

Fetakgomo Tubatse Local Municipality



BID NO. FTM/T06/23/24

APPOINTMENT OF A SERVICE PROVIDER FOR CLEANING SERVICES AND MAINTENANCE OF OPEN SPACES AT APEL TOWN FOR A PERIOD OF THREE YEARS (36 MONTHS).

TECHNICAL ENQUIRIES	BIDDING RELATED ENQUIRIES
Mr. MA Lesufi Fetakgomo Tubatse Local Municipality 1 Kastania Street Burgersfort Civic Centre 1150 Tel: (013) 231 1199	SUPPLY CHAIN MANAGEMENT Mrs. ME Talane Fetakgomo Tubatse Local Municipality 1 Kastania Street Burgersfort Civic Centre 1150 Tel: (013) 231 1000

NAME OF BIDDER (BIDDING ENTITY):

CSD NUMBER :

CLOSING DATE : **03 November 2023**

CLOSING TIME : **12H00**

BID PRICE :

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FORM A

BID NOTICE

BID: FTM/T06/23/24

Appointment of a service provider for cleaning services and maintenance of open spaces at Apel town for a period of three years (36 months).

Bid documents containing the Conditions of Bid can be downloaded and printed for free from Municipal website and eTender portal or purchased by the Fetakgomo Tubatse Local Municipality (Civic centre).

The completed Bid document, fully priced and signed must be sealed in an envelope marked "BID number" should be deposited in the tender box at the Fetakgomo Tubatse Local Municipality CivicCentre, Burgersfort or Apel Regional Office Stand N1 Mashung, Ga-Nkwana, not later than **12:00 on 03 November 2023. The municipality will not take responsibility for lost documents due to poor packaging.**

The Fetakgomo Tubatse Local Municipality is not compelled to accept the lowest or any bid. Nolate, faxed or telephonic bids will be accepted.

The Municipality shall adjudicate and award bids in accordance with the Preferential Procurement Policy Framework Act, 5/2000 and its amended regulations, 80/20-point system where 80 points are for price and 20 points for special goals. Prospective bidders must accept that the bid price will be adjudicated, according to the said legislation. Bids will remain valid for **120 validity** days.

Enquiries related to Technical specifications should be addressed to **MA Lesufi** on telephone number (013) 231 1199.

Makgata MJ
MUNICIPAL MANAGER

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)

BID NUMBER:	FTM/T01/23/24	CLOSING DATE:	03 November 2023	CLOSING TIME:	12:00
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DESCRIPTION	Appointment of a service provider for cleaning services and maintenance of open spaces at Apel Town for a period of three years (36 months).
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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)

1 Kastania Street

CIVIC CENTRE

Burgersfort

1150

Or

Stand No. 1 Mashung,

Ga-Nkwana

SUPPLIER INFORMATION

NAME OF BIDDER	
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POSTAL ADDRESS	
----------------	--

STREET ADDRESS	
----------------	--

TELEPHONE NUMBER	CODE		NUMBER	
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CELLPHONE NUMBER	
------------------	--

FACSIMILE NUMBER	CODE		NUMBER	
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E-MAIL ADDRESS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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VAT REGISTRATION NUMBER	
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TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
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ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	Yes	No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?	Yes	No
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	[IF YES ENCLOSE PROOF]			[IF YES, ANSWER PART B:3]
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TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE	R
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SIGNATURE OF BIDDER	DATE	
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CAPACITY UNDER WHICH THIS BID IS SIGNED	
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BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:	TECHNICAL INFORMATION MAY BE DIRECTED TO:
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DEPARTMENT	Fetakgomo Tubatse Local Municipality	CONTACT PERSON	Mr. MA Lesufi
CONTACT PERSON	Mrs. ME Talane	TELEPHONE NUMBER	013 231 1199
TELEPHONE NUMBER	013 231 1000	FACSIMILE NUMBER	

FACSIMILE NUMBER		E-MAIL ADDRESS	malesufi@ftlm.gov.za
E-MAIL ADDRESS	Metalane@ftlm.gov.za		

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:			
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.		
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR ONLINE		
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.		
2. TAX COMPLIANCE REQUIREMENTS			
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.		
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.		
2.3	APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.		
2.4	FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.		
2.5	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.		
2.6	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.		
2.7	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.		
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
3.1.	IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	YES	NO
3.2.	DOES THE ENTITY HAVE A BRANCH IN THE RSA?	YES	NO
3.3.	DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
3.4.	DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
3.5.	IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<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:

.....

