



EXPRESSION OF INTEREST: LEASING OF MUNICIPAL IMMOVABLE PROPERTIES AND THOSE PROPERTIES OWNED BY OTHER SPHERES OF GOVERNMENT BUT MANAGED BY THE MUNICIPALITY

NOTICE: 071 OF 2023

EXPRESSION OF INTEREST NO: 8/2/RNM0430

NAME OF THE RESPONDENT

EXPRESSION OF INTEREST FINANCIAL OFFER R _____

DEPARTMENT OF CORPORATE SERVICES
P.O. BOX 5
PORT SHEPSTONE
4240

APRIL 2023

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RAY NKONYENI MUNICIPALITY

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Expressions of Interest are hereby invited for the appointment of knowledgeable, experienced and suitably qualified service providers to lease by way of usage, management, and control of Municipal Immovable property(ies) and/or other properties managed by the municipality. The period of the lease shall be determined in line with the Municipal Policy on Social and Economic Transformation in respect of leasing of Municipal Immovable land. The interested investors are also welcome to propose a period that will ensure that their return on investment is realised.

Expression of Interest documents may be downloaded for free from the e-tenders portal <https://etenders.treasury.gov.za> and Municipal Website: www.rnm.gov.za from **21 APRIL 2023** with the title: "Tender No: 8/2/RNM0430 "Expression of Interest: Leasing of Municipal Immovable Properties & those Properties owned by other spheres of government but managed by the Municipality".

A COMPULSORY CLARIFICATION MEETING WILL BE HELD AT 10:00 AM ON 2 MAY 2023 AT 10 CONNOR STREET PORT SHEPSTONE, MAIN BUILDING, COUNCIL CHAMBERS.

All technical enquiries are to be directed to Miss Pumla Tom via email: Pumla.Tom@rnm.gov.za and Nkululeko.chiliza@rnm.gov.za; Tel: 039 688 2081 or 039 688 2082.

The respondents to submit an original Expression of Interest document together with two copies of the Technical Proposal and one copy of the Financial Proposal. Respondents that fail to submit the copies will be disqualified. Fully completed Expression of Interest documents must be submitted in two separate sealed envelopes, clearly marked "**1. TECHNICAL PROPOSAL: Expression of Interest: Leasing of Municipal Immovable Properties and those Properties owned by other spheres of government but managed by the Municipality**" and "**2. FINANCIAL PROPOSAL: Expression of Interest: Leasing of Municipal Immovable Properties and those Properties owned by other spheres of government but managed by the Municipality**" and must be deposited in the tender box at the Municipal offices at 10 Connor Street, Port Shepstone, no later than 12h00 P.M. on **Friday, 26 May 2023**, after which all Expression of Interests will be opened in public.

Ray Nkonyeni Municipality subscribes to the Broad-Based Black Economic Empowerment Act (BBBEEA), Act 53 of 2003, Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000), and Preferential Procurement Regulations, 2022. The 80/20 preference point system shall be applicable during the evaluation and adjudication of this Expression of Interest proposal.

The evaluation criteria shall be as follows:

SPECIFIC GOAL	POINTS	VERIFICATION DOCUMENT
LOCAL COMPANIES:		
Ray Nkonyeni Municipality 20		Company Utilities (i.e Rates Statement, Water Account etc.), Existing Lease Agreement, Proof of Resident for Companies issued by the Municipality
UGU 15		
KZN 10		
South African 5	20	
Total Points	20	

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.

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.

Stage 1:

Compliance and responsiveness as per Part Two of this document.

FUNCTIONALITY

Stage 2:

Goals to be measured as per Tourism Transformation Charter and bidders must meet the compliance targets in the charter. Elements to be considered include the following:

	ELEMENTS	EME / QSE	LSE
2.1. Direct Empowerment:	a) Equity Ownership	26	27
	b) Management & Control	15	19
2.2. human Resources Development:	a) Skills Development & Transfer	25	20
2.3. Indirect Empowerment	Enterprise Development	30	40
	Socio-Economic Development	5	5
TOTAL (EXCLUDING BONUSES)		101	111

Capacity to deliver and financial proposal.

Evaluation Criteria	Verification Method	Scoring	Maximum Points	Provided Proof
1. Business Proposal	Must adequate address all the expected requirements as set-out on the Terms of Reference	Excellent	40	
	Have sufficiently addressed key requirements as set-out on the Terms of Reference	Good	30	

	Have addressed some requirements as set-out on the Terms of Reference	Fair	20	Technical Proposal
	Have not addressed any of the requirements and Lacks clarity and flow	Poor	10	
	No submission	Unacceptable	0	
2. Company Track Record / Relevant Experience in the Tourism and Property Sector	Assessment to establish if the Entity/Company has relevant experience with sound references as both an investor and operator	Excellent (Above 10 years)	10	Traceable Reference Letter(s) and Current/Previous Business Licences
	Assessment to establish if the Entity/Company has relevant experience with sound references as either an investor and operator	Good (5 years to 10 years)	5	
	Lack or no relevant experience with sound references as either an investor and operator	Poor (Less than 5 years)	2	
	No submission	Unacceptable	0	
3. Financial Proposal	Simple, Clear, Innovative, logical and realistic indication of proposed financial benefits to Council and Local Community/Economy	Excellent (10 million and above)	10	Financial Proposal
	Clear indication of proposed (realistic) financial benefits to Council and Local Community/Economy	Good (1 million to 10 million)	5	
	Lack or unclear indication of proposed (unrealistic) financial benefits to Council and Local Community/Economy	Poor (Less than 1 million)	2	
	No submission	Unacceptable	0	
TOTAL			60	

NOTE TO RESPONDENTS ON PRE-CONDITIONS OF THE EXPRESSION OF INTEREST:

