

MUNISIPALITEIT
VAN
PRINS ALBERT



MUNICIPALITY
OF
PRINCE ALBERT

Rig alle korrespondensie
aan:

DIE MUNISIPALE BESTUURDER
Privaatsak X53, Prins Albert, 6930
E-Pos / E-Mail: adminklerk@pamun.gov.za

Address all correspondence
to:

THE MUNICIPAL MANAGER
Private Bag X53, Prince Albert, 6930
Tel: 023-541 1036, Fax: 023-541 1035

REQUEST FOR FORMAL WRITTEN PRICE QUOTATION (RFQ)

QUOTATION NUMBER:	206/2020
QUOTATION DESCRIPTION:	APPOINTMENT OF SERVICE PROVIDER FOR THE PROVISION OF LEGAL SERVICES FOR A CONTRACT PERIOD ENDING 30 JUNE 2021, FOR THE PRINCE ALBERT MUNICIPALITY.
DATE PUBLISHED:	19 OCTOBER 2020
CLOSING DATE & TIME:	28 OCTOBER 2020 @ 23H59

Prince Albert Municipality hereby invites quotations from bidders for the supply of the goods/ services as detailed in the enclosed schedule.

The following conditions will apply:

1. Price(s) quoted must be valid for at least **thirty (30) days** from date of your offer.
2. Price(s) quoted must be firm and inclusive of VAT (if applicable).
3. This quotation will be evaluated in terms of the 80/20 preference point system as prescribed in the Preferential Procurement Policy Framework Act (No 5 of 2000) and for this purpose the MBD 6.1 and MBD 6.2 (**Local content**) form must be scrutinized, completed and submitted together with your quotation.
4. **NB: No quotations will be considered from persons in the service of the state.** The Declaration of Interest (MBD 4) form must be completed.
5. **No awards will be made to persons whose tax affairs are not in order.** Please attach a valid tax clearance certificate obtained from SARS, and/or a tax status pin letter.
6. **To combat abuse of the supply chain management process, the bidder must complete the declaration of his/her past supply chain management practices (MBD 8).**

7. **To prevent collusion, the Certificate for Independent Bid Determination Form (MDB 9) must be completed.**

8. Quotations received after the closing date will not be considered and evaluated.

9. Quotations may only be submitted on the bid documentation that is issued. Failure to comply will result in the bid being non-responsive.

10. Should your offer be accepted, the contract will be governed by the General Conditions of Contract issued by National Treasury. You will also be required to be registered on the Central Supplier Database (www.csd.gov.za). Registration is free of charge and can be done online.

11. All municipal bidding documentation (MBD) forms are available on the municipality's website at www.pamun.gov.za, or can be requested from the Finance Department (Supply Chain Management Division).

12. Contact details for enquiries:

Technical/Specification Enquiries

Anneleen Vorster

Municipal Manager

Office: 023 541 1320

Cell: 066 229 7077

Email: anneleen@pamun.gov.za

SCM Enquiries

David-Leigh Willemse

Office: 023 541 1036

Cell: 082 895 9261

Email: scm@pamun.gov.za

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

14. Bidders may submit their quotations to Prince Albert Municipality using one of the following options:

- **Electronic submission (Email, no faxes allowed)**
Documentation to be emailed to the Supply Chain Management Unit
scm@pamun.gov.za
- **Hand-delivered submission** to the following address:
Supply Chain Management Unit (Finance Building)
23 Church Street
Prince Albert
6930

Yours faithfully,

**ANNELEEN VORSTER
MUNICIPAL MANAGER**

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CHECKLIST FOR COMPLETENESS OF BIDDING DOCUMENTATION

The bidder must ensure that the following checklist is completed, all necessary documentaton is attached to this bid and that all declarations are signed:

Mark with "X" where applicable

ITEMS TO BE CHECKED	YES	NO	COMMENTS
1. Valid and original Tax Clearance Certificate, attached to bid document (MBD2). - An original valid Tax Clearance Certificate must be attached to the bid document. Bidders must indicate their pin as provided by SARS to confirm validity of their Tax Clearance Certificate.			
2. Adhering to the price instructions (MBD 3.1)			
3. Attached a quotation/pricing schedule on the official letterhead of the bidder's company.			
4. Completed and signed declaration of interest (MBD4).			
5. Preference points claimed and signed declarations (MBD 6.1), where applicable.			
6. Completed and signed declaration certificate for Local production and content (MBD 6.2), where applicable.			
7. Signed declaration of the bidder's past Supply Chain Management practices (MBD 8)			
8. Completed and signed Certificate of Independent Bid Determination (MBD 9).			
9. Attached a valid B-BBEE Certificate or Sworn Affidavit, where applicable.			
10. Attached registration at Construction Industry Development Board (CIDB), where applicable.			
11. Attached Central Supplier Database (CSD) report.			

