



**ELIAS MOTSOALEDI LOCAL MUNICIPALITY**

**EMLM 12/2025**

**APPOINTMENT OF THE PANEL OF MINIMUM OF THREE (3) AND MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)**

<b>CLOSING DATE:</b>	<b>08 NOVEMBER 2024</b>	<b>TIME</b>	<b>11H00</b>
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<b>NAME OF TENDERER</b>	
<b>TOTAL AMOUNT <i>(HOURLY RATES ONLY)</i></b>	<b>R</b>
<b>CENTRAL SUPPLIER DATABASE NUMBER</b>	<b>MAAA</b>
<b>TOTAL SPECIFIC GOALS POINTS</b>	
<b>CONTACT PERSON</b>	
<b>TELEPHONE NUMBER</b>	
<b>FAX NUMBER</b>	

<b>ENQUIRIES REGARDING BID PROCEDURES</b>		<b>TECHNICAL ENQUIRIES</b>	
<b>DIRECTORATE: BUDGET AND TREASURY</b>		<b>DIRECTORATE: MUNICIPAL MANAGER'S OFFICE</b>	
<b>V E MASILELA</b>		<b>S MAHLANGU</b>	
<b>MANAGER SUPPLY CHAIN MANAGEMENT</b>		<b>MANAGER: LEGAL SERVICES</b>	
<b>TEL. NUMBER</b>	<b>TEL.013 262 3056</b>	<b>TEL. NUMBER</b>	<b>013 262 3056</b>
<b>TENDER ISSUED BY</b>			
<b>SUPPLY CHAIN MANAGEMENT UNIT</b>			
<b>2<sup>ND</sup> GROBLER AVENUE</b>		<b>TEL. NUMBER</b>	<b>013 262 3056</b>
<b>ELIAS MOTSOALEDI LOCAL MUNICIPALITY</b>		<b>P.O. BOX 48, GROBLERSDAL, 0470</b>	

**NB: ANY OBJECTIONS OR COMPLAINTS IN RESPECT WITH THIS TENDER SHOULD BE LODGED WITHIN 14 DAYS OF THE ADVERTISEMENT.**

# ELIAS MOTSOALEDI LOCAL MUNICIPALITY

TENDER DETAILS						
TENDER NUMBER	EMLM 12/2025					
TENDER TITLE	APPOINTMENT OF THE PANEL OF MINIMUM OF THREE (3) AND MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)					
CLOSING DATE	08 NOVEMBER 2024		CLOSING TIME		11H00	
SITE MEETING	DATE	N/A	TIME	N/A	N/A	N/A
SITE MEETING ADDRESS	N/A					
CIDB GRADING REQUIRED	NO		LEVEL AND CATEGORY		N/A	
TENDER DOCUMENT FEE	R1000.00 (if collecting from the Municipality) Free when downloading from e-tender portal		PREFERENCE POINT SYSTEM		80/20	
BID BOX SITUATED AT	MAIN OFFICES, 2 <sup>ND</sup> GROBLER AVENUE, Elias Motsoaledi Local Municipality.					
OPERATING HOURS	The bid box is open during office hours, Monday to Thursday from 07h30 to 16h30 and Friday from 07h30 to 13h30.					
OFFER TO BE VALID FOR	90 DAYS FROM THE CLOSING DATE OF TENDER.					
PLEASE NOTE:						
<div>1. Prospective suppliers must be registered on CSD prior to submitting bid (open tender)</div> <div>2. Tenders that are deposited in the incorrect box will not be considered.</div> <div>3. Mailed, telegraphic, telex, or faxed tenders will not be accepted.</div> <div>4. No late bids after closing date and time will be accepted.</div> <div>5. Bids not clearly marked and unnamed will not be accepted.</div> <div>6. Bids may only be submitted on the bid documentation provided by the municipality.</div> <div>7. No awards will be made to a person:<div><div>i. Who is in the service of the state,</div><div>ii. If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state</div><div>iii. Who is an advisor or consultant contracted with the municipality or municipal entity.</div></div></div>						

## **BIDDER'S TENDER DOCUMENTATION DECLARATION CERTIFICATION**

I, the undersigned certify that the information furnished on this declaration form is correct, completed and submitted.	
NAME OF REPRESENTATIVE	
POSITION / DESIGNATION	
SIGNATURE	
DATE	