- The Supply Chain Management Policy of Ray Nkonyeni Municipality will apply. The Council reserves the right not to accept the lowest Expression of Interest or any Expression of Interest and reserves the right to accept the whole or part of the Expression of Interest, or to reject all Expression of Interests and cancel the notice to Expression of Interest.
- Only prospective Respondents who attended the compulsory clarification meeting indicated herein above will be accepted for evaluation. Prospective Respondents are encouraged to arrive at least fifteen (15) minutes prior to commencement of the meeting. NO late comers will be entertained.
- Expression of Interest Proposals that are submitted late, incomplete, not initialed on each page, unsigned or by facsimile, electronically or not completed in black ink will be rejected and not accepted for further evaluation.
- Only Service Providers who score a minimum of **60%** on functionality will be further evaluated (proceed to the next stage and provide a PowerPoint presentation to the BEC, if a need arises).
- Only service providers registered in the Central Supplier Database (CSD) will be considered. The respondents must attach proof of registration, and failure to attach such will result in a Expression of Interest not evaluated further.
- Members or Directors of Companies or Service Providers who are state employees are not allowed to submit the Expression of Interest or quote.
- Unsuccessful respondents will be informed of the Expression of Interest outcome through the Municipal website. Aggrieved and/or unsuccessful respondents will be allowed to lodge, within fourteen (14) days of the decision or action, a written objection or complaint to the Office of the Municipal Manager through email, mm@rnm.gov.za. Complaints or objections received after fourteen (14) days of the date of the notice **will not** be entertained; and
- The respondents to submit an original Expression of Interest document together with two copies of the Technical Proposal and one copy of the Financial Proposal. Respondents that fail to submit the copies will be disqualified. Fully completed Expression of Interest documents must be submitted in two separate sealed envelopes, clearly marked “**1. TECHNICAL PROPOSAL: Expression of Interest: Leasing of Municipal Immovable Properties and those Properties owned by other spheres of government but managed by the Municipality**” and “**2. FINANCIAL PROPOSAL: Expression of Interest: Leasing of Municipal Immovable Properties and those Properties owned by other spheres of government but managed by the Municipality**” and must be deposited in the tender box at the Municipal offices at 10 Connor Street, Port Shepstone, no later than 12h00 P.M. on **Friday, 26 May 2023**, after which all Expression of Interests will be opened in public.
- Expression of Interests submitted are to be valid for a period of **120 days**.
- This Expression of Interest is subject to compliance with Section 33 of the Municipal Finance Management Act which imposes a compliance process to be followed for contracts imposing financial obligations to the Municipality beyond a three-year period covered in its annual budget for that financial year.

K J ZULU
MUNICIPAL MANAGER

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

1.2 STANDARD CONDITIONS FOR THE CALLING FOR EXPRESSIONS OF INTEREST (ANNEXURE D)

D.1 GENERAL

D.1.1 Actions

D.1.1.1 The employer and each respondent submitting an expression of interest shall comply with these conditions for calling for expressions of interest. In their dealings with each other, they shall discharge their duties and obligations as set out in D.2 and D.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anti-competitive practices.

D.1.1.2 The employer and the respondent and all their agents and employees involved in the submission process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Respondents shall declare any potential conflict of interest in their submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.

2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

D.1.1.3 The respondent shall not make a submission without having a firm intention and the capacity to proceed with the next stage of the procurement process.

D.1.2 Supporting documents

The documents issued by the employer for the purpose of obtaining expressions of interest are listed in the submission data.

D.1.3 Interpretation

D.1.3.1 The submission data and additional requirements contained in the submission schedules that are included in the returnable documents are deemed to be part of these conditions for the calling for expressions of interest.

D.1.3.2 For the purposes of these conditions for the calling for expressions of interest, the following definitions apply:

a) Conflict of interest means any situation in which:

- i). someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially.
- ii). an individual or tenderer is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.
- iii). incompatibility or contradictory interests exist between an employee and the tenderer who employs that employee.

b) Corrupt practice means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and

c) fraudulent practice means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels

D.1.4 Communication and employer's agent

Each communication between the employer and a respondent shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a respondent. The name and contact details of the employer's agent are stated in the submission data.

D.2 RESPONDENT'S OBLIGATIONS

D.2.1 Eligibility

Submit an expression of interest only if the respondent complies with the criteria stated in the submission data and the respondent, or any of his/her principals, is not under any restriction to do business with the employer.

D.2.2 Cost of submissions

Accept that the employer will not compensate the respondent for any costs incurred in the preparation

D.2.3 Check documents

Check the submission documents on receipt, including pages within them, and notify the employer of any discrepancy or omission.

D.2.4 Acknowledge addenda

Acknowledge receipt of addenda to the submission documents, which the employer may issue, and if necessary, apply for an extension to the closing time stated in the submission data, in order to take the addenda into account.

D.2.5 Clarification meeting

Attend the clarification meeting(s) at which respondents may familiarize themselves with the proposed work, services or supply (and location, etc.) and raise questions. Details of the meeting(s) are stated in the submission data.

D.2.6 Seek clarification

Request clarification of the submission documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the submission data.

D.2.7 Making a submission

D.2.7.1 Seal the original and each copy of the submission as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the submission data, as well as the respondent's name and contact address.

D.2.7.2 Accept that the employer shall not assume any responsibility for the misplacement or premature opening of the submission if the outer package is not sealed and marked as stated.

D.2.8 Information and data to be completed in all respects

Accept that submissions, which do not provide all the data or information requested completely and, in the form required, may be regarded by the employer as non-responsive.

D.2.9 Closing time

Ensure that the employer receives the submissions at the address specified in the submission data not later than the closing time stated in the submission data. Proof of posting shall not be accepted as proof of delivery. The employer shall not accept submissions submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the submission data.

Accept that, if the employer extends the closing time stated in the submission data for any reason, the requirements of these conditions for expressions of interest apply equally to the extended deadline.

