.

4.4.6 **Property Law, Conveyancing and Notarial Registration Services: housing, General and Specialised**

The Municipality requires conveyancing and notarial registration services pertaining to low cost housing, which includes, but are not limited to,

- a) Registration of General Plans and/or servitudes and other real rights in the Deeds Office;
- b) Registration and/or cancellation of bonds in favour of the Municipality;
- c) Registration of low cost housing transactions allocated to approved beneficiaries, which includes, but is not limited to the drafting and signing of deeds/sale agreements and other documents necessary to effect transfer; preparation and lodgement of deeds at the Deeds Office.
- d) Monthly reporting on progress with transfers.
- e) Drafting of contracts, where applicable;
- f) Registration of transfer of immovable property (General Conveyancing), including vesting transfers in terms of section 16 to 31 of the Deeds Registry Act ("the Act") and exchange transfers;
- g) Cancellation of bonds in favour of the Municipality;
- h) Drafting and registration of Certificates of Registered Titles;
- i) Drafting and registration Certificates of Consolidated title under section 40, Certificates of amended Title and Uniform Title under sections 41 and 42 and Certificates in terms of section 38 of the Act;
- j) Applications for endorsement(s) in terms of section 46 of the Act for the layout of a township or settlement;
- k) Applications for the issuing of a certified copy of a deed in terms of regulation 68(1);
- l) Drafting of notarial deeds of contracts and other documents and attending to the registration thereof;
- m) Communicating and engaging with the Office of the Surveyor – General, with regard to the metrication or amendment of any diagram or obtaining a copy of any diagram or certificate of remainder-including instructions;
- n) Attending to the upliftment of attachment interdicts in the Deeds Office;
- o) Attending to investigations in the Deeds Office, and other related matters.

5 GENERAL

5.1 Contract period

The contract period will commence on the date of signing the contract and will expire after 3 years with the proviso that all work not finalised by the end of the contract term be finalised as soon as possible thereafter on the same terms and conditions of this tender.

5.2 Validity period of tender

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

Notwithstanding the above period the tender shall be deemed to remain valid until formal acceptance by the Municipality of an offer at any time after the minimum validity period, unless the Municipality is notified in writing of anything to the contrary by the bidder.

5.3 Implementation timetable

5.3.1 The Municipality will, within 5 (five) days from date of formal allocation of work to a successful bidder, furnish all the necessary documents/copies of the Municipality's file relating to the matter, in order to proceed with the instruction.

5.3.2 The successful bidder shall at all times maintain and operate ICT capabilities as required by the Municipality and shall inform the Municipality within 24 (twenty-four) hours of any breakdown or other issues which may impact email or telephonic communications between the successful bidder and the Municipality.

5.3.3 The minimum time period specified in the Rules of Court for the delivery of applications, notices and pleadings must be adhered to.

5.3.4 A file will be closed once the deliverables as set out in the instruction have been met.

6 EVALUATION AND ADJUDICATION

6.1 In the initial phase (Supply Chain Management and technical compliance) bidders will be screened for compliance with the bid specifications as well as submission of compulsory documentation. **Bidders who fail to comply with any of these requirements will be regarded as non – responsive.**

6.2 Thereafter the ability of bidders will be assessed in terms of functionality in terms of each category of service tendered for. This exercise will assess capacity of the bidder firm and experience of lead attorneys and key support staff as per Annexure A hereof. Bidders must score at least 70% in this assessment in order to be evaluated further.

6.3 **Bidders who do not comply with these requirements will be regarded as non – responsive.**

6.4 All successful bidders will be placed on an overall panel of service providers and categorised as such. Selection will be based on the highest point scoring in each category of service. The maximum number of service providers per category will be determined by the Municipality in its own discretion.

6.5 Work will generally be allocated on a rotation basis with regard all categories of services to service providers on the respective categories.

6.6 The Municipality reserves the right to deviate from a strict rotation and to allocate work to any successful bidder from any segment of the category and reserve panels, after taking into account factors such as previous involvement in a matter, continuity, nature and complexity of the matter and when expertise and experience in a specific field of law is required, or in exceptional cases, to make appointments outside of the panels, to ensure that the best interest of the Municipality is served.

7 ELIGIBILITY CRITERIA

The evaluation of bids will be done in terms of compliance with the following criteria. Tenders that do not comply with all the criteria below will not be evaluated further.

Description of requirements	Please indicate with an "X" whether the offer complies with the requirements.		
	Yes	No	Comments and Attachments
Bidders must submit a memorandum setting out the capacity of the law firm, and the qualifications, and experience of each leading practitioner/attorney/ conveyancer/notary and key support staff member in the law firm who offer the service in respect of any one or more of the categories of legal services required.			
Bidders bidding for conveyancing and notarial services must provide proof of access to deeds office search software (proof of license to be attached).			
Bidders bidding for both conveyancing and notarial services must provide proof of access to conveyancing software (proof of licenses to be attached).			