FORM “B”

TERMS OF REFERENCE

Appointment of a service provider for cleaning services and maintenance of open spaces at Apel Town for a period of three years (36 months).

DETAILED TERMS OF REFERENCE

Background

Section 24 of the Constitution of the Republic of South Africa affords every citizen a right to an environment that is not harmful to their health or well-being and so should be to the residents of Fetakgomo Tubatse Municipality. Municipal Structures Act assigns functions for local refuse/waste management to respective local municipalities. Such functions, include: refuse/waste collection and waste disposal/landfill site. Fetakgomo Tubatse Local Municipality (FTLM) is one of the four local municipalities within Sekhukhune District Municipality (SDM). National Environmental Management: Waste Act No.59 of 2008 (Waste Act) mandates the local municipalities to manage waste within their jurisdiction.

Towns within the local municipality are not clean and reflects littered waste, overgrown grasses and alien plants. Burning of waste is also being conducted, which pollutes the ambient air in these areas making the environments to be unbearable to dwellers and users of the town, of which mostly are the citizens of the municipality. The municipality in affording its citizens a clean and healthy environment has therefore planned to appoint the service provider to render cleaning services and maintenance of open spaces around Apel Town as part of working towards clean developmental cities.

Terms of reference/Specification

The scope of work includes the following activities:

- Manual litter picking
- Clearing of illegal dumping
- Grass cutting, tree pruning and shaping
- Maintain municipal landscape and protect existing natural resources

- De-bushing of open spaces and beautification in town
- Promote natural parks on the open spaces through pruning trees and reshaping the existing plants while maintaining cleanliness around the area
- Remove alien species and treat with herbicides
- Pruning and shaping all the trees in Apel Town
- Mechanical street sweeping within the Apel Town as and when required
- The service provider must clean and eradicate illegal dumps permanently
- The service provider must provide the labour with working tools including their branded PPE
- The service provider must be tax compliant and registered on the CSD
- The service provider must comply with the EPWP standards
- The service provider must work from Monday to Saturday
- The service provider must provide monthly and quarterly progress report to Waste and Environmental Unit within Community Development Department
- The service provider must adhere to the monthly meetings and project meetings as when called by the municipality
- The services must clean around bins (Concrete, 80l, skip bins, etc) for collection
- The service provider must comply with Labour Relations Act
- The services provider must remove alien species and spray shrubs on the pavement
- The service provider must make sure that the warning signages and boards are visible.
- The service provider must comply with all the health protocols and safety measures/procedures.
- The service provider shall also collect 10 skip bins in town and dispose of at Malogeng Landfill Site.
- The appointed service provider shall take responsibility for disposal of waste at Malogeng Landfill Site or other legal disposal site determined by the municipality
- The service provider must provide one mobile toilets on site

Personnel and Equipment.

The service provider must provide fifteen (12) working personnel/beneficiaries and bring along the working tools such as brooms, wheelbarrows, refuse bags, slashes, axes and brush cutters etc.

Duration of the contract.

The Project shall be for a period of 36 months on a fixed term contract.

Form "C"

Pricing Schedule

Once off services: Item 01 and 02 of this page price should not be included on the bidding price.

EVALUATION AND ADJUDICATION CRITERIA

The 80/20 preference point system in terms of the Preferential Procurement regulation 2022 will be applicable as follows; Price 80 and (20) Specific goal.

Specific goal - Nationally within the RSA = (20)

Total amount should be VAT inclusive.

