



EMALAHLENI LOCAL MUNICIPALITY

ELM 38/2023

ALIENATION AND DEVELOPMENT OF ERF 4453, WITBANK EXTENSION 34

THE PROPERTY IS ZONED "INDUSTRIAL1"

| | |
|--|---|
| <p style="text-align: center;">EMPLOYER: Emalahleni Local Municipality P.O Box 3 Witbank 1035</p> <p style="text-align: center;">Municipal Manager Tel No.: +27 (13) 690 6911 Fax No.: +27 (17) 690 6207 E-mail: maiselahs@emalahleni.gov.za</p> | <p style="text-align: center;">QUERIES: Properties: SF. Mthimunye NP. Lerutla Tel No.(013) 690 6353/6304 E-mail:mthimunyesf@emalahleni.gov.za lerutlanp@emalahleni.gov.za</p> <p style="text-align: center;">Supply Chain Management Mr LD Nkosi Tel No.: +27 (13) 690 6502 E-mail: nkosild@emalahleni.gov.za</p> |
|--|---|

Tender Closing Date: 22 SEPTEMBER 2023

Friday at 11:00

| TENDER PRICE | |
|----------------------------|---------|
| TOTAL OFFER (INCL. VAT) | : |
| AMOUNT IN WORDS | : |

Bidder's Details:

| | |
|---------------------------------|------------|
| Company Name/Name of the Bidder | |
| Physical Address | |
| Contact No. | |
| E-mail Address | |
| Contact Person | |
| Central Supplier Database No. | N/A |
| Company Registration No. | |

CONTENTS

| | | |
|-----|--|----------|
| 1. | BID INVITATION | PG 3-4 |
| 2. | PARTICULARS OF THE BIDDER (MBD1) | PG 5 |
| 3 | CONDITIONS OF BIDDING | PG 6 |
| 4. | DECLARATION OF INTEREST (MBD4) | PG 7-10 |
| 5. | PREFERENCE CLAIM FORM (MBD6.1) | PG 11-15 |
| 6. | CERTIFICATE OF INDEPENDENT BID DETERMINATION (MBD9) | PG 16-19 |
| 7. | DECLARATION OF BIDDERS PAST SUPPLY CHAIN MANAGEMENT (MBD8) | PG20 -21 |
| 8. | AUTHORITY OF SIGNATURE/JOINT VENTURE | PG 22-24 |
| 9. | LIST OF RETURNABLE DOCUMENTS | PG 25-26 |
| 10. | JOINT VENTURE AGREEMENT | PG 27 |
| 11. | LOCALITY MAP | PG 28 |
| 12. | ZONING AND USE OF THE PROPERTY | PG 29 |
| 13. | EVALUATION OF THE FUNCTIONALITY | PG 30 |
| 14. | SPECIAL CONDITIONS OF SALE | PG 31-33 |
| 16. | PRICING BID | PG 34 |
| 17. | SELF COMPLIANCE CHECK LIST SHEET | PG 35 |

EMALAHLENI LOCAL MUNICIPALITY



INVITATION OF PROPOSALS FOR THE PURCHASE AND DEVELOPMENT OF ERF 4453, WITBANK EXTENSION 34:

Notice is hereby given in terms of Section 79(18) of the Local Government Ordinance 17 of 1939 as amended read together with Section 21 of the Local Government: Municipal Systems Act 32 of 2000 as amended, Section 14 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (as amended) read in conjunction with Clause 3.1 of the Disposal and Acquisition of Immovable Property Policy of Council, 2019 and Section 44 of the Council's Supply Chain Management Policy that the Council of Emalahleni Local Municipality resolved to invite proposals for the purchase and development of various properties which are situated in eMalahleni. The property is indicated below;

| BID NUMBER | ERF NUMBER | SIZE | ZONING |
|--------------------|--------------------------------|--------------------|----------------|
| ELM 38/2023 | ERF 4453, WITBANK EXTENSION 34 | 2091m ² | "INDUSTRIAL 1" |

Bid documents with full specifications can be downloaded from the following websites: www.emalahleni.gov.za or www.etenders.gov.za. Duly completed tender forms enclosed in a sealed envelope with the tender description and tender number with the name of the Bidder shall be deposited in the tender box situated outside the Emalahleni Local Municipality Civic Centre in Mandela Street, Emalahleni on or before the closing date.