**TENDER NOTICE & INVITATION**  
**ELIAS MOTSOLEDI LOCAL MUNICIPALITY**

**TENDER NO.: EMLM 12/2025**

**CLOSING DATE: 08 NOVEMBER 2024 @ 11:00**



In terms of Section 110 of the Municipal Finance Management Act, 2003 (No. 56 of 2003), tenders are hereby invited for **APPOINTMENT OF THE PANEL OF MINIMUM OF THREE (3) AND MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)**

Tender documents and specifications are available and can be obtained from CASHIERS OFFICE IN THE MAIN OFFICES, 2<sup>ND</sup> Grobler Avenue Groblersdal, P.O. Box 48, Groblersdal, 0470 Tel: [013] 262 3056, at a non-refundable deposit of R1000.00 when the bidder request/need a document from the municipality, and it is free of charge when downloaded from e-tender portal. Payments can be made through cash, payable to the Elias Motsoaledi Local Municipality.

The closing time for receipt of tenders is **08 NOVEMBER 2024 at 11h00**. Telegraphic, telephonic, telex, facsimile, e-mail, unmarked and **late tenders** will under no circumstances be considered and accepted. The tender box will be emptied just after closing time on the closing date. Hereafter all bids will be open in public.

Any technical enquiries relating to the tender document may be directed to the **Municipal Manager Office (Ms. S Mahlangu)** on 013 262 3056 or at **smahlangu@emlm.gov.za** for any technical assistance.

Fully completed tender documents, clearly marked **“APPOINTMENT OF THE PANEL OF MINIMUM OF THREE (3) AND MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)”** with **“NAME OF TENDERER”** must be placed in a sealed envelope and placed in the **tender box correctly named/marked** on the **2<sup>nd</sup> Grobler Avenue**, Elias Motsoaledi Local Municipality, Main Offices, Groblersdal, **by no later than 08 NOVEMBER 2024 at 11h00**. The envelope must be endorsed with number, title and closing date as indicated above.

Bidders will be evaluated on functionality whereby 70 points has to be attained before financial proposals can be looked at. A preferential point system shall apply whereby a contract will be allocated to a tenderer in accordance with the Preferential Procurement Policy Framework Act,

Act No. 5 of 2000 (as amended) and as defined in the Conditions of Tender in the tender document, read in conjunction with the Supply Chain Management Policy of Elias Motsoaledi Local Municipality where 80 points will be allocated in respect of price and 20 points in respect of specific goals.

No awards will be made to a person:

- Who is not registered on the Central Supplier Database;
- Who is in the service of the state;
- If that person is not a natural person , of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; and/or
- Who is an advisor or consultant contracted with the municipality or municipal entity.
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The municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The municipality does not bind itself to accepting the lowest tender or award a contract to the bidder scoring the highest number of points



## **TERMS OF REFERENCE FOR**

### **APPOINTMENT OF THE PANEL OF MINIMUM OF THREE (3) AND MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)**

#### **1. PURPOSE**

- The Elias Motsoaledi Local Municipality (EMLM) is requesting proposals from suitable, qualified and competent legal firms of Legal Practitioners providers with adequate capacity, experience in dealing with legal issues to provide specialized legal advice and services. The purpose for appointing the panel of Legal Practitioners is to establish a database of legal professional skills (duly sworn, admitted and practicing) available to the to the municipality as and when required basis. The appointment will be for a period of thirty-six (36) months from the date of signing of the appointment letter and Service level agreement (SLA).

#### **2. BACKGROUND**

- Elias Motsoaledi Local Municipality previously faced a variety of legal suits and issues.
- It was against this background that the Municipality required professional expert legal advice and assistance regarding legal matters.
- Consequently, a panel of Legal Practitioners was established for duration of three years in order to deal with all legal issues.
- Since the term of the panel of Legal Practitioners is about to expire, a new panel of Legal Practitioners should be established.

#### **3. AIMS AND OBJECTIVES**

The key objectives for appointing a panel of Legal Practitioners are:

- To assist the Municipality by providing professional and specialized legal services and to advice the Municipality in all legal matters to safeguard it against unnecessary litigation and represent the Municipality in all courts of South Africa.