Description of requirements	Please indicate with an "X" whether the offer complies with the requirements.		
	Yes	No	Comments and Attachments
In terms of conveyancing and notarial services, the necessary proof of admission as a conveyancer and notary of the lead attorneys of bidding law firm must be provided.			
Bidders bidding for each of the category of services listed in this tender, with the exception of conveyancing and notarial services, must provide the necessary lead attorneys' proof of admission to appear in the High Court.			
Bidders bidding for each of the category of services listed in this tender must provide certified copies of the admission certificates as attorney of the High Court for each lead attorney and their qualifications.			
Bidders for each of the category of services listed in this tender must provide certified copies of each lead attorney's fidelity fund certificate.			
Bidders bidding for each of the category of services must complete annexure A (which equates to a memorandum) in full to enable an assessment of the capacity and experience of each bidder. In the event that a bidder tenders for more than one category of service, a separate annexure A (which equates to a memorandum) must be completed for each category of service tendered for.			
Bidders for each of the category of services must provide a certificate of good standing from the applicable regulatory body.			

8 FUNCTIONALITY CRITERIA

It is required of bidders to submit a memorandum as per Annexure A setting out the capacity and level of experience as represented by the Lead Attorney/s listed in respect of each category of service tendered for. Please refer to the Pricing Schedule for the complete list of categories of service. It is the responsibility of bidders to ensure that sufficient information is submitted for such assessment. Please note that separate memoranda (Annexure A) must be submitted for each category of service tendered for. The memorandum must be detailed and contain a motivation for registration on the panel.

6.1 Contents of Memorandum – Annexure A

6.1.1 Bidder's capacity

The scoring of the bidder's capacity will be as set out below. In order to perform this assessment, a company/firm profile comprising at least of the following, must be attached to the memorandum as required in this tender: (A single profile per Bidder):

- (a) Name, physical and postal address and other contact details of bidder firm;
- (b) Registration number;

- (c) Firm structure (details of partners, associates, consultants, professional assistants, candidate attorneys);
- (d) Teams and technical / administrative support;
- (e) Service capacity (pertains to the category of service tendered for);
- (f) Focus and speciality areas of support staff;
- (g) Technology infrastructure and software programs / online law products;
- (h) Office infrastructure;
- (i) Office building/s and ownership / lease status;
- (j) Other relevant information in this category.

6.1.2 Qualifications and knowledge of Lead attorneys

For the purpose of this assessment, the Bidder will be required to attach the following information and support documentation to the memorandum:

- (a) Curriculum Vitae's for each of the Lead Attorney(s) who will be rendering the service must be provided to be comprised of not more than 4 (four) pages;
- (b) Certified copies of each of the Lead attorney(s) qualifications and admittance who will be rendering the service

6.1.3 Brief outline (200 words or less) of the issues considered to be pertinent to the rendering of the services in the category as tendered for.

6.1.4 Experience of key support staff

For the purpose of the above assessment, the Bidder will be required to submit support documentation detailing the education, training, skills, and experience of other key technical and administrative support personnel in the category as tendered for.

6.1.5 Public Sector Experience

- (a) Public Entity experience of Lead Attorney(s) in respect of each category of service tendered for (See Pricing Schedule) will be assessed as set out below.
- (b) For the purpose of this assessment, the bidder will be required to submit sufficient information and support documentation (if necessary) detailing the following:
 - (i) The lead attorney(s) specific experience with regard to public sector matters relating to the category as tendered for.
 - (ii) List key examples of High Court and Magistrate Court litigation on behalf of public sector authorities, as well as other key work instructions performed for local authorities during the past three years. (The examples should only relate to the categories of services in respect of which a bid is submitted in terms of this tender).
 - (iii) List key work instructions performed for public sector authorities pertaining to conveyancing and notarial services.
 - (iv) The variety of public sector matters in which the Lead Attorney has knowledge of experience.

6.2 Evaluation of Functionality criteria

- A total score of 70% (70 points) must be achieved to proceed to the next level of evaluation.
- The evaluation criteria is 80/20, where 80 is for price and 20 for B-BBEE

In order to determine the overall experience of bidders, the scoring method as set out below will be used. An assessment will be made in respect of each of the categories of service tendered separately.