The closing time for receipt of tenders is **11:00 on Friday, 22 September 2023**. Telegraphic, telephonic, telex, facsimile, e-mail, unmarked and **late tenders** will under no circumstances be considered and accepted. The tender box will be emptied just after closing time on the closing date. Thereafter all bids will be opened in public.

Any technical enquiries relating to the tender document may be directed to Mr S. Mthimunya and Ms N. Lerutla at telephone number 013 690 6304/6353 during working hours or e-mails may be sent to mthimunyesf@emalahleni.gov.za and lerutlanp@emalahleni.gov.za. Supply Chain Management Office may also be contacted on (013) 690 6483/6497/6484.

Fully completed tender documents, clearly marked with the "**TENDER NUMBER AND DESCRIPTION**" with the "**NAME of TENDERER**" must be placed in a sealed envelope and placed in the **tender box** situated on the **First floor**, Emalahleni Local Municipality, Civic Centre, Corner Mandela & Arras Street, eMalahleni 1035 **by no later than 11h00 on 22 September 2023**. The envelope must be endorsed with number, title and closing date as indicated above..

A preferential point system shall apply whereby a contract will be allocated to a tenderer in accordance with the Preferential Procurement Regulations, 2022 and as defined in the Conditions of tender in the tender document, read in conjunction with the Supply Chain Management Policy of Emalahleni Local Municipality where 80 points will be allocated in respect of price and functionality and 20 points in respect of Specific Goals.

No awards will be made to a person:

- Who is in the service of the state;
- if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; and;
- who is an advisor or consultant contracted with the municipality or municipal entity.

The municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The municipality does not bind itself to accepting the lowest tender or award a contract to the bidder scoring the highest number of points.

Should you not hear from us within 90 days after the closing date, please consider your tender unsuccessful.

**H.S. MAYISELA
MUNICIPAL MANAGER**

**Civic Centre
Mandela Street
eMalahleni
1035
www.emalahleni.gov.za**

**P.O Box 3
eMalahleni
1035**

MBD 1 - PARTICULARS OF THE BIDDER

| | | | | | |
|--|--|---------------|--|--|-------|
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY) | | | | | |
| BID NUMBER: | ELM 38/2023 | CLOSING DATE: | 22 SEPTEMBER 2023 | CLOSING TIME: | 11H00 |
| DESCRIPTION | ALIENATION AND DEVELOPMENT OF ERF 4453, WITBANK EXTENSION 34 | | | | |
| 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) EMALAHLENI LOCAL MUNICIPALITY CIVIC CENTRE 29 MANDELA STREET eMALAHLENI | | | | | |
| 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: | |
| PRICE AND SPECIFIC GOALS | <input type="checkbox"/> Yes <input type="checkbox"/> No | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| [A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE] | | | | | |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED? | Yes No <input type="checkbox"/> YES ENCLOSE PROOF | | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | Yes No <input type="checkbox"/> YES, ANSWER PART B.3 | |
| 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 | SCM | | CONTACT PERSON | S. MTHIMUNYE/N.P LERUTLA | |
| CONTACT PERSON | MS ZINHLE MOROKU | | TELEPHONE NUMBER | (013)690 6482/6353 | |
| TELEPHONE NUMBER | (013) 690 6497 | | E-MAIL ADDRESS | Mthimunyesf@emalahleni.gov.za | |
| FACSIMILE NUMBER | (013) 690 6207 | | | Lerutlanp@emalahleni.gov.za | |
| E-MAIL ADDRESS | masangonz@emalahleni.gov.za | | | | |

PART B TERMS AND CONDITIONS FOR BIDDING

| |
|---|
| 1. BID SUBMISSION: |
| <p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR ONLINE</p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> |
| 2. TAX COMPLIANCE REQUIREMENTS |
| <p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>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.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TAX CLEARANCE CERTIFICATE OR INDIVIDUAL TAX COMPLIANT DOCUMENT TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST (SIGN SUCH AGREEMENT) SUBMIT A SEPARATE TAX CLEARANCE CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p> |
| 3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS |
| <p>3.1. IS THE ENTITY OR AN INDIVIDUAL A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>3.2. DOES THE ENTITY HAS A BRANCH IN THE RSA? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>3.3. DOES THE ENTITY HAS A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>3.4. DOES THE ENTITY/ INDIVIDUAL HAS ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>3.5. IS THE ENTITY/INDIVIDUAL LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p style="color: red;">NB: 3.2 AND 3.3 ARE NOT APPLICABLE TO NATURAL PERSONS</p> <p>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.</p> |

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:

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

.....