- To achieve and maintain efficient and effective legal representations within the Municipality.

#### **4. SCOPE AND FUNCTIONS**

- Firms of Legal Practitioners will be required to render services to the EMLM on a wide range of legal issues pertaining to, inter alia the following fields of law:
  - (a) Public and Private Partnerships;
  - (b) Conveyancing and Notary;
  - (c) Property Law and Land Transactions
  - (d) Performance and other guarantees;
  - (e) Constitutional and Administrative Law;
  - (f) Information Technology Law;
  - (g) Legislative Drafting;
  - (h) Service Level Agreements;
  - (i) General contracts;
  - (j) Employment contracts;
  - (k) Agreements with independent contractors;
  - (l) Building and construction law;
  - (m) Labour and Employment law;
  - (n) Corporate law;
  - (o) Corporate Governance;
  - (p) Legal opinion on complex legal matters;
  - (q) Interpretation of Statutes;
  - (r) General Litigation (Institute and defend EMLM on litigation matters);
  - (s) Any other specialist field that the firm of Legal Practitioners has expertise in and which is relevant to the working environment of the EMLM.

#### **5. SKILLS TRANSFER**

- The firms of Legal Practitioners will also be required to ensure transfer of skills to in-house legal advisors of the EMLM.

#### **6. APPOINTMENT AND DURATION**

- The EMLM will appoint a minimum of three (3) and a maximum of five (5) firms of Legal Practitioners for the period of Three (3) years.

## **7. REPORTING RELATIONSHIP**

- The respective bidder firms of Legal Practitioners will report to the Municipal Accounting Officer, or a person delegated by the Municipal Accounting Officer (The Manager: Legal Services of the EMLM);
- The firms of Legal Practitioners will be expected to provide formal written monthly reports on the progress of all pending assignments to the Manager: Legal Services.
- The firms of Legal Practitioners will be expected to provide formal written handover reports and soft copies of the file to the Manager: Legal Services after the completion of each assignment.

## **8. CONDITION OF TENDER**

### **8.1. Appointment of panel**

8.1.1. Only Firms and Legal Practitioners established in accordance with the provisions of the Legal Practice Act (Act No. 28 of 2014 as may be amended) shall be considered for this tender.

8.1.2. A Service Level Agreement (SLA) shall be signed by the EMLM and firms of Legal Practitioners appointed for the panel.

8.1.3. The firms of Legal Practitioners will be required to sign confidentiality and indemnity agreements with the EMLM.

8.1.4. The cost of every assignment shall comply with fees as tendered by the firms of Legal Practitioners and an instruction letter signed by the Municipal Accounting Officer or a person duly delegated shall be issued for each assignment allocated. An appointment letter shall be a prerequisite for every assignment.

8.1.5. EMLM does not guarantee that successful bidders of firms of Legal Practitioners will receive work during the appointment term. The panel of Legal Practitioners will be used on an ad hoc basis as and when required by the EMLM.



- 8.1.6. The EMLM reserves the right to interview the Legal Practitioner that may be short-listed for specific assignments.
- 8.1.7. The EMLM may, at its sole discretion and when it deems fit appoint an assignment or any part thereof to more than one Legal Practitioners.
- 8.1.8. The EMLM may at its own discretion and when it deems fit extend the scope of an assignment given to a Legal Practitioner.
- 8.1.9. The firm of the Legal Practitioner appointed may not cede or assign any part of its agreement with the EMLM nor subcontract (instructing of advocates and external experts) any part of the work assigned to them without consultation with EMLM.
- 8.1.10. The firm of the Legal Practitioner appointed may not sub-delegate an assignment (use of Candidate Legal Practitioner or Trainee Legal Practitioner) any part of the work assigned to them without the prior written authorization of the EMLM
- 8.1.11. Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal or any appointment of the firms of Legal Practitioners.
- 8.1.12. Assignments awarded in the last three months of the contract period will be allowed to continue after expiry of this contract period to allow finalisation or completion, however the mandate of the Legal Practitioner will be terminated should a matter remain pending beyond six months after the expiry of the contract.
- 8.1.13. The firms of Legal Practitioners must declare any interest it has in an assignment as well as declare any possible conflict of interest with the EMLM in the pursuance of the proposed assignment.
- 8.1.14. In the event that any conflict of interest is discovered during the assignment, the EMLM reserves the right to summarily cancel the mandate and demand that all information, documents and property of the EMLM be returned forthwith.
- 8.1.15 The firm of the Legal Practitioners subject to clause 8.1.13 above will be required to finalise all matters allocated to them before the expiry of the contract. In the event the matters

remain pending, EMLM will be entitled to terminate mandate and the Legal Practitioner will be required to handover the file.