D.3 EMPLOYER'S UNDERTAKINGS

D.3.1 Respond to clarification

Respond to a request for clarification received up to five (5) working days before the submission closing time stated in the submission data and notify all respondents who attended the clarification meetings, if any, of those responses.

D.3.2 Issue Addenda

If necessary, issue addenda that may amend or amplify the submission documents to each respondent during the period from the date of the calling for expressions of interest until seven (7) working days before the closing time for submissions stated in the submission data. If, as a result, a respondent applies for an extension to the closing time stated in the submission data, the employer may grant such extension and, shall then notify it to all respondents.

D.3.3 Late submissions

Unless otherwise stated in the submission data, return submissions received after the closing time stated in the submission data, unopened, (unless it is necessary to open a submission to obtain a forwarding address), to the respondent concerned.

D.3.4 Opening of submissions

D.3.4.1 Record the name of each respondent whose submission is opened and acknowledge receipt of each submission.

D.3.4.2 Make available the names of the respondents that made submissions prior to the closing time for submissions to all interested persons upon request.

D.3.5 non-disclosure

Not disclose to respondents, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of submissions until after the evaluation process is complete.

D.3.6 Grounds for rejection and disqualification

Determine whether there has been any effort by a respondent to influence the processing of submissions and instantly disqualify a respondent if it is established that he/she engaged in corrupt or fraudulent practices.

D.3.7 Test for responsiveness

Determine, on opening and before detailed evaluation, whether each submission received:

- a) meets the requirements of these conditions for the calling for expressions of interest.
- b) has all the substantive provisions properly and fully completed and signed, and
- c) is responsive to the other requirements of the call for expressions of interest.

D.3.8 non-responsive submissions

Reject all non-responsive submissions.

D.3.9 Evaluation of responsive submissions

D.3.9.1 Appoint an evaluation panel of not less than three persons. Evaluate submissions using the evaluation criteria established in the submission data.

D.3.9.2 Submit the report of the Evaluation Committee to the Bid Evaluation Committee and conclude the Adjudication process as outline in Chapter 11 of the Municipal Finance Management Act and its concomitant Regulations.

D.3.9.3. Notify the respondents of the outcome of the evaluation and adjudication processes within two (2) weeks of its conclusion and acceptance by the employer.

D.3.10 Provide written reasons for actions taken

Provide upon request written reasons to respondents for any action that is taken in applying these conditions but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of respondents or might prejudice fair competition between respondents.

2.1 LIST OF RETURNABLE DOCUMENTS

NB: The following documents are required to be included on your proposal. Failure to submit any of the following may disqualify your Expression of Interest.

- Company Registration documents
- ID documents of Directors/Owners/Members/Shareholders
- Joint Venture Agreement (where applicable)
- Resolution to sign and submit the Expression of Interest
- CSD Registration
- Traceable reference letter(s)
- Equity Ownership: CK Document; Board of Directors; Memorandum of Incorporation
- Management and Control – Organogram, delegation of powers, Shareholders Agreement, MOI, stock ownership documents, share certificates, business licenses, liquor licenses, financial contributions (proof of funding - Own Equity / Financial Institution)

2.2 SUBMISSION SCHEDULE (RNM OFFICIAL FORMS)

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

NB: The following documents are required to be included on your proposal. Failure to submit any of the following may disqualify your Expression of Interest.

2.2.1	RNM / MBD 1	Bidder's Details	<input type="checkbox"/>
2.2.2	RNM / MBD 2	Tax Clearance Certificate (with PIN)	<input type="checkbox"/>
2.2.3	RNM / MBD 3.1	Pricing Schedule	<input type="checkbox"/>
2.2.4	RNM / MBD 4	Declaration of Interest	<input type="checkbox"/>
2.2.5	RNM / MBD 5	Declaration of Procurement	<input type="checkbox"/>
2.2.5.1	RNM / MBD 5.1.	Past experience (1)	<input type="checkbox"/>
2.2.6	RNM / MBD 6.1	Preferential Procurement Regulation 2022	<input type="checkbox"/>
2.2.7	RNM / MBD 8	Declaration past SCM practices	<input type="checkbox"/>
2.2.8	RNM / MBD 9	Certificate of Independent Bid determination	<input type="checkbox"/>

STANDARD FORMS

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

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

NB: NO EXPRESSION OF INTEREST WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE

RAY NKONYENI MUNICIPALITY STANDARD FORM FOR BIDS

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)					
BID NUMBER:	Municipal Notice No. 071 Of 2023 8/2/RNM0430	CLOSING DATE:	26 May 2023	CLOSING TIME:	12:00
DESCRIPTION	EXPRESSION OF INTEREST: LEASING OF MUNICIPAL IMMOVABLE PROPERTIES AND THOSE PROPERTIES OWNED BY OTHER SPHERES OF GOVERNMENT BUT MANAGED BY THE MUNICIPALITY				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
RAY NKONYENI MUNICIPALITY					
10 CONNOR STREET					
PORT SHEPSTONE					
4240					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	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					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	Treasury		CONTACT PERSON	Pumla Tom	
CONTACT PERSON	Bongani Mfenqa		TELEPHONE NUMBER	039 688 2081	
TELEPHONE NUMBER	039 312 8304		FACSIMILE NUMBER		
FACSIMILE NUMBER			E-MAIL ADDRESS	Pumla.Tom@rnm.gov.za	
E-MAIL ADDRESS	Bongani.mfenqa@rnm.gov.za				

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 REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. THE BID OFFER MUST BE SIGNED BY A PERSON AUTHORIZED TO SIGN ON BEHALF OF THE BIDDER;
- 1.5. A BIDDER WHO SUBMITTED A BID AS A JOINT VENTURE HAS INCLUDED AN ACCEPTABLE JOINT VENTURE AGREEMENT WITH HIS/HER BID;
- 1.6. A BIDDER WHO IS A JOINT VENTURE HAS INCLUDED MBD 4, 8 & 9 FOR EACH ENTITY IN THE JOINT VENTURE / CONSORTIUM WITH HIS/HER BID
- 1.7. THE BIDDER OR A COMPETENT AUTHORISED REPRESENTATIVE OF THE CONTRACTOR WHO SUBMITTED THE BID HAS ATTENDED THE COMPULSORY CLARIFICATION MEETING OR SITE INSPECTION;

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.
- 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.