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹ "State" means –

(a) 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);

(b) any municipality or municipal entity;

(c) provincial legislature;

(d) national Assembly or the national Council of provinces; or

(e) Parliament.

2nd Shareholder” means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

.....

Name of state institution at which you or the person connected to the bidder is employed:

.....

Position occupied in the state institution:

.....

Any other particulars:

.....

.....

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.1.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....

.....

.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

.....

.....

.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
 2.9.1 If so, furnish particulars.

.....

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**

2.10.1 If so, furnish particulars.

.....

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this? **YES/NO**

2.11.1 If so, furnish particulars:

.....

3 Full details of directors / trustees / members / shareholders or individual person

| Full Name | Identity Number | Personal Tax Reference Number | State Employee Number / Persal Number |
|-----------|-----------------|-------------------------------|---------------------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

4 DECLARATION

I THE UNDERSIGNED
(NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3
ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME

IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF

CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name 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

1.1 The following preference point systems are applicable to invitations to tender:

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

1.2 To be completed by the organ of state

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

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

| | POINTS |
|--|------------|
| PRICE | 80 |
| SPECIFIC GOALS | 20 |
| Total points for Price and SPECIFIC GOALS | 100 |

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

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

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

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:

| 80/20 | or | 90/10 |
|---|----|---|
| $Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$ | or | $Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$ |

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:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

P_{max} = 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 tenderers: The tenderer must indicate how they claim points for each preference point system.

| Item no. | The specific goals allocated points in terms of this tender | Number of points allocated (80/20 system) | Number of points claimed (80/20 system) (To be completed by the tenderer) |
|---|---|---|---|
| A total of 15 preference points shall be allocated on a proportional or pro rata basis for contracting an enterprise owned by historically disadvantaged persons or individuals who meet the following requirements - | | | |
| 1. | for 100% black person or people owned enterprise | 5 points | |

| | | | |
|--|---|------------|--|
| 2. | for at least 30% woman or women shareholding or owned enterprise | 5 points | |
| 3. | For at least 30% youth shareholding or owned enterprise | 2.5 points | |
| 4. | for at least 30% people living with disability shareholding or owned enterprise | 2.5 points | |
| A total of 5 preference points shall be allocated on a proportional or pro rata basis for implementing of programmes for RDP - | | | |
| 7. | for enterprise regarded as EME located within the local area of jurisdiction. | 5 points | |
| | | | |

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:

4.6.2 MUNICIPAL INFORMATION

Municipality area where the business is situated.....

Registered Account Number:

Stand Number.....

- 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:

.....

.....

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). Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. Disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. Cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

**DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES
(NOT APPLICABLE TO INDIVIDUAL PERSON)**

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions 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 disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 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 | Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied). | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.1.1 | If so, furnish particulars: | | |
| 4.2 | Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? To access this Register, enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445. | 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 outside of 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: | | |
| 4.4 | Was any contract between the bidder and any 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"/> |
| 4.4.1 | If so, furnish particulars: | | |

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS 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/Natural Person

.....
Name of Bidder

| |
|---|
| AUTHORITY OF SIGNATORY AND JOINT VENTURE |
|---|

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category.

| | | | | |
|--------------|------------------|--------------------|----------------------|------------------------|
| A Company | B Partnership | C Joint Venture | D Sole Proprietor | E Close Corporation |
| | | | | |

A. Certificate for Company

I,, chairperson of the board of directors of

....., hereby confirm that by resolution of the board (**copy attached**) taken on 20..., Mr./Ms. acting in the capacity of, was authorized to sign all documents in connection with this tender for contract and any contract resulting from it on behalf of the company.