I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS CHECKLIST IS TRUE AND CORRECT.

.....
Signature

.....
Date

.....
Position

.....
Name

TAX CLEARANCE REQUIREMENTS

IT IS A CONDITION OF AN AWARD THAT -

1. The taxes of the successful awardee must be in order, or that satisfactory arrangements have been made with the Receiver of Revenue to meet his / her tax obligations.
2. The attached form "Information for Application for Tax Clearance Certificate", must be completed in all respects and returned to the municipality. **If you are in possession of a valid tax clearance certificate please attach a copy to speed up the process**
3. In bids where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver' s Office.

INFORMATION FOR APPLICATION FOR TAX CLEARANCE CERTIFICATE

1. Name of taxpayer:
2. Trade name:
3. Identification number: (If natural person)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
4. Company / Close Corporation registration number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
5. Income tax reference number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
6. VAT registration number (if applicable):

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
7. PAYE employer's registration number (if applicable):

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

If the taxpayer is not a natural person please also complete the following information

1. Full names of public officer / representative vendor / employer
2. Identification number:

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

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19 OCTOBER 2020

REQUEST FOR FORMAL WRITTEN PRICE QUOTATION (RFQ)

**APPOINTMENT OF SERVICE PROVIDER FOR THE PROVISION OF LEGAL SERVICES FOR A
CONTRACT PERIOD ENDING 30 JUNE 2021, FOR THE PRINCE ALBERT MUNICIPALITY.**

1. INTRODUCTION

The Prince Albert Municipality wishes to appoint a service provider to provide legal and advisory services in respect of the various categories of service as set out herein. Instructions for the rendering of legal services will be issued as and when required by the Municipality.

Prospective bidders must comply with the terms of reference as set out below. Services required are divided into different areas of law, each with its own sub- categories, specifications and requirements as set out below. All areas of law include services related to Magistrate and High Court litigation as well as other dispute resolution forums as and when required. The legal services required refers to legal expertise in the following areas of law:

General Legal and Advisory Services:

Town Planning and Environmental Law
Building / Construction Law

Evictions

Service providers must ensure that all requirements of relevant legislation are adhered to throughout their contract. The 80/20-point system of the Prince Albert Municipality's Supply Chain Management Policy will be applicable, and bids received will be scored accordingly:

PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTION	20
TOTAL POINTS FOR PRICE AND B-BBE MUST NOT EXCEED	100

2. MANDATORY REQUIREMENTS

ITEM NO.	DESCRIPTION
1.	Completed and signed MBD1 (Annexure A). In case of a Joint Venture/Consortium, a separate MBD 1 form in respect of each party to the JV must be completed and submitted.
2.	Letter of Good Standing with the relevant Law society.
3.	Proof of qualification and admission as an attorney and proof of qualification of conveyancer (where applicable) in respect of key personnel allocated for the provision of the service.
4.	Fidelity certificate issued in terms of the Attorneys Act, 53 of 1979, as amended.
5.	Curriculum Vitae of the lead attorney(s) reflecting the following: Qualifications Field (s) of service and years of experience in the identified field (s) of service Proof that the lead attorney (s) has at least 5 (five) years' post admission experience in the identified field(s) of service.
6.	Company profile.
7.	Locality; the business and postal address where the bidder conducts its business, including other regional offices within the Republic of South Africa.
8.	Signed letter of intent to enter into Joint Venture/Consortium. To be signed by all parties. (Where applicable).
9.	Authority of Lead Partner to sign JV/Consortium documents. To be signed by all parties in the JV. (Where applicable).
10.	Completed and Signed Form of Offer.
11.	Completed and signed Fee Proposal
12.	Completed and signed Certificate of Independent Bid Determination MBD 9, (Annexure D). In case of a Joint Venture/Consortium, a separate Certificate of Independent Bid Determination in respect of each party to the JV must be completed and submitted.
13.	Completed and Signed Declaration of Bidder's Past Supply Chain Management Practices (MBD 8), (Annexure C). In case of a Joint Venture/Consortium, a separate MBD 8 in respect of each party to the JV must be completed and submitted.
14.	Completed and signed Declaration of Interest Register (in case of a Joint Venture/Consortium, a separate declaration of interest form in respect of each party to the JV must be completed and submitted) (Annexure B).
15.	Business Registration Documents/ Formal Registration Documentation/JV Agreements/Consortia/ Partnerships and Trust's – Applicable to all entities (ie. Companies, Public & Private Entities, Partnerships and Joint Ventures). CM9/ Name Change Document will not suffice as Proof of Business Registration.
16.	Latest Municipal Billing Clearance Certificate/ Copy of Municipal Account / Rental Documentation to be submitted.