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

TAX CLEARANCE REQUIREMENTS

It is a condition of Expression of Interest that the taxes of the successful Expression of the respondent must be in order, or that satisfactory arrangements have been made with South Africa Revenue Services (SARS) to meet the respondent's tax obligation.

- 1 In order to meet the requirements, the respondents are required to complete in full the attached TCC1 "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 respondents / individuals who wish to submit Expression of Interest.
- 2 SARS will then furnish the respondent with a Tax clearance Certificate that will be valid for a period of 1 (one) year from date of approval / issue.
- 3 A copy of Tax clearance Certificate with a **PIN must** be submitted together with the Expression of Interest. Failure to submit the **copy with a tax pin** and valid Tax Clearance Certificate will result in the invalidation of the Expression of Interest. Certified copies of the Tax Clearance certificate will not be acceptable.
- 4 In the Expression of Interest where consortia / joint ventures / sub contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC "Application for a "Tax Clearance Certificate" forms are available from any SARS branch office nationally or on the website www.sars.gov/za
- 6 Applications for the Tax Clearance Certificate 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.

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

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of Bidder.....	Bid Number.....
Closing Time	Closing Date

OFFER TO BE VALID FOR.....DAYS FROM THE CLOSING DATE OF BID.

No.	Description of Item	Rental Amount (Rands)	Total
	EXPRESSION OF INTEREST: LEASING OF MUNICIPAL IMMOVABLE PROPERTIES AND THOSE PROPERTIES OWNED BY OTHER SPHERES OF GOVERNMENT BUT MANAGED BY THE MUNICIPALITY The expression of interest to advertised as follows.		
1.	Portion 15 of Erf 677 Hibberdene		
2.	Shelly Beach Ski Boat Club		
3.	Portion of Erf 2209 Uvongo (St. Michael's Beach, Restaurant)		
4.	Portion of Erf 2209 Uvongo (Restaurant)		
5.	Portion of Erf 3378 Margate (Lucien Beach Kiosk)		
6.	Portion of Erf 3378 Margate (Swimming Pool Kiosk)		
7.	Portion of Erf 3378 Margate (Restaurant)		
8.	Portion 1 of Erf 418 Ramsgate (Restaurant)		
9.	Southbroom Beach (Restaurant)		
10.	Portion of Erf 668 Southbroom (Restaurant)		

11.	Portion of the Remainder of Erf 362 Marina Beach		
12.	Port Edward Beach Kiosk (adjacent to Erf 1023 Port Edward)		
13.	Port Edward Beach Ski Boat Club (adjacent to Erf 1023 Port Edward)		
		Sub-total R	
		Plus 15% VAT R	
		TOTAL R	

SUPPLIER'S SIGNATURE

DATE

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

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

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

***Delete if not applicable**

DECLARATION OF INTEREST

- 1. No bid will be accepted from persons in the service of the state1.
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.
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, shareholder2):.....

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.

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

3.9.1 If yes, furnish particulars.....

3.10 Do you have any relationship (family, friend, other) with persons

in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.10.1 If yes, furnish particulars.

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

3.11.1 If yes, furnish particulars

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

3.12.1 If yes, furnish particulars.

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

3.13.1 If yes, furnish particulars.

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars:

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

Full Name	Identity Number	State Employee Number

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

(APPLICABLE ONLY FOR BIDS IN EXCESS OF R 10 MILLION)

DECLARATION FOR PROCUREMENT

For all procurement bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing? ***YES / NO**

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years. ***YES / NO**

2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days? ***YES / NO**

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.
.....
..... ***YES / NO**
.....

3. Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?

3.1 If yes, furnish particulars
.....
..... ***YES / NO**
.....

4. Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?

4.1 If yes, furnish particulars
.....
.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

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.

.....
Signature

Date:

.....
Position

.....
Name of the Respondent

CONTRACT FORM – PAST EXPERIENCE

Bidders must furnish hereunder details of similar works / service, which they have satisfactorily completed in the past. The information shall include a description of the works, the contract value and the name of the employer.

EMPLOYER	NATURE OF WORK	VALUE OF WORK	DURATION AND COMPLETION DATE	EMPLOYER CONTACT NO

DATE

SIGNATURE OF BIDDER

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

1 GENERAL CONDITIONS

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

1.6. To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the 80/20 preference point system.

1.7. 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.

1.8. To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
LOCAL COMPANIES	20
Total points for Price and SPECIFIC GOALS	100

1.9. 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.

1.10. 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.

2. 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;
- (a) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (b) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (c) **“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
- (d) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. 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:

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

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:

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

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)
LOCAL COMPANIES:	20	

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 BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	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

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:

¹Includes 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.