As witnesses :

- | | |
|---------|------------------|
| 1. | Chairman : |
| 2. | Date : |

Tenderers must attach a copy of the Resolution of the Board.

B. Certificate for Partnership

We, the undersigned, being the key partners in the business trading as hereby authorize Mr. / Ms. , acting in the capacity ofto sign all documents in connection with the tender for Contractand any contract resulting from it on our behalf.

| NAME | ADDRESS | SIGNATURE | DATE |
|------|---------|-----------|------|
| | | | |
| | | | |
| | | | |

NOTE : This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms.

..... , authorised signatory of the company
..... , acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract and any contract resulting from it on our behalf.

This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the partners to the Joint Venture.

| NAME OF FIRM | ADDRESS | AUTHORISING SIGNATURE, NAME & CAPACITY |
|--------------|---------|--|
| Lead partner | | |
| | | |
| | | |
| | | |

D. Certificate for Sole Proprietor/ Not applicable to natural person

I, hereby confirm that I am the sole owner of the business trading as
.....

As witnesses:

1. : Signature
2. : Sole owner :
Date :

E. Certificate for Close Corporation

We, the undersigned, being the key members in the business trading as
..... hereby authorize Mr./Ms.
acting in the capacity of , to sign all documents in connection with the tender for Contract and any contract resulting from it on our behalf.

| NAME | ADDRESS | SIGNATURE | DATE |
|------|---------|-----------|------|
| | | | |
| | | | |
| | | | |
| | | | |

| |
|--|
| CERTIFICATE OF AUTHORITY FOR JOINT VENTURES (if applicable) |
|--|

This returnable schedule is to be completed by joint ventures. We, the undersigned, are submitting this tender offer in joint venture and hereby authorize Mr/Ms, authorised signatory of the company, close corporation or partnership, acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

| NAME OF FIRM | ADDRESS | DULY SIGNATORY AUTHORIZED |
|--------------|---------|---|
| Lead partner | | <div style="border-bottom: 1px solid black; height: 30px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 30px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 30px;"></div> |
| | | <div style="border-bottom: 1px solid black; height: 30px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 30px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 30px;"></div> |
| | | <div style="border-bottom: 1px solid black; height: 30px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 30px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 30px;"></div> |

NOTE: A copy of the Joint Venture Agreement showing clearly the **percentage contribution of each partner** to the Joint Venture shall be appended to this schedule.

EMALAHLENI LOCAL MUNICIPALITY

TENDER NO: ELM 30/2023

| |
|-------------------------------------|
| LIST OF RETURNABLE DOCUMENTS |
|-------------------------------------|

The following documents are to be completed and returned as they constitute the tender. Whilst many of the returnable are required for the purpose of evaluating the tenders, some will form part of the subsequent contract, as they form the basis of the tender offer. For this reason, it is very important that tenderers return **all information requested**.

| 10.1 | RETURNABLE SCHEDULES REQUIRED FOR TENDER EVALUATION PURPOSES (included hereafter for completion) |
|---------------|---|
| Schedule : 1A | MBD 1 - Invitation to Bid |
| Schedule: 1B | MBD 4 - Declaration of Interest |
| Schedule: 1C | MBD 6.1 - Preference Points Claim Form in Terms of the Preferential Procurement Regulations 2022 |
| Schedule : 1D | MBD 8 - Declaration of Bidder's Past Supply Chain Management Practices |
| Schedule : 1E | MBD 9 - Certificate of Independent Bid Determination |
| Schedule : 1F | Authority of Signatory |
| Schedule: 1G | Joint Venture Agreement in case of a Joint Venture signed by both parties |

11.1 MUNICIPAL RATES AND TAXES

Section 38 (d) (i) of Municipal Supply Chain Regulations requires that the municipality must reject a bidder whose municipal rates and taxes are in arrears for more than three months.

The purpose of this schedule is to obtain proof that municipal services, rates and taxes of the service provider are not in arrears for more than three months, with the relevant municipality / landlord in the municipal area where the service provider conduct his / her business.