Item	Description	Quantity	Frequency	Unit Price	Total
1	Once off material every six months A. Safety goggle B. Slasher C. Lopping shear D. Gloves E. Jojo 20 litre water tank F. Protex clear all G. Pole pruner H. Chainsaw I. Steel rake	Once off material every six months 100 100 100 1000 2 30 30 30 15	Once off for all items every 6 Months		
2	Items for landscaping Once off materials every year A. Station irrigation system B. Black glass C. Lawn planting D. Sprinklers E. Tread tape F. Pick and handle stick G. Booster and fertilizer H. Garden fork I. Rubber rake J. Penning share	Items for landscaping Once off Materials 9 600m ² 200m ² 32 10 4 100L 4 4 5	Once off for all items every 6 months		

NB: This price list for once-off service item 01 and 02 should not be included on the bidding price.

Quotation for clearing, litter, debushing and landscaping of Apel Town

Item	Description	Quantity	Frequency	Unit Price per day	Total per month
1	1 x TLB with driver and diesel(Wet rate per day) 8 hours	1	22 days per month		
2	1 x 10-ton tipper truck with driver and diesel (Wet rate per day) 8 hours	1	22 days per month		
3	1 x 4 Ton truck or 3500 kg truck with diesel driver and diesel (wet rate per day) 8 hours	1	22 days per month		
4	1 x Skip Loader	1	22 days per month		
5	2 x Brush cutters with petrol engines	2	22 days per month		
6	3 x Chain Saw	3	22 days per month		
7	1 x Mobile toilets	2	30 days per month		
8	2 x Law mower machinery petrol engine	2	22 days per month		
9	12 x General Workers	15	22 days per month		
10	Project Manager	1	Per month		
11	Full-time supervisor	1	Per month		
12	Safety Officer	1	Per month		
13	Plumber Services	1	Per month		
				SUB TOTAL	
				VAT	
				TOTAL	

Penalties

The following penalties will be levied for non-compliance from the contractor and the penalties shall be deducted from the monthly invoice.

Item	Description	Penalty
1	Failure to clean the town without tangible reasons e.g due to strike, or natural disaster	R5000 for each day
2	Workers working without safety clothing throughout the shift	R500 for each worker per day
3	Failure to submit monthly report by the 05 th of each month	R5 000
4	Failure to clean around the bins after each collection circle	R1000 per week
5	No provision of 01 x mobile toilets on site	R1000 per day
6	Disposal of waste at unauthorized site/illegal dumping	R5000 per occasion
7	No provision for working tools	R500 per day
8	Non-compliant with the equipment per day	R1000 per day
9	Disposal of waste at unauthorized site/illegal dumping	R5000 per occasion

Local Setting for Project/Cleaning Services Area.

EVALUATION PROCESS AND CRITERIA:

Evaluation of all bids received on time at the closing date will be evaluated in the following three phases.

A) Phase 1: Administrative Compliance and

B) Phase 2: Evaluation of Functionality,

C) Phase 3: Pricing and Specific goal

The bidders who score less than 70% on functionality will be disqualified.

COMPULSORY RETURNABLE REQUIREMENTS:

A bid not complying with the peremptory requirements stated above will be regarded as “non-Responsive”, and as such will be disqualified. “Responsive” means any bid which, in all respects, complies with the conditions of the specifications as set out in the bid documents, including conditions as specified in the Preferential Procurement Regulations of 2017, terms of which provision is made for this policy.

Bidders will be evaluated on the following administration compliance:

- Compliant tax status (the Municipality will verify tax compliance during evaluation and (adjudication stage).
- All pages of the tender document and General Condition of the contract must be initialed.
- Price amendment without signature will amount to disqualification.
- Tender document in hardcopy and an electronic copy in a form of USB/CD/SD Card must be attached.
- Company Registration Document (CK) (If JV, for both) must be attached.
- MBD form must be Fully Completed and signed.
- Power of attorney / authority of signatory and indicating who is authorized to sign the documents (if it's a JV, both partners must sign) must be attached.
- Joint Venture Agreement, where applicable and the lead partner must have at least 51% or above shares in the company.