8.1.16. Price quoted for assignments should include VAT and disbursement.

## 8.2. Proposal Requirements.

8.2.1. Each proposal must include the specialist fields of law of the firm. If a firm of Legal Practitioners has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with **demonstrated experience** in the specified areas of law.

## 8.3. Intellectual Property Rights

8.3.1. All copyright and intellectual property rights that may result as consequence of the work to be performed will become the property of the EMLM.

8.3.2. Firms of Legal Practitioners must hand over all documents and information in any format, including copies thereof, that they received from the EMLM or that they had access to during the assignment immediately after completion of the assignments to EMLM.

8.3.3. Firms of Legal Practitioners shall deliver to the EMLM, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and the EMLM will have the right to amend and change these without obligation whatsoever to the firms of Legal Practitioners upon completion of the assignment.

## 8.4. Procurement policies and procedures

- The general conditions of tender, contract and order will be applicable to this tender.

## 9. PROFESSIONAL FEES

- An assignment fee will be as per tendered rates and prescribed tariffs for every assignment issued.

## EVALUATION CRITERIA:

**RETURNABLE TENDER DOCUMENTS MUST BE COMPILED WITH CLEAR FILES DIVIDERS IN NUMERICAL ORDER AS PER THE BELOW MINIMUM REQUIREMENTS**

### **Minimum Qualifying Requirements /Compulsory Returnable Documents:**

1. Fully Completed and Signed MBD Forms with a black ink (1; 4; 6.1; 8 & 9).
2. Attach CSD registration report (summary or detailed).
3. Valid copy Entity / Company registration certificate.
4. Any alteration on the tender document must be signed **(NB: Not Initialed)**.
5. Every page on the tender documents must be signed **(NB: Not Initialed)**.
6. Forms must be signed in Black ink.
7. Certified valid certificate of Good Standing from the Legal Practice Council in respect of director(s).
8. The Fidelity Fund Certificate of the Director for the year ending 31st December 2024 associated with the Law Firm.
9. Certified copy of director(s) Admission Certificate (Certification not older than 6 months before the closing date).
10. CIPC Abridged Certificate Annual returns **(NB applicable to entities that are in business for more than 12 months)**.
11. Company Profile **(Detailing; Name of Client; Service Provided; Award Amount; Contact Person and Contact Number)**.
12. Proof of Municipal rates and taxes or services charges:
  - Of the company and all of its directors not in arrears for more than 90 days or
  - Confirmation from the municipality if municipal rates and taxes are not levied (for the company and all its director(s)) as per CK/Company form of address on the registration certificate or
  - if leasing, a signed lease agreement by the lessor and the lessee and a declaration/letter indicating that the bidder and/or the director does not have municipal account and that the municipal services; rates and taxes are paid by the property owner, should be signed by the lessor and such declaration/letter must be attached / Municipal rates in the name of the lessor for both company and director(s).
13. Original Certified copies of ID's of the Director(s) (Certification not older than 6 months before the closing date).
14. **In case of a Joint Venture**, Association or Consortium a formal contract agreement must be signed by both parties and be attached and the following must be adhered to: All of the above requirements must be for both entities.