3. SCOPE

The Municipality intends to appoint a service provider to render legal and advisory services, as and when required, in respect of the various categories of service as set out in this document.

Services required are divided into the following areas of law. All areas of law include services related to Magistrate and High Court litigation as well as other dispute resolution mechanisms as and when required.

3.1) General Legal Advisory Services

General legal advisory services in the following fields/categories including litigation services at courts of jurisdiction, mediation, arbitration or other relevant forums.

- Building and/or Construction Law
- Town Planning and Environmental Law

Bidders shall be required to be competent and experienced in all aspects related to a specific area in which the bidder is making an offer.

3.1.1. Bidders are required to submit a memorandum setting out the qualifications, capacity and experience of each leading legal practitioner in a law firm who offers services in respect of any one or more of the above categories of service as well as an organogram of the firm.

3.1.2 Bidders must tender for **ALL** of the areas listed under the general legal advisory services.

3.1.3 The Pricing Schedule must indicate the lead attorney/practitioner in the bidding law firm offering a service.

3.1.4 Essential requirements for this category of service:

3.1.4.1 Bidders are required to submit a memorandum setting out the qualifications, capacity and experience of each leading legal practitioner in a law firm who offers services in respect of any one or more of the above categories of service as well as an organogram of the firm.

3.1.4.2 Bidders must tender for **all** of the areas listed under the general legal advisory services.

3.1.4.3 The Pricing Schedule must indicate the lead attorney practitioner in the bidding law firm offering a service

3.2) EVICITION SERVICES

The Municipality require services of law firms who have extensive capacity and experience of eviction matters. In these matters the municipality is either one of the respondents for the purposes of emergency housing provision in a matter between two private parties or an applicant for the eviction of an occupant from municipal property.

3.2.1) The services entail:

- 3.2.1.1) Facilitating prescribed engagements between the municipality and other parties;
- 3.2.1.2) General litigation;
- 3.2.1.3) Tendering court appearances on behalf of the municipality as and when necessary;
- 3.2.1.4) Assisting with the preparation of housing reports to court;
- 3.2.1.5) Appointing of mediators or suitable senior counsel for High Court matters;
- 3.2.1.6) Assisting the municipality in interviewing respondents in municipal eviction matters;
- 3.2.1.7) Other services relating to eviction matters as required depending on the circumstances of each case.
- 3.2.1.8) In view of the nature of this service, it is essential that the appointed service providers must be well informed of the detail regarding Prince Albert Municipality's housing policies and housing projects. In view hereof as well as for continuity and practical considerations, the following objective criteria will apply to this category of work in terms of Section 2(1)(f) of the Preferential Procurement Policy Framework Act (Act 5/2000):

3.2.2) Essential requirements for this category of service:

- 3.2.2.1) Attorney/s employed by the bidding firm must have right to appearance in the High Court.
- 3.2.2.2) Bidders are required to submit a memorandum setting out their capacity and experience in respect of the required services as set out above in respect of each practitioner in a law firm who offers services in this category of service.
- 3.2.2.3) The Pricing Schedule, must be completed.
- 3.2.2.4) Offers from bidders which in the view of the Municipality create or may create a conflict, will not be considered for award.