6.2.1 FUNCTIONALITY CRITERIA – PUBLIC LAW AND MUNICIPAL LAW SERVICES				
	Description	Points attainable	Maximum points attainable	Points Awarded
A	Bidder's capacity – Assessment of facilities, organisation and staffing			
i	The proposed team is well integrated; most members have worked together extensively in the past (6 plus years). Teams have law related speciality areas. Facilities / Infrastructure are very good	20	20	
ii	Staff are well balanced i.e. they show good coordination, complimentary skills, support capacity, clear and defined duties and responsibilities. Some members of the project team have worked together for considerable time (3 – 5 years). Teams focus on certain law related areas. Facilities and infrastructure are good.	15		
iii	The organisational chart is complete and detailed, the technical level and composition or the staffing arrangement is reasonable. Team members have worked together for short period (1 – 2 years). Facilities / Infrastructure are adequate. The Bidder does have litigation capacity and reasonable experience.	10		
iv	The organisation chart contains limited information, the staffing plan is weak in important areas. There is limited capacity / infrastructure and limited support staff. Limited litigation capacity. Team members have worked together for less than 1 year	5		

B	Lead Attorney qualifications			
i	Relevant NQF 9/10 Qualification	30	30	
ii	Relevant NQF 7/8 Qualification	20		
C	Lead Attorney public sector experience			
i	>10 years public sector experience	30	30	
ii	8-10 years public sector experience	20		
iii	4-7 years public sector experience	10		
iv	1-3 years public sector experience	5		
D	Experience of key support staff			
i	Other key Personnel have high levels of education, skills, training and experience (9 and more years).	20	20	
ii	Other key support staff have extensive levels of education, skills, training and experience (6 to 8 years).	15		
iii	Other key support staff have reasonable levels of education, skills, training and experience (3 to 5 years).	10		
iv	Other key support staff have limited levels of education, skills, training and experience (1 to 2 years).	5		
TOTAL POINTS AWARDED				

6.2.2 FUNCTIONALITY CRITERIA – TOWN PLANNING AND ENVIROMENTAL LAW SERVICES

	Description	Points attainable	Maximum points attainable	Points Awarded
A	Bidder's capacity – Assessment of facilities, organisation and staffing			

i	The proposed team is well integrated; most members have worked together extensively in the past (6 plus years). Teams have law related speciality areas. Facilities / Infrastructure are very good.	20	20	
i i	Staff are well balanced i.e. they show good coordination, complimentary skills, support capacity, clear and defined duties and responsibilities. Some members of the project team have worked together for considerable time (3 – 5 years). Teams focus on certain law related areas. Facilities and infrastructure are good.	15		
i i i	The organisational chart is complete and detailed, the technical level and composition or the staffing arrangement is reasonable. Team members have worked together for short period (1 – 2 years). Facilities / Infrastructure are adequate. The Bidder does have litigation capacity and reasonable experience.	10		
i v	The organisation chart contains limited information, the staffing plan is weak in important areas. There is limited capacity / infrastructure and limited support staff. Limited litigation capacity. Team members have worked together for less than 1 year	5		
B	Lead Attorney qualifications			
i	Relevant NQF 9/10 Qualification	30	30	
i i	Relevant NQF 7/8 Qualification	20		
C	Lead Attorney public sector experience			

i	>10 years public sector experience	30	30	
i	8-10 years public sector experience	20		
i	4-7 years public sector experience	10		
i	1-3 years public sector experience	5		
D	Experience and training of key support staff			
i	Other key Personnel have high levels of education, skills, training and experience (9 and more years).	20	20	
i	Other key support staff have extensive levels of education, skills, training and experience (6 to 8 years).	15		
i	Other key support staff have reasonable levels of education, skills, training and experience (3 to 5 years).	10		
i	Other key support staff have limited levels of education, skills, training and experience (1 to 2 years).	5		
TOTAL POINTS AWARDED				

6.2.3 FUNCTIONALITY CRITERIA – BUILDING AND CONSTRUCTION LAW SERVICES

	Description	Points attainable	Maximum points attainable	Points Awarded
A	Bidder's capacity – Assessment of facilities, organisation and staffing			
i	The proposed team is well integrated; most members have worked together extensively in the past (6 plus years). Teams have law related speciality	20	20	

	areas. Facilities / Infrastructure are very good.			
i i	Staff are well balanced i.e. they show good coordination, complimentary skills, support capacity, clear and defined duties and responsibilities. Some members of the project team have worked together for considerable time (3 – 5 years). Teams focus on certain law related areas. Facilities and infrastructure are good.	15		
i i i	The organisational chart is complete and detailed, the technical level and composition or the staffing arrangement is reasonable. Team members have worked together for short period (1 – 2 years). Facilities / Infrastructure are adequate. The Bidder does have litigation capacity and reasonable experience.	10		
i v	The organisation chart contains limited information, the staffing plan is weak in important areas. There is limited capacity / infrastructure and limited support staff. Limited litigation capacity. Team members have worked together for less than 1 year	5		
B	Lead Attorney qualifications			
i	Relevant NQF 9/10 Qualification	30	30	
i i	Relevant NQF 7/8 Qualification	20		
C	Lead Attorney public sector experience			
i	>10 years public sector experience	30	30	
i i	8-10 years public sector experience	20		