The tenderer must attach to this page proof of registration with the Municipalities (local and/or district) as a payer of municipal levies and valid proof that municipal rates and taxes and municipal service charges of the prospective bidder and directors of the business are not in arrears from the relevant municipality for more than 90 days.

EMALAHLENI LOCAL MUNICIPALITY

| |
|--------------------------------|
| JOINT VENTURE AGREEMENT |
|--------------------------------|

The tenderer must attach to this page proof of Joint Venture Agreement in case of a Joint Venture signed by both parties.

ZONING OF THE PROPERTY AND THE USE

The property is zoned “Industrial 1” in terms of the Emalahleni Land Use Scheme, 2020 and has the following development rights:

Permitted uses:

Abattoir, Agricultural industry, Animal refuge, Auction house, Bakery, Brickyard, Builder’s yard, Bulk retail, trade, Carwash, Coal yard ,Commercial use, Craft Alcoholic, Production Facility, Dry cleaner, Filling station, Fuelling facility, Funeral parlour, Garden service, establishment, Government use, Heavy vehicle parking, depot, Industry, Laboratory, Laundromat, Light industry, Parking garage, Recycling centre, Scrap-yard, Service enterprise, Service industry, Sports and recreational grounds.

Consent Use:

Caretaker’s flat, Clinic, Crematorium, Gymnasium, Heliport, Medical suites, Motor dealer, Office, Outdoor storage, Place of instruction, Place of refreshment, Public transport rank, Renewable energy structure, Shop.

The bid will be evaluated and adjudicated on the 80/20 preference point system.

TECHNICAL PROPOSAL

Only bids which contain offers that are on or above the reserve price are regarded as responsive and qualify for further evaluation.

SCORECARD

The price of the bid will be evaluated at 80 points and the remaining 20 points will be allocated according to Specific Goals.

| | CRITERIA | POINTS | SCORE |
|----|---------------------|------------|-------|
| 1. | Price | 80 | |
| 2. | Specific Goals | 20 | |
| | TOTAL POINTS | 100 | |

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

DATE:

.....

EMALAHLENI LOCAL MUNICIPALITY

TENDER NO: ELM 38/2023

APPENDIX A

14. SPECIAL CONDITION OF SALE

- 14.1 That the property must be alienated at market price;
- 14.2 that the size of the property is 2091m² in extent;
- 14.3 that the property is sold “voetstoots” and the municipality shall not be liable for any defects, latent or otherwise and will accept that the purchaser has familiarized him/her with the condition of the property;
- 14.4 that the property must be developed in line with the Emalahleni Land Use Scheme, 2020;
- 14.5 that the installation of all external and internal services will be for the account of the purchaser/preferred bidder;
- 14.6 that a detailed Site Development Plan must be submitted and approved by the Manager: Spatial Planning and the Manager: Roads and Stormwater before any building can be constructed on site;
- 14.7 that any damages, upgrading or re-routing of the existing municipality services will be for the account of the purchaser;
- 14.8 that should there be a need for increase in the electrical capacity, all costs must be for the purchaser;
- 14.9 that the increase of electrical capacity for the property will depend on the availability at the time of such a request;
- 14.10 that all applicable Town Planning and legal requirements be complied with;
- 14.11 that the purchaser familiarizes himself with all services crossing the stand;
- 14.12 that the cost to locate, relocate and or protect existing or planed services via the registration of servitudes will be for the cost of the applicant;