4. GENERAL CONDITIONS AND SERVICE STANDARDS

- 4.1 Successful service providers must report on a monthly basis as to work progress on all matters/work allocated. The report must contain relevant information as required by the Municipality in respect of each service category.
- 4.2 A service level agreement will be entered into with the successful bidder to whom actual work instructions will be issued.
- 4.3 Successful bidders must be admitted attorneys, unless otherwise indicated.
- 4.4 The successful tenderers, by acting as agents for the Prince Albert Municipality, will be required to adhere to the principles and conditions of legislation and policies/frameworks applicable to the relevant category of work.

- 4.5 Any conflict of interest that may develop or be discovered during the project duration, will affect work proceedings. In such event the Municipality reserves the right to cancel the existing agreement and demand that all information, documents and property of the Municipality be returned forthwith. No award will be made where, in the view of the Municipality, a conflict of interest exists at the time of issuing of instructions.
- 4.6 It is required of service providers, prior to acceptance of any instruction, to declare any interest it has in an assignment as well as declare any possible conflicts of interest that may prohibit the service provider from performing such instruction.
- 4.7 The successful bidder must have the necessary infrastructure, a sound knowledge of relevant legislation, experience and proven success record in the category of service tendered for, in order to be in a position to protect the municipality's interest in matters referred to it by the municipality.
- 4.8 The successful bidder must demonstrate that adequate staff with the necessary skills and relevant experience acceptable to the municipality, are available to perform the duties.
- 4.9 The successful bidder must conduct its business between ordinary business hours Monday to Friday and must be readily accessible to municipal staff, but must be available for emergencies after hours work as and when required.
- 4.10 The successful tenderers shall at all times comply with the provisions of the POPI Act (Act 4 of 2013) to the extent required.
- 4.11 Once work has been awarded; the performance of service providers will be monitored throughout the contract term. The Municipality reserves the right to terminate, reduce, cease the allocation of work or introduce a financial penalty if work performance is deemed below the required standard or tender conditions are not complied with.
- 4.12 Bidders shall not be entitled to cede or sub-contract the contract or any brief received pursuant thereto, or any portion thereof, nor shall the bidder be entitled to allocate any brief or any portion thereof to any person or entity not listed herein. This prohibition shall not be applicable to the appointment of a correspondent attorney provided that the bidder remains responsible for and in control of (as appropriate and reasonable) the rendering of all professional legal services.
- 4.13 In the event that there are any changes to the tenderer's Lead Attorney or Other Key Personnel, the Tenderer shall be required to inform the Municipality in writing within 14 (fourteen) days of such a change, accompanied by a detailed CV of the new person. The CV of the new person will be evaluated.
- 4.14 Successful bidders will be required to be registered on the Central Supplier Database (CSD) before work orders are issued.
- 4.15 An invoice must be submitted on completion of work or on a monthly basis, as per the agreed and fixed tariffs herein. Should work not be completed by 30 June of each year, the service provider must render an account in respect of services rendered prior and up to 30 June (dated 30 June) in order to ensure that the Municipality is in a position to settle such invoices as part of financial year end procedures (Year end 30 June annually). Failure to provide such an account at year end may lead to non-payment of the fees.

- 4.16 Certified copy of a Fidelity Fund Certificate must be submitted together with the bid. Copies of the latest certificate must be submitted annually during the contract term.
- 4.20 The appointed service provider shall ensure that it maintains professional indemnity insurance cover for at least R5 million (five million rand) for the duration of its appointment. Confirmation of such cover is required at submission of the bid. The municipality may in its sole discretion accept a lesser insurance amount on request and pending on the type of service (panel) applicable.
- 4.21 The Municipality reserves the right to cancel the appointment and contract of the service provider if:
- 4.21.1) The legal practitioner is struck off/suspended from the rolls of practicing attorneys/advocates;
 - 4.21.2) It is found that the legal practitioner has acted in an unlawful or unethical manner; or
 - 4.21.3) Work performance is deemed by the Municipality to be below the required standard.

5. **SPECIAL CONDITIONS: EVALUATION AND TENDER AWARD**

For the purposes of evaluation and tender award, the following special conditions will apply to all categories of service in terms of this tender:

- 5.1 The award under this Bid will be allocated to firms based on rates as per the pricing schedule which will provide a ranking to the service provider.
- 5.2 Bidders will be deemed non-responsive if they do not comply with any one of the essential requirements for services and if they fail to submit all mandatory documentation as listed above.
- 5.3 The Municipality reserves the right, to clarify any aspect related to a formal quotation submitted, if deemed necessary.