i i i	4-7 years public sector experience	10		
i v	1-3 years public sector experience	5		
D	Experience of key support staff			
i	Other key Personnel have high levels of education, skills, training and experience (9 and more years).	20	20	
i i	Other key support staff have extensive levels of education, skills, training and experience (6 to 8 years).	15		
i i i	Other key support staff have reasonable levels of education, skills, training and experience (3 to 5 years).	10		
i v	Other key support staff have limited levels of education, skills, training and experience (1 to 2 years).	5		
TOTAL POINTS AWARDED				

6.2.4 FUNCTIONALITY CRITERIA – LABOUR LAW SERVICES				
	Description	Points attainable	Maximum points attainable	Points Awarded
A	Bidder's capacity – Assessment of facilities, organisation and staffing			
i	The proposed team is well integrated; most members have worked together extensively in the past (6 plus years). Teams have law related speciality areas. Facilities / Infrastructure are very good.	20	20	
i i	Staff are well balanced i.e. they show good coordination, complimentary skills, support capacity, clear and defined duties and responsibilities.	15		

	Some members of the project team have worked together for considerable time (3 – 5 years). Teams focus on certain law related areas. Facilities and infrastructure are good.			
i i i	The organisational chart is complete and detailed, the technical level and composition or the staffing arrangement is reasonable. Team members have worked together for short period (1 – 2 years). Facilities / Infrastructure are adequate. The Bidder does have litigation capacity and reasonable experience.	10		
i v	The organisation chart contains limited information, the staffing plan is weak in important areas. There is limited capacity / infrastructure and limited support staff. Limited litigation capacity. Team members have worked together for less than 1 year	5		
B	Lead Attorney qualifications			
i	Relevant NQF 9/10 Qualification	30	30	
i i	Relevant NQF 7/8 Qualification	20		
C	Lead Attorney public sector experience			
i	>10 years public sector experience	30	30	
i i	8-10 years public sector experience	20		
i i i	4-7 years public sector experience	10		
i v	1-3 years public sector experience	5		
D	Experience of key support staff			

i	Other key Personnel have high levels of education, skills, training and experience (9 and more years).	20	20	
i i	Other key support staff have extensive levels of education, skills, training and experience (6 to 8 years).	15		
i i i	Other key support staff have reasonable levels of education, skills, training and experience (3 to 5 years).	10		
i v	Other key support staff have limited levels of education, skills, training and experience (1 to 2 years).	5		
TOTAL POINTS AWARDED				

6.2.5 FUNCTIONALITY CRITERIA – DEBT COLLECTION SERVICES

	Description	Points attainable	Maximum points attainable	Points Awarded
A	Bidder's capacity – Assessment of facilities, organisation and staffing			
i	The proposed team is well integrated; most members have worked together extensively in the past (6 plus years). Teams have law related speciality areas. Facilities / Infrastructure are very good.	20	20	
i i	Staff are well balanced i.e. they show good coordination, complimentary skills, support capacity, clear and defined duties and responsibilities. Some members of the project team have worked together for considerable time (3 – 5 years). Teams focus on certain law related areas. Facilities and infrastructure are good.	15		

i i i	The organisational chart is complete and detailed, the technical level and composition or the staffing arrangement is reasonable. Team members have worked together for short period (1 – 2 years). Facilities / Infrastructure are adequate. The Bidder does have litigation capacity and reasonable experience.	10		
i v	The organisation chart contains limited information, the staffing plan is weak in important areas. There is limited capacity / infrastructure and limited support staff. Limited litigation capacity. Team members have worked together for less than 1 year	5		
B	Lead Attorney qualifications			
i	Relevant NQF 9/10 Qualification	30	30	
i i	Relevant NQF 7/8 Qualification	20		
C	Lead Attorney public sector experience			
	>10 years public sector experience	30	30	
i i	8-10 years public sector experience	20		
i i i	4-7 years public sector experience	10		
i v	1-3 years public sector experience	5		
D	Experience of key support staff			
i	Other key Personnel have high levels of education, skills, training and experience (9 and more years).	20	20	
i i	Other key support staff have extensive levels of education,	15		

	skills, training and experience (6 to 8 years).			
i i i	Other key support staff have reasonable levels of education, skills, training and experience (3 to 5 years).	10		
i v	Other key support staff have limited levels of education, skills, training and experience (1 to 2 years).	5		
TOTAL POINTS AWARDED				