**NB: FAILURE TO MEET ANY OF THE ABOVE REQUIREMENTS WILL LEAD TO IMMEDIATE DISQUALIFICATION**

## **EVALUATION CRITERIA**

No	Quality Criteria	Maximum Score	Evidence
A.	Company experience in public and / or private sector (litigation and legal opinion)  <b><i>NB: Attach signed and stamped appointment letter /instruction letter/ purchase order and reference letter</i></b>	<b>40</b>	<b>10 points per appointment letter/ instruction letter/ purchase order and reference letter.</b>  The appointment letters / instruction letter/ purchase order and reference letters should be for <b>legal services</b> such as litigation, legal opinion, etc.
B.	Lead director ( <b>Admitted Attorney</b> ) <ul style="list-style-type: none"> <li>- Above 12 years' experience = 30 points</li> <li>- 5 – 10 years experiences = 20 points</li> <li>- 1-4 years' experience = 10 points</li> </ul> <b><i>(Attached Proof of admission certificate(s))</i></b>	<b>30</b>	Admission certificate and detailed CV of lead director <b><i>(Certification not older than 6 months before closing date)</i></b>
C.	Organogram (Complete structure) (Legal team should consist of the followings) <ul style="list-style-type: none"> <li>- Senior Practitioner (s) = 10 points</li> <li>- Junior Legal Practitioner (s) = 10 points</li> </ul> <b>NB: All team members must be Admitted Attorneys and registered with the Legal Practice Council</b> <b><i>(Attached proof of admission certificate(s) and letter(s) of good standing from LPC)</i></b>	<b>20</b>	Detailed CV of practitioners and organogram. <b><i>(Certification not older than 6 months before closing date)</i></b>  <b><i>(Attached proof of admission certificate(s) and letter(s) of good standing from LPC)</i></b>
D.	Specialised practitioners (maximum 10 points) <ul style="list-style-type: none"> <li>- Conveyancer =10 Points</li> <li>- Notary = 10 Points</li> </ul>	<b>10</b>	Certified copy admission certificate <b><i>(Certification not older than 6 months before the closing date).</i></b>
<b>TOTAL POINTS</b>		<b>100</b>	

**NB: - Bidders must score a minimum of 70 points to qualify for further evaluation**

**NB: Failure to submit appointment letters/purchase order/instruction letter and reference letters no points will be allocated.**

**NB: Preference will be given to the highest scored points bidders**

Financial proposal will be compared on the basis of hourly rates. Firms are requested to submit a table of hourly rate as required in the table below. Rates should be inclusive of overheads and Value Added Tax (VAT). If a particular category does not exist in the firm, it can be omitted

## PRICING SECHEDULLE (BOQ)

Position	Hourly Rate (Including VAT)	Daily Rate- 8 hours (including VAT)
Lead Director (years of experience: 12 and above)		
Directors (other) (years of experience: between 5 and below 12)		
Senior Associates (years of experience: between 5 and below 12)		
Junior Associates (years of experience less than 5)		
Senior Legal Practitioner (experience: between 5 and below 12)		
Junior Legal Practitioner (years of experience less than 5)		
<b>Total Rate</b>		

Traveling (per kilometre)	As per department of transport guidelines.	N/A
Any other legal support and miscellaneous costs	The appointed firms of Legal Practitioner should charge legal fees in accordance with High court tariffs, regulated in Government Gazette notice No 50272 Effective date: 12 April 2024, as may be amended.	N/A
Conveyancing and Notarial fees	The appointed firms of Legal Practitioner should charge tariffs, which are not higher than approved fees contained in the schedules as made by the Deeds Registries Regulation Board and Conveyancing fees guidelines.	N/A

All technical enquiries should be directed to Manager: Legal Services (Ms. S Mahlangu) at 013 262 3056 or [smahlangu@emlm.gov.za](mailto:smahlangu@emlm.gov.za)

## **PHASE 2: PRICE AND PREFERENTIAL POINTS ALLOCATIONS**

For quotes with a Rand value up to R50 000 000, the preference point system of 80/20 will apply, where 80 points will be for **(Price)** and 20 points will be for **Specific Goals** (Black, Women, Disability & people living in rural underdeveloped areas) in terms of section 2(1)(d) of the Preferential Procurement Policy Framework Act, 2000, (Act No 5 of 2000)

<b>Price</b>	=	<b>80 Points</b>
<b>Specific Goals</b>	=	<b>20 Points</b>
<b>Total</b>	=	<b>100 Points</b>

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Company which at least 51% is owned by Black People	10	
Locality	10	
- Within the area of Elias Motsoaledi Local Municipality	10	
- Within the area of Sekhukhune District Municipality	6	
- Within the area of Limpopo Province	4	
- Within the Republic of South Africa	2	
<b>TOTAL POINTS</b>	<b>20</b>	

## **CONCLUSION**

Any false information given by the Prospective Service Provider and not meeting the minimum qualifying requirement, will lead to automatic disqualification of the PSP.