(with a bid price/amount/rate) in full.

- Latest submission of Municipal rates and taxes or municipal service invoice issued to the bidder and all directors, by any other municipality or municipal entity. The rates and taxes charges must not be in arrears for more than three months (90 days)

Please note the following:

- a) If staying in a non-rate-able area, please attach letter from the Tribal Authority/Chief or Headman or SAPS Sworn Affidavit or Municipal proof of residence.
 - b) If the business is operated from the residence of the director, please attach the director's rates supported by sworn affidavit stating the address of the business premises.
 - c) If you are renting, attach a valid signed lease agreement.
- Originally Certified ID Copies of all directors must be attached
(For allcompanies in case of a Joint Venture)

PLEASE NOTE THAT ALL CERTIFIED DOCUMENTS MUST NOT BE OLDER THAN 6 MONTHS.

80/20 preference point system.

Price = (80)

Specific goal - Nationally with the RSA = (20) - Address on the company registration document (CK) or Municipal rates/ proof residence

Evaluation of functionality will be as follows:

Bidder evaluation Criteria for Functionality	Weight	Score	Points
<p>Bidder must develop architectural plan for entire town</p> <p>Bidder has compiled a project proposal demonstrating proper interpretation of the specification and scope of the work</p>	05	<p>The project work plan that meets the project objective or addresses the needs of the town in order to achieve the goals.</p> <p>The undermentioned are references to above:</p>	05
<p>Proof of equipment availability:</p> <p>In case of leasing or rental of equipment, the prospective bidder must attach letter of intent to lease supported by registration documents of the equipment,</p> <p>In case of ownership, the prospective bidder must attach registration documents.</p> <p>N.B failure to attach the required document will result into a zero score, the municipality will also conduct physical verification as part of evaluation</p>	25	<ul style="list-style-type: none"> • 1 x Tipper Truck (10 m³) • 1 x 4-ton truck or 3500kg truck • 1 x TLB • 1 x Skip loader 	<p>5</p> <p>5</p> <p>5</p> <p>10</p>
<p>Profile of key staff applicable to the execution of the project.</p>	15	<p>(Site manager with environmental science/health or equivalent qualification) attached CV and certified copies of certificates/qualifications and ID.</p> <p>Site Manager must have 5 years or more experience.</p> <ul style="list-style-type: none"> • Honours and above in Environmental management or equivalent • B degree/B Tech/ Equivalent Environmental management or equivalent • Diploma Environmental management or equivalent 	<p>15</p> <p>10</p> <p>07</p>

<p>letters)</p> <ul style="list-style-type: none"> Litter picking (minimum of three 03 reference letter and 03 corresponding appointment letter) Cleaning and debushing of open public spaces (minimum of one (01) references letter and one (01) corresponding signed appointment letter) <p>The Appointment or reference letter must stipulate email address, contact number and contract amount.</p> <p>Failure to include these details in the reference letter will result in a zero score.</p>		<ul style="list-style-type: none"> Litter picking (minimum of three (03) appointment letter and three (03) signed corresponding reference letter) Cleaning and debushing of open public spaces (minimum of one (01) appointment letter & one (01) corresponding signed reference letter) 	<p>7</p> <p>5</p>
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<p>Financial viability</p> <ul style="list-style-type: none"> Proof of access to R1 million and above from the account of the company. This will be verified with the bank and therefore should have the telephone number and contact person. Non-attachment of an approved credit facility letter or bank guarantee letter will result in zero score. 	<p>15</p>	<ul style="list-style-type: none"> Approved credit facility letter or bank guarantee letter between a R1 million and above Approved credit facility letter or bank guarantee letter R500 000.00 and Credit facility letter or bank guarantee below R500 000.00. 	<p>15</p> <p>10</p> <p>5</p>
<p>Total</p>	<p>100</p>		<p>100</p>

The bidder must obtain a minimum score of 70% of points allocated for functionality to qualify for further evaluation on price and BBBEE. The bidders who score less than 70% on functionality will be disqualified.