6.2.6 Property Law, Conveyancing and Notarial Registration Services: housing, General and Specialised

	Description	Points attainable	Maximum points attainable	Points Awarded
A	Bidder's capacity – Assessment of facilities, organisation and staffing			
i	The proposed team is well integrated; most members have worked together extensively in the past (6 plus years). Teams have law related speciality areas. Facilities / Infrastructure are very good.	20	20	
i i	Staff are well balanced i.e. they show good coordination, complimentary skills, support capacity, clear and defined duties and responsibilities. Some members of the project team have worked together for considerable time (3 – 5 years). Teams focus on certain law related areas. Facilities and infrastructure are good.	15		
i i i	The organisational chart is complete and detailed, the technical level and composition or the staffing arrangement is reasonable. Team members have worked together for short period (1 – 2 years). Facilities / Infrastructure are adequate.	10		

	The Bidder does have capacity and reasonable conveyancing and notary experience.			
i v	The organisation chart contains limited information, the staffing plan is weak in important areas. There is limited capacity / infrastructure and limited support staff. Limited litigation capacity. Team members have worked together for less than 1 year	5		
B	Lead Attorney qualifications			
i	Relevant NQF 9/10 Qualification	30	30	
i i	Relevant NQF 7/8 Qualification	20		
C	Lead Attorney public sector experience			
i	>10 years public sector experience	30	30	
i i	8-10 years public sector experience	20		
i i i	4-7 years public sector experience	10		
i v	1-3 years public sector experience	5		

	Experience of key support staff			
i	Other key Personnel have high levels of education, skills, training and experience (9 and more years).	20	20	
i	Other key support staff have extensive levels of education, skills, training and experience (6 to 8 years).	15		
i	Other key support staff have reasonable levels of education,	10		

	skills, training and experience (3 to 5 years).			
	Other key support staff have limited levels of education, skills, training and experience (1 to 2 years).	5		
TOTAL POINTS AWARDED				

9 TECHNICAL REQUIREMENTS FOR EACH CATEGORY OF SERVICE

7.1 The following technical requirements / deliverables must all be complied with: **Public and Municipal Law services**

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.1.1	Assist the Municipality in the drafting and preparation of by – laws and policies.			
7.1.2	Rendering of impartial legal opinions pertaining to public and municipal law following a detailed assessment of all documents and correspondence pertaining to a municipal law matter			
7.1.3	Representing the municipality in civil litigation proceedings pertaining to public and municipal law matters			
7.1.4	Represent the municipality in review applications			

7.2 The following technical requirements / deliverables must all be complied with: **Town Planning and Environmental Law services**

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.2.1	Represent the Municipality in civil and commercial litigation pertaining to			

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
	town planning and environmental law matters			
7.2.2	Represent the Municipality in review applications			
7.2.3	Provide impartial legal opinions on town planning and environmental law			

7.3 The following technical requirements / deliverables must all be complied with: **Building and Construction Law services**

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.3.1	Represent the Municipality in matters pertaining to unlawful building works			
7.3.2	Represent the Municipality in review applications			
7.3.3	Provide impartial legal opinions on building and construction law matters			

7.4 The following technical requirements / deliverables must all be complied with: **Labour law matters**

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.4.1	The rendering of legal opinions pertaining to labour law matters			
7.4.2	Representing the Municipality in review applications in the Labour Court			
7.4.3	Representing the Municipality in Disciplinary Hearings			
7.4.4	Representing the Municipality in arbitration hearings (Bargaining Council i.e. condonation applications)			

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.4.5	Representing the Municipality in Labour Court and Labour Appeal Court hearings			
7.4.6	To investigate serious misconduct of a forensic nature.			

7.5 The following technical requirements / deliverables must all be complied with: **Debt Collections**

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.5.1	Represent the Municipality in debt collection matters where the Municipality was not able to collect the debt itself or the debtor opposes the legal action taken (including correspondence, default judgment, attachments, court appearances, and dealing with sales in execution)			
7.5.2	Taking the necessary actions against debtors placed under administration or debt review and deceased estate collections and act on behalf of the Municipality in business rescue and liquidation matters and executions and deregistration/re-registration of legal entities where the Municipality has a vested interest.			
7.5.3	Acting on behalf of the Municipality in Arbitration and dispute resolution forums			

7.6 The following technical requirements / deliverables must all be complied with: Property Law, Conveyancing and Notarial Registration Services: housing and General and Specialised

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.6.1	Registration of General Plans and / or servitudes and other real rights in the Deeds Office			
7.6.2	Registration and /or cancellation of bonds in favour of the Municipality			
7.6.3	Attend to the registration of low cost housing allocated to identified and approved beneficiaries, which includes, the drafting and signing of sale agreements and other documents necessary to effect transfer, preparation and lodgement of deeds at the Deeds Office			
7.6.4	Provide monthly reports on progress with transfers			