The council reserves the right to accept either the whole or part of any Bid, or not to appoint at all. Faxes or e-mail is not acceptable. Bidders will be required to show compliance with the New Preferential Procurement Regulation of 2022

## **COMPULSORY MUNICIPAL BID DOCUMENTATION**

- a) MBD 1 : Invitation to tender
- b) MBD 4 : Declaration of interest
- c) MBD 6.1 : Preference points in terms of Preferential Policy Regulations 2022
- d) MBD 8 : Declaration of bidder's past supply chain management practices
- e) MBD 9 : Certificate of Independent Bid Determine

**Ms. N.R MAKGATA Pr Tech Eng**  
**MUNICIPAL MANAGER**  
**2 ND GROBLER AVENUE**  
**GROBLERSDAL**  
**0470**

**PART A  
INVITATION TO BID**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (ELIAS MOTSOLEDI LOCAL MUNICIPALITY)**

BID NUMBER:		CLOSING DATE:		CLOSING TIME:	
DESCRIPTION					

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

BID RESPONSE DOCUMENTS MAY  
DEPOSITED IN THE BID BOX SITUATED  
(STREET ADDRESS)

<b>02 GROBLER AVENUE</b>				
<b>GROBLERSDAL</b>				
<b>0470</b>				
<b>SUPPLIER INFORMATION</b>				
NAME OF BIDDER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBE R	
CELLPHONE NUMBER				
FACSIMILE NUMBER	CODE		NUMBE R	
E-MAIL ADDRESS				
VAT REGISTRATION NUMBER				
TAX COMPLIANCE STATUS	TCS PIN:		<b>OR</b>	CSD No:



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 ]
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE	R
SIGNATURE OF BIDDER	.....	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED			
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>		<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
CONTACT PERSON	V MASILELA	CONTACT PERSON	S. MAHLANGU
TELEPHONE NUMBER	013 262 3056	TELEPHONE NUMBER	013 262 3056
E-MAIL ADDRESS	<a href="mailto:vmasilela@emlm.gov.za">vmasilela@emlm.gov.za</a>	E-MAIL ADDRESS	<a href="mailto:smahlangu@emlm.gov.za">smahlangu@emlm.gov.za</a>

## PART B

### TERMS AND CONDITIONS FOR BIDDING

#### 1. BID SUBMISSION:

- 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, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

#### 2. TAX COMPLIANCE REQUIREMENTS

- 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 [WWW.SARS.GOV.ZA](http://WWW.SARS.GOV.ZA).
- 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.

#### 3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?  
☐ YES ☐ NO
- 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?  
☐ YES ☐ NO
- 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  
☐ YES ☐ NO
- 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?  
☐ YES ☐ NO
- 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?  
☐ YES ☐ 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.**

**3. Service Providers Declaration and Privacy Notice**

- 3.1 I declare that I undertake to inform Elias Motsoaledi Local Municipality of any changes in my personal information.
- 3.2I, as a Service Provider of the Municipality hereby consent that the Municipality may collect, use, distribute, process my personal information for its business purposes, which may include, but is not limited to,
- 3.2.1 internal administrative processes pertaining to services rendered or goods provided to the Municipality;
  - 3.2.2 conducting service provider vetting; and
  - 3.2.3 rendering services or providing goods to Elias Motsoaledi Local Municipality.
- 3.3I also consent that the Municipality may share my personal information with the South African Revenue Service, Companies and Intellectual Property Commission, Department of Trade and Industry, Provincial Treasury, Black Economic Empowerment Commission, Competition Commission, South African Police Service, Banks, External Auditors, Suppliers Vetting Agencies, relevant governance structures, relevant government institutions and legal entities which may lawfully require such information for legal obligations.
- 3.4I understand that in terms of the Protection of Personal Information Act (POPIA) and other laws of the country, there are instances where my express consent is not necessary to permit the processing of personal information, which may be related to investigations, litigation, compliance with legislative requirements or when personal information is publicly available.
- 3.5I will not hold the Municipality responsible for any improper or unauthorised use of personal information that is beyond its reasonable control.
- 3.6I confirm that I have read the notice and understand the contents.