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

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

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

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

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY**(ALL APPLICABLE TAXES INCLUDED)

- Required by:.....
- At:.....
- Brand and Model
- Country of Origin
- Does the offer comply with the specification(s)? *YES/NO
- If not to specification, indicate deviation(s)
- Period required for delivery
- *Delivery: Firm/Not firm
- Delivery basis

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

** “all applicable taxes” includes value- added tax, pay as you earn, income tax, unemployment insurancefund contributions and skills development levies. *Delete if not applicable

DECLARATION OF INTEREST

- 1. No bid will be accepted from persons in the service of the state¹.
- 2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favoritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorized representative declare their position in relation to the evaluating/adjudicating authority.

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

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

3.2 Identity Number:

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

3.4 Company Registration Number:

3.5 Tax Reference Number:.....

3.6 VAT Registration Number:

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

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

3.8.1 If yes, furnish particulars.

.....

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

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

- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

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

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

.....
Date

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).

- a) The applicable preference point system for this tender is the **80/20** preference point system.
- b) **80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.2 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.

1.3 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

- 1.4 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.
- 1.5 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:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration
Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

- Ps = Points scored for price of tender under consideration
Pt = Price of tender under consideration
Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

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

Points allocation for specific goals

Points to be allocated for specific goals to promote economic development"

1. The following conditions will stipulate the specific goals as contemplated in section 2(1)(d)(ii) of the Preferential Procurement Policy Framework Act, be attained.
2. A maximum of 20 points (80/20) preference points system or 10 (90/10) preference points system will be allocated for specific goals. These goals are as follow"
 - a) Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
 - b) Locality - The promotion of enterprise located in the local area;
 - c) Youth – empowerment of youth or
3. (20/10) points will be allocated to promote the specific goal set in terms of the scorecard as follows.

paragraph 2 (a) the (20/10) points will be allocated to promote this specific goal. Points will be allocated as follows:

Historically Disadvantaged Individuals - HDI	80/20 Preferential Point System	90/10 Preferential Point System	Means of Verification
	20	10	
Race – people who are Black, Coloured or Indian	6	3	CSD report and Certified Copy of Identification Documentation
Local Economic Development	4	2	Company residing within Fetakgomo Tubatse Local Municipality
Gender - Women	3	1	CSD report and Certified Copy of Identification Documentation
Youth	4	2	CSD report and Certified Copy of Identification Documentation
Disability	3	2	Certified copy of Doctor's Certificate with medical practice number

paragraph 2 (b) the (20/10) points will be allocated to promote this specific goal. Points will be allocated as follows:

Local area of supplier	Means of verification	Number of Points for Preference	
		80/20	90/10
Within the boundaries of Fetakgomo-Tubatse Local Municipality	Address on the company registration document (CK) or Municipal rates	1 - 20	1- 10
Within the boundaries of Sekhukhune District Municipality		1 - 20	1- 10
Within the boundaries of Limpopo Province		1 - 20	1- 10
Nationally with the RSA		1 - 20	1 - 10

paragraph 2 (c) the (20/10) points will be allocated to promote this specific goal. Points will be allocated as follows:

Youth Supplier	Means of verification	Number of Points for Preference	
		80/20	90/10
Youth Suppliers	Director's ID copy for age verification (35 years and below)	1- 20	1- 10
Not Youth Suppliers	Director's ID copy for age verification	1- 15	1- 5

4. Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender
5. A tender failing to submit proof of required evidence to claim preference for other specified goals, which is in line section 2 (1) (d) (i) of the Act.
 - a) may only score in terms of the 80/90-point formula for price and;
 - b) scores 0 points out of 20/10 of the relevant specific goals where the supplier or service provider did not stipulate.

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 authorized to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of

the organof 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 favorable 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:

.....

.....

.....