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.6.5	Attend to registration of transfer of immovable property (general conveyancing), including vesting transfers in terms of section 16 to 31 of the Deeds Registry Act ("the Act") and exchange transfers			
7.6.6	Cancellation of bonds in favour of the Municipality			
7.6.7	Drafting and registrations of Certificates of Registered Title			
7.6.8	Drafting and registration of certificates of consolidated title under section 40, certificates of amended title and uniform title under sections 41 and 42 and a certificate in terms of section 38 of the Act			
7.6.9	Applications for endorsements in terms of section 46 of the Act for the layout of a township or settlement			
7.6.10	Applications for the issuing of a certified copy of a deed in terms of regulation 68 (1)			
7.6.11	Drafting of notarial deeds of contracts and other documents and attending to the registration thereof			

Description of requirements / deliverables		Please indicate with an "X" whether the offer complies with the requirements.		
		Yes	No	Comment
7.6.12	Communicate and engage with the Office of the Surveyor – General, for metrication or amendment of any diagram or obtaining a copy of any diagram or certificate or remainder or any other general information.			
7.6.13	Attend to the upliftment of attachment interdicts in the Deeds Office			
7.6.14	Attending to investigations in the Deeds Office, and all other relates matters.			

10 INFORMATION TO BE PROVIDED BY BIDDER

Bidders who do not submit the information will be deemed as non-responsive

- 10.1 Company/ Incorporation registration documents
- 10.2 Central Supplier Database Summary Report printed within the date of advert and the closing date
- 10.3 B-BBEE certificate/ sworn Affidavit
- 10.4 Signed MBS forms and completed in full
- 10.5 Certified ID copies of the directors
- 10.6 Proof of municipal account not in arrears for more than 3 months/ letter from the tribal office / lease agreement
- 10.7 All bidders must attach tax clearance/ letter from SARS with a valid pin code
- 10.8 It is required of bidders to submit a memorandum setting out the firm's profile and comprising of the information listed in clause 6.1.1 to 6.1.4 to assess the capacity of each bidder in respect of each category of service;
- 10.9 The Lead Attorney(s) qualifications, admission certificate(s), relevant training, skills, knowledge and experience of matters relating to the category of services as tendered for (must present certified copies);
- 10.10 Curriculum Vitae's for each of the Lead Attorney(s) rendering the service comprising of not more than 4 (four) pages, excluding supporting documents;
- 10.11 Submission of support documentation detailing the education, training, skills, and experience of other key technical and administrative support personnel in the category as tendered for (Must present certified copies);
- 10.12 The memorandum (Annexure A) must contain an outline of each Lead Attorneys' knowledge and experience of issues which he or she considers pertinent to the tendering for the service;
- 10.13 The memorandum (Annexure A) must include examples of key relevant assignments undertaken / matters attended to by the Lead Attorney(s) for Municipalities, with contact details of references to enable the Municipality to contact them. The Municipality undertakes to maintain strict confidentiality as to the information provided;
- 10.14 The Memorandum (Annexure A) must reflect each Lead Attorney(s) specific public sector experience (in years) relating to the category of services as tendered for;
- 10.15 The Memorandum (Annexure A) must list key examples of High Court and Magistrate Court litigation on behalf of Local Municipalities as well as other key work instructions performed for Local Municipalities during the past

three years (the examples should only relate to the category of services in respect of which a bid is submitted in terms of this tender);

- 10.16 The Memorandum (Annexure A) must list key work instructions performed for Municipalities pertaining to Conveyancing and Notarial Services;
- 10.17 Certified copy of the fidelity fund certificate for each of the Lead Attorney(s) who will be rendering the service must be submitted;
- 10.18 Certified copy reflecting each of the Lead Attorney(s) right of appearance in the High Court must be submitted;
- 10.19 Certified copy of each Lead Attorney(s) admission as a conveyancer and notary must be submitted if a bid is submitted for the relevant category of service;
- 10.20 The memorandum (Annexure A) must reflect a brief outline (200 words or less) of the issues considered pertinent to the rendering of the services in the category of services tendered for.

ANNEXURE B. APPLICABLE TARIFF.

1. ALL CATEGORIES OF LEGAL SERVICES.

1.1 An escalation of 5.5% per annum effective will apply to time based fees, unless otherwise.

All categories	Name and surname of lead attorney	Rate per Hour (Incl. VAT)
		R2 600.00

1.2 Disbursements as set out hereunder will apply.

NATURE OF DISBURSEMENT	METHOD OF CALCULATION
Advocate fees.	Actual cost.
Sheriff fees.	Actual cost.
Courier fees.	Actual cost.
Deeds searches.	Actual cost.
Accommodation cost,	Actual cost.