**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.**

4. I, the undersigned certify that the information furnished on this declaration form is correct.

SIGNATURE OF BIDDER: .....

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

DATE: .....

## 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.

No.	Information	Please provide detail
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	
Note	<i>(The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.)</i>	
3.7	Are you presently in the service of the state?	<div style="display: inline-block; width: 40px; height: 30px; border: 1px solid black; margin-right: 5px;"></div> <div style="display: inline-block; width: 40px; height: 30px; border: 1px solid black;"></div>
	If yes, please furnish particulars :	
3.7.1	Name of director	

3.7.2	Service of state organization		
3.8	Have you been in the service of the state for the past twelve months?  If yes, please furnish particulars:	Yes	No
3.8.1	Name of director		
3.8.2	Service of state organization		
3.9	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?  If yes, please furnish particulars :	Yes	No
3.9.1	Name of person in the service of state		
3.9.2	Relationship		
3.10	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?  If yes, please furnish particulars :	Yes	No
3.10.1	Name of person in the service of state		
3.10.2	Relationship		
3.11	<i>Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state?</i>  If yes, please furnish particulars :	Yes	No
3.11.1	Name of director		
3.11.2	Service of state organization		

3.12	Is any spouse, child or parent of the company's director trustees, managers, principle shareholders or stakeholders in service of the state?	Yes	No
If yes, please furnish particulars:			
3.12.1	Name of director		
3.12.2	Name of relative		
3.12.3	Relationship		
3.13	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
If yes, please furnish particulars:			
3.13.1	Name of director		
3.13.2	Related company		
Note:	<p>SCM Regulations:</p> <p>"<sup>1</sup>In the service of the state" means to be –</p> <ul style="list-style-type: none"> <li>(a) a member of – <ul style="list-style-type: none"> <li>(i) any municipal council;</li> <li>(ii) any provincial legislature; or</li> <li>(iii) the national Assembly or the national Council of provinces;</li> </ul> </li> <li>(b) a member of the board of directors of any municipal entity;</li> <li>(c) an official of any municipality or municipal entity;</li> <li>(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);</li> <li>(e) a member of the accounting authority of any national or provincial public entity; or</li> <li>(f) an employee of Parliament or a provincial legislature.</li> </ul> <p>"<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.</p>		

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

Full Name	Identity Number	State Employee Number

**5. Service Providers Declaration and Privacy Notice**

- 5.1 I declare that all the personal information furnished by me on this form is true and correct, and I undertake to inform Elias Motsoaledi Local Municipality of any changes in my personal information.
- 5.2 I, as a Service Provider of the Municipality hereby consent that the Municipality may collect, use, distribute, process my personal information for its business purposes, which may include, but is not limited to,
- 5.2.1 internal administrative processes pertaining to services rendered or goods provided to the Municipality.
- 5.2.2 conducting service provider vetting; and
- 5.2.3 rendering services or providing goods to Elias Motsoaledi Local Municipality.
- 5.3 I also consent that the Municipality may share my personal information with the South African Revenue Service, Companies and Intellectual Property Commission, Department of Trade and Industry, Provincial Treasury, Black Economic Empowerment Commission, Competition Commission, South African Police Service, Banks, External Auditors, Suppliers Vetting Agencies, relevant governance structures, relevant government institutions and legal entities which may lawfully require such information for legal obligations.
- 5.4 I understand that in terms of the Protection of Personal Information Act (POPIA) and other laws of the country, there are instances where my express consent is not necessary to permit the processing of personal information, which may be related to investigations, litigation, compliance with legislative requirements or when personal information is publicly available.
- 5.5 I will not hold the Municipality responsible for any improper or unauthorised use of personal information that is beyond its reasonable control.
- 5.6 I confirm that I have read the notice and understand the contents.

6. I, the undersigned certify that the information furnished on this declaration form is correct.

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

<b>NAME OF REP:</b> _____	<b>SIGNATURE:</b> _____
<b>DATE:</b> _____	<b>CAPACITY:</b> _____

## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

### GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included).
- 1.2 **To be completed by the organ of state**
- a) The applicable preference point system for this tender is the **80/20** preference point system.
  - b) The **80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
- (a) Price; and
  - (b) Specific Goals.

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
<b>PRICE</b>	<b>80</b>
<b>SPECIFIC GOALS</b>	<b>20</b>
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.



- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 2. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \end{array}$$

$$Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right) \quad \text{or} \quad Ps = 90 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

#### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

***(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)***

***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)***

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Company which at least 51% is owned by Black	10	
Company which 51% is owned by women	10	
<b>TOTAL POINTS</b>	<b>20</b>	

## DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary

.....

**SIGNATURE(S) OF TENDERER(S)**

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS:** .....

.....

.....

.....

## DECLARATION OF BIDDERS PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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	No
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><b>The Register for Tender 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	No
4.2.1	If so, furnish particulars:		

Item	Question	Yes	No
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	No
4.3.1	If so, furnish particulars:		
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes	No
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	No
4.5.1	If so, furnish particulars:		
5.	<b>Service Providers Declaration and Privacy Notice</b>  5.1 I declare that I undertake to inform Elias Motsoaledi Local Municipality of any changes in my personal information. 5.2 I, as a Service Provider of the Municipality hereby consent that the Municipality may collect, use, distribute, process my personal information for its business purposes, which may include, but is not limited to, 5.2.1 internal administrative processes pertaining to services rendered or goods provided to the Municipality; 5.2.2 conducting service provider vetting; and 5.2.3 rendering services or providing goods to Elias Motsoaledi Local Municipality. 5.3 I also consent that the Municipality may share my personal information with the South African Revenue Service, Companies and Intellectual Property Commission, Department of Trade and Industry, Provincial Treasury, Black Economic Empowerment Commission, Competition Commission, South African Police Service, Banks, External Auditors, Suppliers Vetting Agencies, relevant governance structures, relevant government institutions and legal entities which may lawfully require such information for legal obligations. 5.4 I understand that in terms of the Protection of Personal Information Act (POPIA) and other laws of the country, there are instances where my express consent is not		

Item	Question	Yes	No
	necessary to permit the processing of personal information, which may be related to investigations, litigation, compliance with legislative requirements or when personal information is publicly available.		
5.5	I will not hold the Municipality responsible for any improper or unauthorised use of personal information that is beyond its reasonable control.		
5.6	I confirm that I have read the notice and understand the contents.		

**5.7** I, the undersigned certify that the information furnished on this declaration form is correct.

### **CERTIFICATION**

**I, the undersigned 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.**

<b>NAME OF REP:</b> _____	<b>SIGNATURE:</b> _____
<b>DATE:</b> _____	<b>CAPACITY:</b> _____

## 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 *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:
  - 3.1. take all reasonable steps to prevent such abuse;
  - 3.2. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - 3.3. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

<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:

---

**(Tender 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;
  - (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.

### **Service Providers Declaration and Privacy Notice**

10. I declare that I undertake to inform Elias Motsoaledi Local Municipality of any changes in my personal information.
11. I, as a Service Provider of the Municipality hereby consent that the Municipality may collect, use, distribute, process my personal information for its business purposes, which may include, but is not limited to,
  - 11.1 internal administrative processes pertaining to services rendered or goods provided to the Municipality;
  - 11.2 conducting service provider vetting; and
  - 11.3 rendering services or providing goods to Elias Motsoaledi Local Municipality.
12. I also consent that the Municipality may share my personal information with the South African Revenue Service, Companies and Intellectual Property Commission, Department of Trade and Industry, Provincial Treasury, **Black Economic Empowerment Commission**, Competition Commission, South African Police Service, Banks, External Auditors, Suppliers Vetting Agencies, relevant governance structures, relevant government institutions and legal entities which may lawfully require such information for legal obligations.
13. I understand that in terms of the Protection of Personal Information Act (POPIA) and other laws of the country, there are instances where my express consent is not necessary to permit the processing of personal information, which may be related to investigations, litigation, compliance with legislative requirements or when personal information is publicly available.
14. I will not hold the Municipality responsible for any improper or unauthorised use of personal information that is beyond its reasonable control.

15. I confirm that I have read the notice and understand the contents.

16. I, the undersigned, certify that the information furnished on this declaration form is correct.

**<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.**

17. 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**

## **GENERAL CONDITIONS OF CONTRACT**

The General Conditions of Contract are not included in this document and may be downloaded from the following website – [www.treasury.gov.za/legislation](http://www.treasury.gov.za/legislation)