

**SECTION 2.1: SPECIAL CONDITIONS OF CONTRACT**

**1. GENERAL**

The Special Conditions of Contract are supplementary to that of the General Conditions of Contract. Where however the special conditions of contract are in conflict with the general conditions of contract the special conditions of contract prevail.

**2. REGISTRATION**

Latest proof of company registration from companies and intellectual property commission (CIPC) must be submitted in the form of certified copies of the relevant registration documents.

Letter of good standing to be attached with tender submission.

**3. CLIENT BASE**

3.1 Bidders must have specific experience in the principles tendered for and submit at least two recent references.

Bidders must provide written proof (s) on their client's letterhead confirming or indicating similar work undertaken by the bidder.

3.2 Hessequa Municipality reserves the right to contact references during the evaluation process to obtain information.

**4. SHAREHOLDERS / DIRECTORS PORTFOLIO**

The bidder shall submit copies of the company's shareholding portfolio with the bid documents at the closing date and time of the bid.

**5. COMMUNICATION**

Supply Chain Management Department will communicate with bidders for, among others, where bid clarity is sought, to obtain information. Any communication either by facsimile, letter or electronic mail or any other form of correspondence to any municipal official, or representative of a testing institutions or a person acting in an advisory capacity for the Municipality in respect of this bid between the closing date and the award of the bid by the bidders is prohibited

**6. PROHIBITION OF RESTRICTIVE PRACTICES**

In terms of section 4 (1) of the Competition Act No. 89 of 1998, as amended, and agreement between, or concerted practice by, firms, or a decision by an associations or firms, is prohibited if it is between parties in a horizontal relationship and if the bidder(s) is / are or a contractor(s) was /were involved in:

- Directly or indirectly fixing a purchase or selling price or any other trading condition;
- Dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or
- Collusive bidding.

If a bidder(s) or contractor(s), in the judgment of the purchaser, has / have engage in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and referred the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

**7. FRONTING**

- (a) The Municipality supports the spirit of BBB-EE and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent, and legally compliant manner. Against this background the Municipality condemns any form of fronting.
- (b) The Municipality, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiates the necessary enquiries / investigations to determine the accuracy of the representation rate in bid documents. Should any of the fronting indicators as contained in the guidelines on complex structures and transaction and fronting, issued by the DTI, the established during such enquiry / investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the bidder / contractor to conduct business with the Public Sector for a period not exceeding 10 years, in addition to any other remedies the Municipality may have against the bidder/contracted concerned.

**8. CLARIFICATION MEETING**

No compulsory site inspection will be held.

**9. CONFLICT OF INTEREST**

Prior to the acceptance of any assignment, the service provider will ensure and certify that there are no conflicts of interest which may prohibit him/her from assisting the Client.

The Service provider will not be allowed to make an application, on behalf of a third party, on any matter that the municipality is the approval authority, i.e. land use applications etc.

**10. TRANSITIONAL ARRANGEMENT**

The current legal services practitioner will be granted the opportunity to finish the work already allocated.

**11. EVALUATION AND AWARD**

The tender will be evaluated in three phases, where phase 1 is compliance to specifications, conditions and special conditions. Phase 2 will be the functionality evaluation and Phase 3, price and BBB-EE status will apply. Hessequa Municipality reserves the right to allocate certain fields of law to different firms or legal advisors and may appoint more than one firm for this purpose.

**12. SERVICE LEVEL AGREEMENT**

Legal practitioners appointed will not sign a service level agreement as the tender document will serve as the final contract.

**13. DISBURSEMENTS IN ACCORDANCE WITH TRAVEL AND SUBSTANCE**

Travel time, other than time spent traveling between a local residence and the Client's local office, will not be chargeable as part of the above working hours. Disbursements will be recovered at cost and will include, but not limited to:

- accommodation in three star rated accommodations on a bed and breakfast basis;
- air travel in economy class;

- o road travel at discounted AA rates; and
- o parking, stationery and printing.
- o Any other Disbursements in accordance with travel and subsistence subject to Councils approved Cost Containment Policy

Proof of disbursement claimed should be submitted with invoice.

**14. INVOICING**

14.1 There must be clear deliverables reviewed by the Client, and a specified invoice must be submitted on completion or monthly basis, as agreed between the parties, per assignment. The Municipality reserves the right to query invoices, the items thereon and charges, therefore. No charges or expenses will be paid for drawing up of invoices and monthly feedback reports, either by way of percentage or time spent.

14.2 Only invoices must be submitted to the municipality and not "statement of account" when invoicing. A statement may be submitted at the end of each month referring to the relevant invoices delivered.

14.3 The successful bidder will be required to fully motivate fees higher than those approved by the Municipality upon receipt of instruction from the Municipality but prior to incurring any costs. The motivation will be considered by the Municipal Manager for approval at his/her sole discretion.

**15. FEES**

15.1 The fees will be in terms of the Rules Board for Courts of Law under section 6 of the Rules Board for Courts of Law Act, Act No. 107 of 1985.

15.2 Where conveyancing instructions (EXCLUDING instructions relating to transfer of subsidy housing), following the establishment of the Panel, are issued to the successful Tenderers, the Tenderers have to invoice the Municipality in accordance with the fees specified in the latest Guideline of Fees and may not charge fees in excess of the amounts stipulated in such Guideline. Tenderers may, however charge the Municipality fees lower than the amounts stipulated in the Guideline.

DECLARATION,

I, THE UNDERSIGNED (NAME) .....

CERTIFY THAT THE INFORMATION FURNISHED ABOVE IS CORRECT. I ACCEPT THAT THE MUNICIPALITY MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

AUTHORISED SIGNATURE: .....

NAME: .....

CAPACITY: ..... DATE: .....

Initials of Service Provider's Authority: .....