Tracing cost.	Actual cost.
Travel cost,	R5.50 per kilometer.
Accommodation.	Actual cost.
Outgoing telephone calls including attendance (per 5 minutes or part thereof).	R75.00
Outgoing telephone calls including attendance (Cellular) (per 5 minutes or part thereof,)	R75.00
Outgoing emails per page.	R10.00
Photocopying per page.	R5.00

1.3 Per conveyancing.

Per conveyancing fee guidelines.

1.4 Debt collection.

As regulated by the Debtors Act.

1.5 If there is a need for a Counsel or an Expert to be appointed, prior written authorization must be obtained from the Municipality-

CONTACTABLE OFFICIALS FOR CLARIFICATION

Compulsory site briefing will be held as per the advert. Prospective bidders are required to meet with the representative of the Employer at Ba-Phalaborwa Municipality, Head Office. Only a single representative per company will be required as signatory on the date of compulsory briefing.

Enquiries regarding clarification of aspects mentioned in this TOR can be addressed to Mr. Mashale TS during office hours at Tel. no: **(015) 780 6300** or Supply Chain Office 015 780 6362.

BA-PHALABORWA LOCAL MUNICIPALITY

TENDER NUMBER: 10/21/22

**TENDER FOR THE APPOINTMENT OF SERVICE PROVIDER IN BA-PHALABORWA
LOCAL MUNICIPALITY:**

(All Documents and Schedules MUST BE SUBMITTED for the Tender to Qualify)

The bidder must submit the following documents:

T2.1 Returnable Schedules required for Bid evaluation purposes		
1	Form 1.1	General Information
2	Form 1.2	Certificate of attendance at briefing Session
3	Form 1.3	Authority for Signatory/ power of attorney
4	Compulsory municipal bid documents	Full Completion of MBD Forms
		Joint venture agreement if Applicable
		CSD registration report (Printed between the date of advert and closing date)
		BBB-EE Certificate or a sworn affidavit or consolidated BBB-EE certificate in case of Joint Venture agreement
		Valid TAX Clearance or Pin
		Proof of Company Registration (CK)
		Certified copies of municipal accounts / lease agreement / tribal authority confirmation letter of the company and owners not older than 3 months
		Certified ID copies of company directors not older than 3 months
		Company Profile

FORM 1.1 GENERAL INFORMATION

Details of person responsible for the tender process:

Name: _____

Contact number _____

Address of office submitting the tender:

Address: _____

Telephone no: _____

Fax no: _____

E-mail address: _____

SIGNED ON BEHALF OF TENDERER:

DATE:

FORM1.2 CERTIFICATE OF ATTENDANCE AT SITE VISIT

This is to certify that (*Tenderer*)

.....
of (address)
.....

..... was represented by the person(s)
named below at the compulsory meeting held for all tenderers at Head Office, for tender No: **10/21/22** on
_____ at _____

I / We acknowledge that the purpose of the meeting was to acquaint myself / ourselves with the site of the works and / or matters incidental to doing the work specified in the tender documents in order for me / us to take account of everything necessary when compiling our rates and prices included in the tender.

Particulars of person(s) attending the meeting:

Name: Signature:

Capacity:

Name: Signature:

Capacity:

Attendance of the above person(s) at the meeting is confirmed by the Employer's representative, namely:

Name: Signature:

Capacity: Date and Time:

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FORM 1.3 CERTIFICATE FOR AUTHORITY OF SIGNATORY

Signatories for Companies must establish their authority by attaching a copy of the relevant Resolution of the Board of Directors, duly signed and dated, to this form.

AN EXAMPLE IS SHOWN BELOW:

"By Resolution of the Board of Directors at a meeting on
.....

.....
2021

Mr/Mrs/Ms.
.....

Has been duly authorised to sign all documents in connection with the Tender on behalf of (Block capitals)
.....

SIGNED ON BEHALF OF
COMPANY.....

IN HIS CAPACITY AS
.....

SIGNATURE OF SIGNATORY

--	--	--	--	--	--

COMPULSORY MUNICIPAL BID DOCUMENTS

--	--	--	--	--	--

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

INVITATION TO BID

(a) YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE BA-PHALABORWA LOCAL MUNICIPALITY

BID NUMBER: CLOSING DATE..... CLOSING TIME....
DESCRIPTION.....

The successful bidders will be required to fill in and sign a written Contract Form.

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

Cnr Nelson Mandela & Sealane Street
Phalaborwa
1390

Bidders should ensure that bids are delivered timeously to the correct address inside the relevant bid box. If the bid is late or not inside the correct bid box, it will not be accepted for consideration.