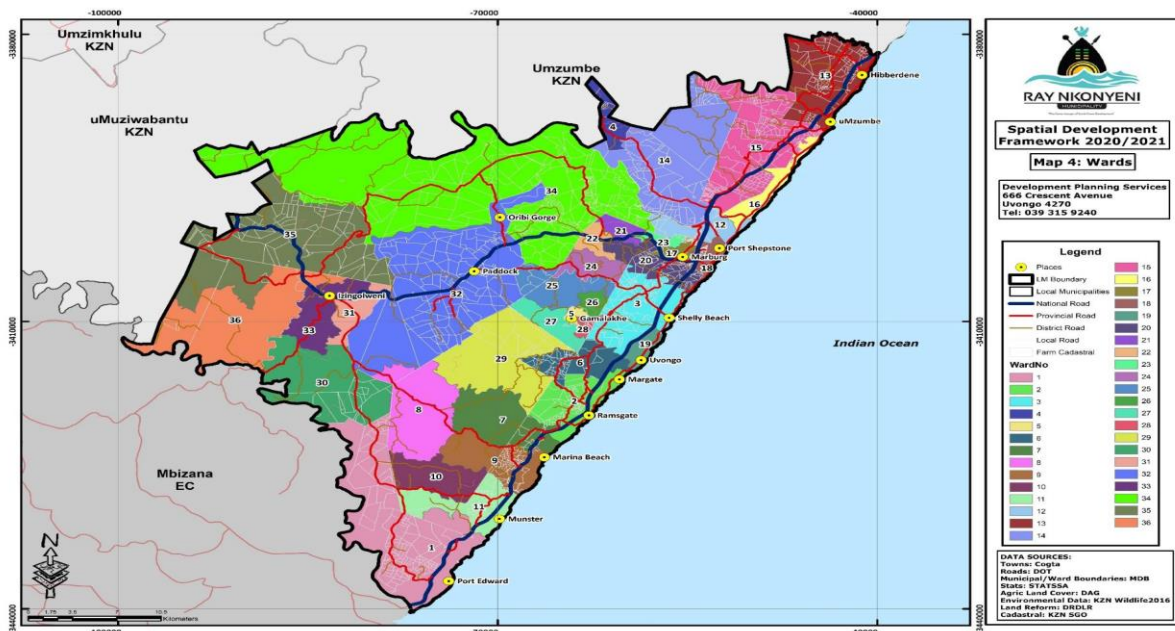
3.1 TERMS OF REFERENCE

EXPRESSION OF INTEREST: LEASING OF MUNICIPAL IMMOVABLE PROPERTIES & THOSE PROPERTIES OWNED BY OTHER SPHERES OF GOVERNMENT BUT MANAGED BY THE MUNICIPALITY

The Municipality hereby invites knowledgeable and experienced service providers with traceable and documentary evidence to submit proposals to Ray Nkonyeni Municipality to lease, develop/improve, use, manage and control of Municipal Immovable properties and other properties managed by the Municipality. The period of the lease shall be determined in line with the Municipal Policy on Social and Economic Transformation in respect of leasing of Municipal Immovable land. The interested investors are also welcome to propose a period that will ensure that their return on investment is realised.

1. BACKGROUND

In August 2016, Ray Nkonyeni Local Municipality was established following a merger of the former Hibiscus Coast and former Ezingoleni Local Municipalities. The Municipality is one of the four local municipalities under Ugu District Municipality. Ray Nkonyeni Municipality is a category B Municipality and falls within Ugu District (DC21) found on the southern part of KwaZulu-Natal (KZN), with its administrative seat in Port Shepstone. The Municipality borders the Indian Ocean on its eastern part while the far southern part of the municipality runs Umtamvuna River which is the boundary between Kwa-Zulu Natal (KZN) and the Eastern Cape. The north-western part is bordered by Umuziwabantu Municipality while Umzumbe Municipality borders the northern part. Its boundary extends further to the hinterland which is basically rural, and these areas are administered under traditional authority. The coastal belt stretches from Hibberdene to Port Edward and covers approximately 72 km. The municipal area covers approximately 1594km² in geographic area.



Municipal Wards (2016 Ward Boundary Delimitation)

Section 152(c) of the RSA Constitution (Act 106 of 1996 as amended) provide for the object of Local government to promote social and economic development within its financial and administrative capacity.

Ray Nkonyeni Local Municipality adopted its 2036 Vision wherein it aimed to be ‘a prime tourist-friendly, economically diversified and smart Municipality with equitable access to opportunities and services in a safe and healthy environment. It further identified Economic Development as one of its key strategic objectives for economic development is to promote investment and development in the municipal area.

Council is the custodian of the Municipal Capital Assets of the Ray Nkonyeni Municipality and is responsible for the administration thereof.

The aim of this expression of interest is to appoint knowledgeable and experienced service providers who have a vast understanding of Tourism, Leisure and property management. The respondent is expected to be knowledgeable and experienced on the management and operation of such properties within these broad spheres/areas

2. LEGISLATIVE AND POLICY FRAMEWORK

The Municipal Social and Economic Transformation Policy is applicable to all Municipal Immovable Capital Assets and those other spheres of government wherein the Municipality is legally acting as their managing agent and has been granted in writing such rights to use, control or manage them on their behalf, wherein the period of lease is ten (10) years or longer. In the case of a shorter period, it shall be read with the existing disposal and leasing policy of the Municipality.

The required management and leasing of such immovable properties in the custodian of the Municipality must be understood in the context of and must comply with all applicable legislative and policy prescripts, including but not limited to:

- The RSA Constitution (Act No. 106 of 1996 as amended) (this includes chapter 7, section 152)
- National Development Plan “Our Future – Make it Happen”
- Municipal Finance Management Act, No.56 of 2003 and its regulations
- Preferential Procurement Policy Framework Act, No.5 of 2000 and its regulations
- Municipal Systems Act, No.32 of 2000 and its regulations
- Municipal Structures Act, 1998
- Codes of good Practices and Transformation Charters
- The Competition Act, No.89 of 1998
- Government Immovable Asset Management Act, No.19 of 200, as amended
- Broad Based Black Economic Empowerment Act, No.53 of 2003
- National Environment Management: Integrated Coastal Management Act (No.24 of 2008)
- KwaZulu Natal Provincial Growth Development Strategy
- KwaZulu Natal Provincial Investment Promotion Strategy
- Spatial Planning and Land Use Management Act, (Act No. 16 of 2013) and its By-laws
- Ray Nkonyeni Municipality Spatial Development Framework
- Ray Nkonyeni Town Planning Scheme, adopted in February 2020 (and its subsequent amendments) including its Scheme Maps
- Ray Nkonyeni Local Municipality’s Integrated Development Plan
- Ray Nkonyeni Local Municipality’s 2036 Vision – Strategic Growth and Development Plan
- Ray Nkonyeni Investment Attraction Strategy
- Ray Nkonyeni Investment Incentive Policy
- National, Provincial and District post Covid-19 pandemic Recovery Plan