- 14.13 that, no deposit will be accepted for this purchase; only the full purchase price will be accepted;
- 14.14 that the purchaser will have a period of 90 days to make payment of the full purchase price of which the Municipality will retain 10% of the same in the event of cancellation on any ground found in law;
- 14.15 that should the purchaser be in breach of any stipulations in the Deed of Sale the Seller shall terminate the sale agreement after having given the applicant written notice to make good such breach and the purchaser remains in such breach for a period of 10 (ten) days from date of such notice, and then repossess the property and retain any money paid by the purchaser to the Seller as pre-estimated liquidated damages;
- 14.16 that assessment rates and charges for other municipal services are payable from the first day after registration of the property;
- 14.17 that all transfer and related costs must be for the account of the purchaser;
- 14.18 that the transfers shall not take place until the full purchase price has been paid;
- 14.19 that signing of the transfer papers by the purchaser shall take place within 2 months of giving instruction to the transferring attorneys, failing which the property will revert back to Council;
- 14.20 that no residential buildings will be allowed in this area;
- 14.21 that the buildings will be single storey with walls not higher than 6 metres built according to the design of the structural Engineer;
- 14.22 that alternative walls could be built of galvanized iron sheeting or similar according to the structural Engineer's design;
- 14.23 that all wall sections shall be on conventional concrete strip footings and such strip footings shall be structurally connected to footings of columns in line of the walls;
- 14.24 that the permissible foundation pressure is estimated to be 250k Pa;
- 14.25 that the load from the roof shall be distributed to the columns only;
- 14.26 that the columns shall be designed to form hinges at ground level and the columns should be designed to support walls against rotation around an axis parallel to the centreline of the columns;
- 14.27 that the building shall be used only for purposes of trading or light industrial activities not including the housing of people, not even temporary;
- 14.28 that no septic tanks or French drains shall be utilized on the stand, not even as temporary measure;

- 14.29 that no round fuel tanks shall be permitted, not even temporary;
- 14.30 that a structural engineer shall have to accept responsibility for the structural integrity of the building in terms of the National Building Regulations (SABS 0400 – 1987);
 - 14.30.1 that the cost to provide any service connections to the property will be for the account of the purchaser;
 - 14.30.2 that the provision of all internal services will be for the account of the purchaser;
 - 14.30.3 that the property be developed within 24 months from date of registration in the name of the purchaser;
 - 14.30.4 that the development is subject to the approval of a Site Development Plan;
- 14.31 that it be noted that no construction work will be allowed on site or that any subdivision application will be approved prior to the approval of the above-mentioned Site Development Plan;
- 14.32 that the applicants be informed accordingly;
- 14.33 that Overhead High Voltage lines carry very high voltages in this case 132kV;
- 14.34 that due to storm, wind and general fault conditions these lines can drop from their support and if this happens they can injure and even kill depending on the circumstances;
- 14.35 that the risk of being injured is increased if power lines or conductors are damaged or their condition has deteriorated over time;
- 14.36 that when erecting the building, the applicant should keep the correct clearance distance for High Voltage Overhead lines as per ESKOM standards (available at ESKOM);
- 14.37 that ESKOM's rights over the property remains in force;
- 14.38 that existing ESKOM power lines and infrastructure are acknowledged as established infrastructure on the properties and any re-routing or relocation would be for the cost of the applicant/developer;
- 14.39 that ESKOM and the municipality shall not be liable for the death or injury on any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where ESKOM has its services, contractors etc, and
- 14.40 that ESKOM must have 24 hours access to its infrastructure.

PRICING BID

1. Bids must be submitted in South African Rand, on a fixed price basis, including VAT;
2. The Council is not bound to accept any of the bids submitted and reserve the right to call for final offers from short-listed bidders before final selection;
3. The Council reserves the right to negotiate price with preferred bidder, and
4. Bidders must note that equity points will not be allocated if not claimed or properly claimed in the MBD6.

SELF COMPLIANCE CHECK LIST SHEET

| Ref no | Question | ELM'S Requirement | Bidder's Response |
|--------|--|-------------------|-------------------|
| | | YES * | YES / NO |
| 1 | Have you completed and signed the MBD 1 form – Invitation to Bid? | | |
| 2 | Have you initialed all the pages of the bid document? | | |
| 3 | Have you completed and signed the Returnable Schedules required? | | |
| 4 | Have you completed and signed the MBD 4 form - Declaration of Interest? | | |
| 5 | Have you claim the preference points attached MBD 6.1 form? (Specific Goals) | | |
| 6 | Have you completed and signed the MBD 8 – Declaration of bidder's past Supply Chain Management Practices and MBD 9 – Certificate of Independent Bid Determination? | | |
| 7 | Do you understand the Standard Specifications / Special Conditions of sale? | | |
| 8 | Is the Company registered with the Central Supplier Database (CSD) of the National Treasury in terms of the category required in this Specification? Have you submitted a copy of your CSD Report? | N/A | |

.....
Signature

.....
Date

.....
Position/Natural Person

.....
Name of Bidder