- (b) The bid box is generally open 24 hours a day, 7 days a week.
- (c) ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

(d) NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE (as defined in Regulation 1 of the Local Government: Municipal Supply Chain Management Regulations)

Six empty rectangular boxes for signatures.

**THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)**

NAME OF BIDDER

.....

POSTAL ADDRESS

.....

STREET ADDRESS

.....

TELEPHONE NUMBER

CODE NUMBER.....

CELLPHONE NUMBER

.....

FACSIMILE NUMBER

CODE NUMBER.....

E-MAIL ADDRESS

.....

VAT REGISTRATION NUMBER

.....

--	--	--	--	--	--

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED? (MBD 2)
YES/NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (MBD 6.1)
YES/NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS)

A REGISTERED AUDITOR

(Tick applicable box)

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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?

YES/NO
(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER

.....

DATE

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED

.....

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS

OFFERED.....

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Municipality / Municipal Entity: Ba-Phalaborwa Local Municipality

Department: Finance

Contact Person: Mr. Selepe NW

Tel: (015) 780 6303

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

AS PER THE ADVERT.

TAX CLEARANCE CERTIFICATE

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement bidders are required to complete in full form TCC001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids. Copies of form TCC 001 are available from any SARS branch office nationally or on the website www.sars.gov.za.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
5. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.
6. Exemption to the provision of a Tax Clearance Certificate will be granted provided that:
 - a) The bidder is registered on the vendor database of the municipality and a valid tax clearance certificate was submitted together with the application for registration
 - b) If the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the municipality's possession.

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.

1. 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 favoritism, 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 authorized 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, hareholder²):.....

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.

.....

¹MSCM 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.

² 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.

Six empty rectangular boxes for signatures or stamps.

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:

.....

(a) 4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

**BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE) STATUS LEVEL
CERTIFICATES**

**Bidders are required to submit original and valid B-BBEE Status Level Verification
Certificates or certified copies thereof together with their bids, to substantiate their BBEE
rating claims.**

Bidders who do not submit B-BBEE Status T Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points for out of 90 or 80 for price only and zero points out of 10 or 20 for B-BBEE.

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

**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 BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.

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

1.3 Preference points for this bid shall be awarded for:

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

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

POINTS

1.3.1.1 PRICE.....

1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION.....

Total points for Price and B-BBEE must not exceed 100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

1.5. 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

2.1 “**all applicable taxes**” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 “**B-BBEE status level of contributor**” means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

2.4 “**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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

2.5 “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

2.6 “**comparative price**” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

2.7 “**consortium or joint venture**” 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;

2.8 “**contract**” means the agreement that results from the acceptance of a bid by an organ of state;

2.9 “**EME**” means any enterprise with an annual total revenue of R5 million or less.

2.10 “**Firm price**” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;

2.11 “**functionality**” means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;

2.12 “**non-firm prices**” means all prices other than “firm” prices;

2.13 “**person**” includes a juristic person;

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

2.14 “**rand value**” means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;

2.15 “**sub-contract**” means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;

2.16 “**total revenue**” bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;

2.17 “**trust**” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and

2.18 “**trustee**” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

3.1 The bidder obtaining the highest number of total points will be awarded the contract.

3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;

3.3 Points scored must be rounded off to the nearest 2 decimal places.

3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.

3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.

3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20

or

90/10

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

$$P_s \geq 80 \frac{P_t - P_{min}}{P_t} \quad \text{or} \quad P_s \geq 90 \frac{P_t - P_{min}}{P_t}$$

P_{min}

$$\frac{P_t - P_{min}}{P_t} \quad \frac{P_t - P_{min}}{P_t}$$

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

P_{min} = Comparative price of lowest acceptable bid

5. Points awarded for B-BBEE Status Level of Contribution

5.1 In terms of Regulation 5 (2) and 6 (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	8	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1.

7.1 B-BBEE Status Level of Contribution: = (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

(i) what percentage of the contract will be subcontracted?%

--	--	--	--	--	--

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

Stand Number

.....

9.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS?

.....

9.9 I/we, the undersigned, who is / are duly authorized to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 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 paragraph 7, 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 contribution 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 favorable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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.

WITNESSES:

1.

.....

2.

SIGNATURE(S) OF BIDDER(S)

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

DATE:

ADDRESS:

.....

.....

.....

..

..

[Signature box]

[Signature box]

[Signature box]

[Signature box]

[Signature box]

[Signature box]

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

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 Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

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>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <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 Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.2.1	If so, furnish particulars:		

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
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

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ 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).² Collusive bidding is a *pe 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 (MBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² 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.

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Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

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,

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Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2

communication between partners in a joint venture or consortium³ 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;
 - (d) 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.

³ 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.

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

Contractor Witness 1 Witness 2 Employer Witness 1 Witness 2