3. SCOPE OF WORKS

3.1. To use, control and manage our capital assets to achieve:

- Redress Historical exclusion and inequalities
- Unlock Economic Value of the Identified Municipal Asset
- Promotion of Economic Reconstruction and sustainable growth

3.2. Upkeep & maintain high levels of standards of the asset as well as service provided.

3.3. Use Tourism, Investment and Property Sector to promote economic development and transformation of the area.

3.4. Promote and advance a positive image of the area as a tourism destination.

4. LIST OF PROPERTIES AVAILABLE TO LEASE:



NAME:	1. Portion 15 of Erf 677 Hibberdene
ESTIMATED SIZE:	5900 square meters
CURRENT ZONING:	Residential High Impact 2



NAME:	2. Shelly Beach Ski Boat Club
ESTIMATED SIZE:	2516 square meters
CURRENT ZONING:	Active Open Space 2



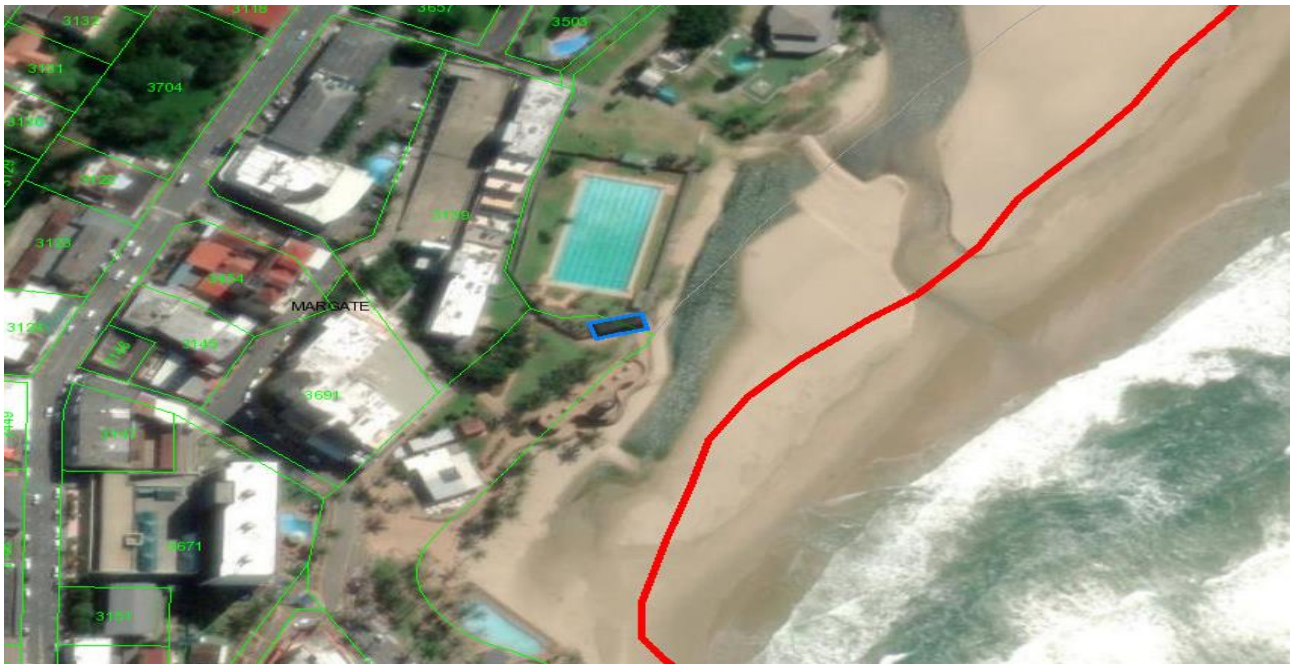
NAME:	3. Portion of Erf 2209 Uvongo (St. Michael's Beach, Restaurant)
ESTIMATED SIZE:	1213 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	4. Portion of Erf 2209 Uvongo (Restaurant)
ESTIMATED SIZE:	646 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	5. Portion of Erf 3378 Margate (Lucien Beach Kiosk)
ESTIMATED SIZE:	255 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	6. Portion of Erf 3378 Margate (Swimming Pool Kiosk)
ESTIMATED SIZE:	135 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	7. Portion of Erf 3378 Margate (Restaurant)
ESTIMATED SIZE:	1180 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	8. Portion 1 of Erf 418 Ramsgate (Restaurant)
ESTIMATED SIZE:	665 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	9. Southbroom Beach (Restaurant)
ESTIMATED SIZE:	438 square meters

CURRENT ZONING:

Amenity Reserve



NAME:	10. Portion of Erf 668 Southbroom (Restaurant)
ESTIMATED SIZE:	1514 square meters
CURRENT ZONING:	Amenity Reserve



NAME:	11. Portion of the Remainder of Erf 362 Marina Beach
ESTIMATED SIZE:	1973 square meters

CURRENT ZONING:

Amenity Reserve



NAME:

12. Port Edward Beach Kiosk (adjacent to Erf 1023 Port Edward)

ESTIMATED SIZE:

1620 square meters

CURRENT ZONING:

Amenity Reserve



NAME:	13. Port Edward Beach Ski Boat Club (adjacent to Erf 1023 Port Edward)
ESTIMATED SIZE:	1790 square meters
CURRENT ZONING:	Amenity Reserve

The Expression of Interest proposal will entail a process of facilitating and attracting both Local (be it Local, District, Provincial or National) and foreign direct investment into the Ray Nkonyeni Local Municipality. It will include a process of understanding the tourism, leisure and property management sector.