CONTRACT FORM - PURCHASE OF GOOD/SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or services described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Proof of Tax Compliance Status;
 - Pricing schedule(s);
 - Technical Specification(s);
 - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

WITNESSES	
1
2.
DATE:	

SIGNATURE

NAME OF FIRM

DATE

CONTRACT FORM - PURCHASE OF GOODS/SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as.....
 accept your bid under reference numberdated for the supply of
 goods/services
 indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/services delivered in accordance with the terms
 and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by
 the delivery note.

ITEM NO.	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOREACH SPECIFIC GOAL

4. I confirm that I am duly authorized to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1.

.

2.

.

DECLARATION OF BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supplychain 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 anyimproper 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 publicsector contract during the past five years; or
 - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention andCombating of Corrupt Activities Act (No 12 of 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submittedwith the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury’s website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	<input type="checkbox"/>	<input type="checkbox"/> No
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)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	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:

(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:
 - i has been requested to submit a bid in response to this bid invitation;
 - ii could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and

- iii 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;
 - a. geographical area where product or service will be rendered (market allocation)
 - b. methods, factors or formulas used to calculate prices;
 - c. the intention or decision to submit or not to submit, a bid;
 - d. 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

Objections and complaints

Persons aggrieved by decisions or actions taken in the appointment of this tender or affected by the entire process of supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action to: The Municipal Manager, 1 Kastania street, Burgersfort, 1150.

Signed :.....

Name in Print :.....

ANNEXURE “H”

GENERAL CONDITIONS OF CONTRACT

Definitions

(1) The following terms shall be interpreted as indicated:

“**Closing time**” means the date and hour specified in the bidding documents for the receipt of bids.

“**Contracts**” means the written agreement entered into between the purchaser and the provider, as recorded in the contract form signed by the parties, including all attachments and appendixes thereto and all documents incorporated by reference therein.

“**Contract price**” means the price payable to the provider under the contract for the full and proper performance of his contractual obligations.

“**Corrupt practice,**” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

“**Countervailing duties**” are imposed in cases where an enterprise abroad is subsidised by its government and encouraged to market its products internationally.

- a) “**Country of origin**” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognised new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- b) “**Day**” means calendar day.
- c) “**Delivery**” means delivery in compliance of the conditions of the contract or order.
- d) “**Delivery ex stock**” means immediate delivery direct from stock actually on hand.
- e) “**Delivery into consignees store or to his site**” means delivered and unloaded in the specified store or depot on the specified site in compliance with the conditions of the contract or order, the provider bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- f) “**Dumping**” occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of country of origin and which have the potential to harm the local industries in the RSA.
- g) “**Force Majeure**” means an event beyond the control of provider and not involving the provider’s fault or negligence and is not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- h) “**Fraudulent practice**” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidders of the benefits of free and open competition.

i) **“GCC”** means the General Conditions of Contract.

- j) **“Goods”** means all of the equipment, machinery, and/or other materials that the provider is required to supply to the purchaser under the contract.
- k) **“Imported content”** means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the provider or his subcontractors) and which costs are inclusive of the costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- l) **“Local Content”** means that portion of the bidding price, which is not included in the imported content provided that local manufacturing does take place.
- m) **“Manufacture”** means the products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- n) **“Order”** means an official written order issued for the supply of goods or works or the rendering of a service
- o) **“Project site,”** where applicable, means the place indicated in bidding documents.
- p) **“Purchaser”** means the Fetakgomo Tubatse Local Municipality.
- q) **“Republic”** means the Republic of South Africa.
- r) **“SCC”** means the Special Conditions of Contracts.
- s) **“Services”** means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the provider covered under the contract.
- t) **“Written”** or “in Writing “means hand-written in ink or any form of electronic or mechanical writing.

(2) Application

1. These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (including professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
2. Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

(3) General

1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
2. Invitations to bid are usually published in locally distributed news media and in the institution's website.