6. **FEES**

Save for time-based work which are tendered for, all other services in terms of this tender will be based on pre-determined fixed fees applicable to all appointed service providers. The pre-determined fees are based on the following proclamations/guidelines:

6.1) Non-litigious fees

In accordance with the Guidelines for Taxing Committees for the Assessment of non-litigious fees issued by The South Africa Legal Practise Council as amended from time to time (Travel costs excluded).

6.2) Litigious fees

All non-time-based fees will be charged out in accordance with The Rules for the various courts as proclaimed by the Rules Board in terms of the Courts of Law Act (Act 107 of 1985) as amended from time to time.

6.3) Time based fees

Bids in terms of this quotation will be adjudicated in accordance with the tendered time-based fees (tariff per hour VAT included). For this purpose, the Pricing Schedule must be completed by bidders.

Time based fees will also apply to after hour work in cases of emergency.

6.4 Lump Sum Fees

The Municipality and the service provider may enter into arrangement for the charging of lump sum fees relating to matters in respect of which a time-based fee is not appropriate. Lump sum fees may only be agreed upon if it constitute a real saving in respect of legal fees as compared to time based fees and must be outcome driven.

6.5 Disbursements

Disbursement as set out hereunder will apply:

NATURE OF DISBURSEMENT	METHOD OF CALCULATION
Advocate's fees	Actual cost
Sheriff's fees	Actual cost
Courier fees	Actual costs
Windeed (or other electronic) deeds searches	Actual cost
Travel Costs	R4.00 per kilometre
Outgoing Telephone Calls (Local) (per 5 mins or part thereof)	R20.00
Outgoing Telephone Calls (National) (per 5 mins or part thereof)	R10.00
Outgoing Telephone Calls (Cellular) (per 5 mins or part thereof)	R20.00
Outgoing Facsimile (Local)	R5.00
Outgoing Facsimile (National)	R10.00
Outgoing Emails	R5.00
Photocopying per page	R2.00
Accommodation	To be pre-arranged and approved

PRICING SCHEDULE (MBD 3.1)

- i. Fees must be per hour and include VAT.
 - ii. Bidders may insert only ONE fee under a category of service in cases where more than one Lead Attorney offer services in the same category of service. If more than one fee is inserted the highest fee will be used for evaluation purposes.
 - iii. The pricing schedule must be read with the Terms of Reference.
- Please indicate the time-based fee quoted for the category of service offered:

Category of service	Service offered (Yes/No)	Name and position of Lead Attorney/s (A maximum of 2 Lead Attorneys per category are allowed)	Experience in this field (years)	Time based fee per hour – VAT Excl. VAT	VAT	Time based fee per hour – VAT Incl. VAT
Town Planning and Environmental Law		1.				
		2.				
Building Law and Construction Law		1.				
		2.				
Evictions		1.				
		2.				

COMPANY NAME: _____

NAME AND SURNAME: _____

AUTHORISED SIGNATURE: _____

DATE: _____

MBD 4

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. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.

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

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

3.2 Identity Number:

3.3 Position occupied in the Company (director, trustee, hareholder²):.....

3.4 Company Registration Number:

3.5 Tax Reference Number:.....

3.6 VAT Registration Number:

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

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

3.8.1 If yes, furnish particulars.

.....

¹MSCM Regulations: "in the service of the state" means to be –

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

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

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

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2

- a) The value of this bid is estimated to exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	100

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

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

2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

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

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

80/20 **or** **90/10**

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- P_s = Points scored for price of bid under consideration
- P_t = Price of bid under consideration
- P_{\min} = Price of lowest acceptable bid

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

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

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

5. BID DECLARATION

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

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

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

7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

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

(Tick applicable box)

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

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

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

Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 MUNICIPAL INFORMATION

Municipality where business is situated:
.....

Registered Account Number:

Stand Number:.....

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Municipal Bidding Document (MBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp at no cost.

1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

3. Does any portion of the goods or services offered have any imported content?

(Tick applicable box)

YES		NO	
-----	--	----	--

3.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

4. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrialdevelopment/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of(name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017

promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as a company or person 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 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:

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:

Prince Albert Municipality
(Name of Municipality / Municipal Entity)

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

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

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

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

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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