5. APPROACH / PROPOSED METHODOLOGY

The successful respondent shall be responsible for, inter alia, the following: -

- management of the premises and building
- Use, Manage, Control (upkeep and Maintain high level of standards and Complaint with Land Use, building Control & other legislative Prescripts).
- Accessing, gathering and Compilation of tourism, leisure & property management Information.
- Familiarize him/herself with the legislative and policy framework relevant to Property Management within the tourism and leisure sector.
- Promote and advance a positive image of the area

6. TECHNICAL PROPOSAL DOCUMENTATION

- 6.1. The respondent's technical proposal must respond to the scope of work and outline the proposed approach / methodology. The proposal shall be, but not limited to, specific as to the tasks that are to be carried out and the allocation of resources to tasks over time. It should articulate what added value the respondent will provide in achieving the stated objectives for the project.
- 6.2. The respondent must as such explain his / her understanding of the objectives of the assignment, the Department's stated and implied requirements, highlight the issues of importance, and explain the technical approach they would adopt to address them. The proposal should explain the methodologies which are to be adopted, demonstrate the compatibility of those methodologies with the proposed approach.
- 6.3. The respondent must attach his / her proposal in a separately bound document. The proposal should not be longer than 15 pages excluding its attachments.

- 6.4. Only respondents who meet the minimum of **60%** on functionality will be further evaluated (proceed to the next stage and provide a PowerPoint presentation to the BEC, if a need arises).
- 6.5. Functionality:
- a) Direct Empowerment
 - b) Human Resources Development
 - c) Indirect Empowerment

7. REPORTING AND ACCOUNTABILITY

The reporting and accountability shall be undertaken in line with the lease agreement to be entered between the successful tenant and the Municipality. All conditions of the lease agreement shall be adhered to and complied with.

8. FINANCIAL PROPOSAL AND PERFORMANCE MEASURES

- A detailed financial proposal/project budget and rental offer must be provided in accordance with the deliverables and time frames.
- Each proposed project activity should be analysed in terms of the required inputs and these inputs must have costs (inclusive of disbursements and 15% VAT) attached thereto.
- A clear proposal as to how these project activities are to be funded must be clearly demonstrated.
- The performance measures for the delivery of the project will be closely monitored by the Municipality.
- A Simple, Clear, Innovative, logical and realistic indication of proposed financial benefits to Council and Local Community/Economy

9. TERMS AND CONDITIONS OF THE EXPRESSION OF INTEREST

- 9.1. The basis for appointment shall be the respondent's Proposal as submitted and further elaborated through presentation at the Bid Evaluation Committee, but subject to further negotiations between service provider and the municipality in case any gaps identified between the Terms of Reference and Proposal.
- 9.2. As a basis for awarding of the Proposal will be subject to the Service provider's expressed acceptance of the Municipality Supply Chain Management processes and the attached

Standard Conditions for the Calling of Expression of Interest (Annexure D). The Municipality and Service provider shall sign a Lease Agreement upon appointment.

- 9.3. The service provider should commence with the project within thirty (30) days after receiving the letter of appointment and the Lease Agreement signed.
- 9.4. The Lease Agreement shall be deemed to be effective from the date of acceptance of the appointment and shall continue in force for a period of five years subject to periodic assessment and review of three months in line with Section 116 of the MFMA.
- 9.5. During the execution of the project, the successful tenant is required to submit regular quarterly reports on the progress of the project. It is the responsibility of the successful tenant to coordinate regular progress report meetings and have a representative/s assigned to taking minutes during these meetings.
- 9.6. Any deviation from the project plan should be put in writing and signed by the project manager.
- 9.7. Any suggestions during the progress meetings, once accepted by both parties, shall form part of the contract.
- 9.8. This appointment is subject to compliance with Section 33 of the Municipal Finance Management Act which imposes a compliance process to be followed for contracts imposing financial obligations to the Municipality beyond a three year period covered in its annual budget for that financial year.
- 9.9. The Municipality reserves the right to terminate the contract in the event that there is clear evidence of non-performance.

10. INDEMNITY

- The Ray Nkonyeni Municipality accepts **NO** responsibility for any damage to or loss of property, injuries or death of any person that may occur during execution of the project.
- The Municipality will not be held responsible for any costs incurred by the service provider in the preparation and submission of quotation. Traveling costs and time spent or incurred between home and office of the service provider and
- The Municipality reserves the right not to award any of the quotes/ proposal and not to award the contract to the lowest price as well as to renegotiate the price.

11. PACKAGING AND SUBMISSION

Sealed quotations must be marked: TENDER NO: 8/2/RNM0430 and **“EXPRESSION OF INTEREST: LEASING OF MUNICIPAL IMMOVABLE PROPERTIES & THOSE PROPERTIES OWNED BY OTHER SPHERES OF GOVERNMENT BUT MANAGED BY THE MUNICIPALITY”**

must be deposited in the tender box at the Municipal Offices at 10 Connor Street, Port Shepstone by no later than **26 May 2023**. Telegraphic faxed and late proposals will not be accepted.

12. EVALUATION CRITERIA

SPECIFIC GOAL	POINTS	VERIFICATION DOCUMENT
LOCAL COMPANIES:		
Ray Nkonyeni Municipality 20		Company Utilities (i.e Rates Statement, Water Account etc.), Existing Lease Agreement, Proof of Resident for Companies issued by the Municipality
UGU 15		
KZN 10		
South African 5	20	
Total Points	20	

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.

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.

Stage 1:

Compliance and responsiveness as per Part Two of this document.

FUNCTIONALITY

Stage 2:

Goals to be measured as per Tourism Transformation Charter and bidders must meet the compliance targets in the charter. Elements to be considered include the following:

	ELEMENTS	EME / QSE	LSE
2.1. Direct Empowerment:	a) Equity Ownership	26	27
	b) Management & Control	15	19
2.2. human Resources Development:	a) Skills Development & Transfer	25	20
2.3. Indirect Empowerment	Enterprise Development	30	40
	Socio-Economic Development	5	5
TOTAL (EXCLUDING BONUSES)		101	111

Capacity to deliver and financial proposal.