(4) Standards

1. The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

(5) Uses of contract documents and information inspection

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

(6) Patent rights

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

(7) Performance Security

1. Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in Special Conditions of Contract.
2. The process of the performance security shall be payable to the purchaser as compensation for any loss resulting from the provider's failure to complete his obligations under the contract.
3. The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
 1. A bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 2. A cashier's or certified cheque

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

1 Inspections, tests and analyses

1.6 All pre-bidding testing will be for account of the bidder.

1.7 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisation acting on behalf of the purchaser.

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

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

(a) 5. Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services accepted or not, the cost in connection with these inspections, tests or analysis shall be defrayed by the provider.

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

8.1 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the provider, who shall, when called upon, remove them immediately at his own cost and forthwith substitute them

with supplies, which do comply with the requirements of the contract. Failing such removal, the rejected supplies shall be returned at the provider's cost and risk. Should the provider fail to provide the substitute supplies forthwith, the purchaser may, without giving the provider further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the provider.

8.2 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

(b) Packing

- a The provider shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- b The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any subsequent instructions ordered by the purchaser.

(c) Delivery and documents

- a Delivery of the goods and arrangements for shipping and clearance obligations shall be made by the provider in accordance with the terms specified in the contract.

(d) Insurance

- a The goods supplies under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisitions, transportation, storage and delivery in the manner specified.

(e) Transportation

- a Should a price other than an all-inclusive delivered price be required, this shall be specified.

(f) Incidental services

- a The provider may be required to provide any or all of the following services, including additional services, if any:
 - 8. Performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - 9. Furnishing of tools required for assembly and/or maintenance of the supplied goods;

10. Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

11. Performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this services shall not relieve the provider of any warranty obligations under this contract; and

12. Training of the purchaser's personnel, at the provider's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Price charged by the provider for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the provider for similar services.

14. Spare parts

14.1 As specified, the provider may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the provider:

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

15. Warranty

- a The provider warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The provider further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of provider, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- b This warranty shall remain valid for twelve (12) months, or any portion thereof as the case may be, after goods have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.
- c The purchaser shall promptly notify the provider in writing of any claims arising under this warranty.
- d Upon receipt of such notice, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without cost to the purchaser.

- e If the provider, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the provider's risk and expense and without prejudice to any other rights which the purchaser may have against the provider under the contract.

16. Payment

- a The method and conditions of payments to be made to the provider under this contract shall be specified.
- b The provider shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilments of other obligations stipulated in the contract.
- c Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the provider.
- d Payments will be made in Rand unless otherwise stipulated.

17. Prices

- 17.1 Prices charged by the provider for goods delivered and services performed under the contract shall not vary from the prices quoted by the provider in his bid, with the exception of any price adjustments authorised or in the purchaser's request for bid validity extension, as the case may be.

18. Increase/ decrease of quantities

- 18.1 In cases where the estimated value of the envisaged changes in purchase does not exceed 15% of the total value of the original contract, the contractor may be instructed to deliver the revised quantities. The contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

19. Contract amendments

- 19.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

20. Assignment

- 20.1 The provider shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

1 Subcontracts

- 21.1 The provider shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the provider from any liability or obligation under the contract

2 Delays in the provider's performance

- 16.1 Delivery of goods and performance of services shall be made by the provider in accordance with the time schedule prescribed by the purchaser in the contract.

- 16.2 If at time during performance of the contract, the provider or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the provider shall promptly notify the purchaser in writing of the act of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the provider's notice, the purchaser shall evaluate the situation and may at his discretion extend the provider's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 16.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the provider's point of supply is not situated at or near the place where the supplies are required, or the provider's services are not readily available.
- 16.4 Except as provided under GCC clause 25, a delay by the provider in the performance of its delivery obligations shall render the provider liable to the imposition of penalties, pursuant to GCC clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 16.5 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quantity and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods not delivered later at the provider's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the provider.

23. Penalties

- 23.1 Subject to GCC clause 25, if the provider fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC clause 23.

1 Termination for default

- a The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the provider, may terminate this contract in whole or in part:
- i If the provider fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC clause 21.2
 - ii If the provider fails to perform any other obligation(s) under the contract;
 - iii If the provider, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract

- b In the event of the purchaser terminating the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the provider shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the provider shall continue performance of the contract to the extent not terminated.

2 Anti-dumping and countervailing duties and rights

- a When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing rights are increased in respect of any dumped or subsidised import, the Municipality is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right are abolished, or where the amount of such provisional payments or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the provider to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the provider in regard to supplies or services which he delivered or rendered, or is to be delivered or rendered in terms of the contract or any other contract or any other amount which may be due to him.

3 Force Majeure

- a Notwithstanding the provisions of GCC clause 22 and 23, the provider shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- b If a force majeure situation arises, the provider shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the provider shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

4 Termination for insolvency

- a The purchaser may at any time terminate the contract by giving written notice to the provider if the provider becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the provider, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.

5 Settlement of disputes

- a If any dispute or difference of any kind whatsoever arises between the purchaser and the provider in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- b If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the provider may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- c Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- d Notwithstanding any reference to mediation and/or court proceedings herein:

- 1 The parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- 2 The purchaser shall pay the provider any monies due to the provider for goods delivered and / or services rendered according to the prescripts of the contract.

6 Limitation of liability

- a Except in case of criminal negligence or wilful misconduct, and in the case of infringement pursuant to clause 6:
 - a The provider shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the provider to pay penalties and/or damages to the purchaser; and
 - b The aggregate liability of the provider purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

7 Governing language

- a The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

8 Applicable laws

- a The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

9 Notices

- a Every written acceptance of a bid shall be posted to the provider concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address noticed later by him in writing and such posting shall be deemed to be proper services of such notice.
- b The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

10 Taxes and duties

- a A foreign provider shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- b A local provider shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- c No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

11 Transfer of contracts

- a The contract shall not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the purchaser.

12 Amendment of contracts

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

ANNEXURE “I”

SPECIAL CONDITIONS OF THE CONTRACTS:

1. It is emphasized that a contract will not necessarily result from the responses received to this request for proposal. FETAKGOMO TUBATSE MUNICIPALITY reserves the right to enter into negotiations with any one or more of the respondents, should it be decided to proceed with the contract.
2. FETAKGOMO TUBATSE MUNICIPALITY reserves the right not to evaluate and /or consider any proposal that does not comply strictly with the requirements as set out in this request.
3. FETAKGOMO TUBATSE MUNICIPALITY reserves the right to make a decision/ selection based solely on the information received in the proposal to this request.
4. The bid price must remain valid for a period of 120 days calculated from the closing date.
5. Accept that the employer will not compensate the bidder for any costs incurred in the preparation and submission of a bid offer, including the costs to demonstrate that aspects of the offer satisfy requirements.
6. The Municipality may accept or reject any variation, deviation, bid offer or alternative bid offer, and may cancel the bid process and reject all bid offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a bidder for such cancellation and rejection but will give written reasons for such action upon written request to do so.
- 7. The Municipal Manager may reject the bid or quote of any person if that person or any of its directors has:**
 - i. Failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months;
 - ii. Failed, during the last five years, to perform satisfactorily on a previous contract with the Fetakgomo Tubatse Local Municipality or any other organ of State after written notice was given to that bidder that performance was unsatisfactory;
 - iii. Abused the supply chain management system of the Municipality or have committed any improper conduct in relation to this system;
 - iv. Been convicted of fraud or corruption during the past five years;
 - v. Willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - vi. 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) or has been listed on National Treasury’s database as a person prohibited from doing business with public sector.
- 8. The Municipal Manager may cancel a contract awarded to a person if:**
 - The person committed a corrupt or fraudulent act during the procurement process or in the execution of the contract, or
 - An official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.
9. No bids will be considered from persons in the service of the state (as defined in regulation 1 of the local government: municipal supply chain management regulations)