Evaluation Criteria	Verification Method	Scoring	Maximum Points	Provided Proof
1. Business Proposal	Must adequate address all the expected requirements as set-out on the Terms of Reference	Excellent	40	Technical Proposal
	Have sufficiently addressed key requirements as set-out on the Terms of Reference	Good	30	
	Have addressed some requirements as set-out on the Terms of Reference	Fair	20	
	Have not addressed any of the requirements and Lacks clarity and flow	Poor	10	
	No submission	Unacceptable	0	
2. Company Track Record / Relevant Experience in the Tourism and Property Sector	Assessment to establish if the Entity/Company has relevant experience with sound references as both an investor and operator	Excellent (Above 10 years)	10	Traceable Reference Letter(s) and Current/Previous Business Licences
	Assessment to establish if the Entity/Company has relevant experience with sound references as either an investor and operator	Good (5 years to 10 years)	5	
	Lack or no relevant experience with sound references as either an investor and operator	Poor (Less than 5 years)	2	
	No submission	Unacceptable	0	

3.Financial Proposal	Simple, Clear, Innovative, logical and realistic indication of proposed financial benefits to Council and Local Community/Economy	Excellent (10 million and above)	10	Financial Proposal
	Clear indication of proposed (realistic) financial benefits to Council and Local Community/Economy	Good (1 million to 10 million)	5	
	Lack or unclear indication of proposed (unrealistic) financial benefits to Council and Local Community/Economy	Poor (Less than 1 million)	2	
	No submission	Unacceptable	0	
TOTAL			60	

3.3 GENERAL CONDITIONS OF CONTRACT

TABLE OF CLAUSES

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General Conditions of Contract

1. **Definitions**
 - 1.1 The following terms shall be interpreted as indicated:
 - 1.2 “Closing time” means the date and hour specified in the bidding documents for the receipt of Expression of Interests.
 - 1.3 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.4 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.5 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.6 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.7 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.8. “Database application form” means the application form required by the Ray Nkonyeni Municipality to be filled in by the successful Respondent, following the award of the contract, for inclusion on the RNM database before payment is made.
 - 1.9 “Day” means calendar day.
 - 1.10 “Delivery” means delivery in compliance of the conditions of the contract or order.
 - 1.11 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
 - 1.12 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.

- 1.13 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.14 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.15 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any Respondent, and includes collusive practice among Respondents (prior to or after Expression of Interest submission) designed to establish Expression of Interest prices at artificial non-competitive levels and to deprive the Respondents of the benefits of free and open competition.
- 1.16 "GCC" means the General Conditions of Contract.
- 1.17 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.18 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the Expression of Interest will be manufactured.
- 1.19 "Local content" means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 1.20 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.21 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.22 "Project site," where applicable, means the place indicated in bidding documents.
- 1.23 "Purchaser" means the organization purchasing the goods.
- 1.24 "Republic" means the Republic of South Africa.
- 1.25 "SCC" means the Special Conditions of Contract.

- 1.26 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
 - 1.27 “Supplier” means the successful Respondent who is awarded the contract to maintain and administer the required and specified service(s) to the State.
 - 1.28 “Tort” means in breach of contract.
 - 1.29 “Turnkey” means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
 - 1.30 “Written” or “in writing” means hand-written in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all Expression of Interests, contracts and orders including Expression of Interests for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
 - 2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.
 - 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of an Expression of Interest. Where applicable a non-refundable fee for documents may be charged.
 - 3.2 Invitations for an Expression of Interest are usually published in locally distributed news media and on the municipality/municipal entity website.
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of Contract documents and information inspection

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specifications, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

- 6.1 The supplier shall indemnify the purchaser against all third party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful Respondent shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
 - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

(b) a cashier's or certified cheque.

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

8. Inspections, tests and analyses

8.1 All pre-bidding testing will be for the account of the Respondent.

8.2 If it is an Expression of Interest condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the Respondent or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract goods may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forth with substitute them with goods, which do comply with the requirements of the contract. Failing such removal, the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

9. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be

sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.
- 10. Delivery and documents** 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.
- 11. Insurance** 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.
- 12. Transportation** 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified.
- 13. Incidental Services** 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts** 14.1 As specified, the supplier may be required to provide any

or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and;
- (b) in the event of termination of production of the spare parts:
 - (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.

- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.
- 16.5. Payment will only be made if the supplier has filled in and submitted the necessary database application form to the satisfaction of the Chief Financial Officer.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and Services performed under the contract shall not vary from the prices quoted by the supplier in his Expression of Interest, with the exception of any price adjustments authorized or in the purchaser's request for Expression of Interest validity extension, as the case may be.
- 18. Variation orders**
- 18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all sub-contracts awarded under this contract if not already specified in the Expression of Interest. Such notification, in the original Expression of Interest or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the suppliers performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

- 21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.
- 21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties**
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.
- 23. Termination for default**
- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the

supplier shall continue performance of the contract to the extent not terminated.

- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (a) the name and address of the supplier and / or person restricted by the purchaser;
 - (b) the date of commencement of the restriction;
 - (c) the period of restriction; and
 - (d) the reasons for the restriction.

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

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

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

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

must have certified that the tax matters of the preferred Respondent are in order.

32.4 No contract shall be concluded with any Respondent whose municipal rates and taxes and municipal services charges are in arrears.

33. Transfer of contracts 33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser.

34. Amendment of contracts 34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

35. Prohibition of restrictive practices 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998 as amended, an agreement between, or concerted practice by, firms or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if the Respondent(s) is/ are or a contractor(s) was / were involved in collusive bidding.

35.2 If the Respondent(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.

35.3 If the Respondent(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the Expression of Interest(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the Respondent(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the Respondent(s) concerned.

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

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

Name:	Signature:
Designation:	Date:
