

Abaqulusi Local Municipality



Returnable Bid Document

Tender Number: 8/2/1/448

**Tender Description: Land Sales within
Abaqulusi Municipality**



ABAQULUSI LOCAL MUNICIPALITY
TENDER REFERENCE NUMBER: 8/2/1/448
INVITATION TO BID: LAND SALES WITHIN ABAQULUSI LOCAL MUNICIPALITY

Notice is hereby given in terms of Section 21 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), Section 14 (2) (a) (b) of the Local Government: Municipal Financial Management Act, 2003 (Act 56 of 2003), read with Sections 5 and 7 of the Municipal Assets Transfer Regulations of 2008, and Abaqulusi Municipality's Supply Chain Policy, Section 37 (1) – (9), that the following vacant residential and industrial sites are offered for sale subject to a bidding process:

Property Description (ERF)	Property Extent (m ²)	Suburb/Area
Erf 969 Mondlo A	5000m ² (Approximate)	Mondlo A
2317 Vryheid	1099m ²	Vryheid – Edel Park
2321 Vryheid	1110m ²	Vryheid – Edel Park
2339 Vryheid	1100m ²	Vryheid – Edel Park
2358 Vryheid	1425m ²	Vryheid – Edel Park
2368 Vryheid	1094m ²	Vryheid – Edel Park
2369 Vryheid	1612m ²	Vryheid – Edel Park
2372 Vryheid	1157m ²	Vryheid – Edel Park
1347 Vryheid	38408m ²	Vryheid – Industrial Area
1348 Vryheid	37957m ²	Vryheid – Industrial Area
1349 Vryheid	34187m ²	Vryheid – Industrial Area
1350 Vryheid	26945m ²	Vryheid – Industrial Area
1351 Vryheid	33190m ²	Vryheid – Industrial Area
1352 Vryheid	25858m ²	Vryheid – Industrial Area
1353 Vryheid	27705m ²	Vryheid – Industrial Area
2493 Vryheid	2647m ²	Vryheid – Industrial Area
2494 Vryheid	2303m ²	Vryheid – Industrial Area
1803 Vryheid	4950m ²	Vryheid – Industrial Area
2485 Vryheid	2491m ²	Vryheid – Industrial Area
2486 Vryheid	2058m ²	Vryheid – Industrial Area
1797 Vryheid	4597m ²	Vryheid – Industrial Area
1800 Vryheid	4008m ²	Vryheid – Industrial Area
2488 Vryheid	2417m ²	Vryheid – Industrial Area
2489 Vryheid	2176m ²	Vryheid – Industrial Area

Terms and conditions might apply to certain properties. For more information, please contact Mr J.S. Landman on 034 982 2133/082 805 4014 during office hours, Monday-Friday, 07:30am – 16:30pm.

The bid document may be downloaded free of charge from: www.etenders.gov.za. Bids may only be submitted on the bid documentation issued by Abaqulusi Municipality. Late submitted, unmarked, faxed, falsified or e-mailed offers will not be considered and will be disqualified. Bids must be placed in envelopes, clearly marked "**TENDER NUMBER 8/2/1/448: Land Sales within Abaqulusi Local Municipality**" and deposited in the tender box at Corner of Mark and High Street, Vryheid 3100, not later than 12h00 on Friday, 10 September 2021.

The Abaqulusi Local Municipality does not bind itself to accepting any bid, either wholly or in part or give any reason for such action.

B.E NTANZI
MUNICIPAL MANAGER
ABAQULUSI LOCAL MUNICIPALITY

Notice Number 36/2021

Abaqulusi Local Municipality



Formal Bid Offer

Name of Bidder	
Address of Bidder	
I.D Number of Bidder	
Contact Number	
E-mail Address	
Bid for (Property Description)	ERF
Bid Offer (South African Rands)	R

Signature of Bidder

Date

Abaqulusi Local Municipality



Terms of Reference:

**Residential and Industrial Land Sales
within Abaqulusi Municipality**

1. Preamble

The Abaqulusi Local Municipality hereby invites bids from all stakeholders interested in purchasing Residential and Industrial Sites within the Abaqulusi Municipality, located in the suburbs of Edel Park and Vryheid Industrial Area. The intention of the municipality is to award a site to the successful bidder who has lodged the highest price offer above the set reserved price on that specific site, and has complied with all requirements set out in this Terms of Reference and Bid Document.

2. Background and Context

The Abaqulusi Local Municipality's Council, resolved to dispose of all serviced sites within its jurisdiction to ensure that the municipality is answering the call to its citizens who have over the years made numerous attempts to purchase municipal owned land, primarily for residential and industrial purposes.

Based on this, the municipality is now moving forward in a phased approach in order to deal with the process of land sales in an effective manner and one that can be fast-tracked for both the seller and purchaser.

In this Terms of Reference document, the focus of land sales will deal with residential, industrial and commercial sites only, within the suburbs of Edel Park, Vryheid Industrial and Mondlo area. This was done based on the fact that sites within the Vryheid area are of higher value and applications to purchase municipal owned land are predominantly within the Vryheid area as well.

3. Need for Residential, Industrial and Commercial Land Sale

Abaqulusi Local Municipality is no different to other municipalities in the province or country as it also faces huge amounts of pressure in ensuring that access to land is readily available to its citizens for the primary purpose of building a house. Over the years, the Abaqulusi Municipality has received large volumes of applications from members of the public to purchase municipal owned land for residential purposes (building a house). Additional pressure has also been placed on the municipality as a result of the increased illegal land invasions and occupations that are currently being experienced around the urban areas. The municipality has now decided to dispose of its residential owned sites in an attempt to address the above mentioned issues.

Industrial land sales within the Abaqulusi Municipality is also regarded as a high priority as this possesses the potential to alleviate the unemployment rate within the area as well as promote economic development and growth within the municipal jurisdiction. The lack of available space closer to the Vryheid CBD has also increased the need to make commercial/industrial land available to existing businesses than plan to expand their services or new businesses that want to establish their practices within the Abaqulusi Municipality.

4. Project Scope

For this phase of Land Sales, the Abaqulusi Municipality has identified a total of 24 sites that will be available for disposal. These sites are located in Vryheid (Edel Park and Industrial Area) and Mondlo A.

4.1 Property Analysis

As indicated above, a total of 7 Residential Sites, 16 Industrial Sites and 1 Commercial Site have been identified by the Abaqulusi Municipality for disposal during this phase. These sites have been divided into 3 tables below and are further analysed to provide the prospective purchaser with as much information as possible. The details of the properties are as follows:

Commercial Site

Property Description (ERF)	Property Extent (m ²)	Suburb/Area
969 Mondlo A	5000m ² (Approximate)	Mondlo A

Residential Sites

Property Description (ERF)	Property Extent (m ²)	Suburb/Area
2317 Vryheid	1099m ²	Vryheid – Edel Park
2321 Vryheid	1110m ²	Vryheid – Edel Park
2339 Vryheid	1100m ²	Vryheid – Edel Park
2358 Vryheid	1425m ²	Vryheid – Edel Park
2368 Vryheid	1094m ²	Vryheid – Edel Park
2369 Vryheid	1612m ²	Vryheid – Edel Park
2372 Vryheid	1157m ²	Vryheid – Edel Park

Industrial Sites

Property Description (ERF)	Property Extent (m ²)	Suburb/Area
1347 Vryheid	38408m ²	Vryheid – Industrial Area
1348 Vryheid	37957m ²	Vryheid – Industrial Area
1349 Vryheid	34187m ²	Vryheid – Industrial Area
1350 Vryheid	26945m ²	Vryheid – Industrial Area
1351 Vryheid	33190m ²	Vryheid – Industrial Area
1352 Vryheid	25858m ²	Vryheid – Industrial Area
1353 Vryheid	27705m ²	Vryheid – Industrial Area
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2485 Vryheid	2491m ²	Vryheid – Industrial Area
2486 Vryheid	2058m ²	Vryheid – Industrial Area
1797 Vryheid	4597m ²	Vryheid – Industrial Area
1800 Vryheid	4008m ²	Vryheid – Industrial Area
2488 Vryheid	2417m ²	Vryheid – Industrial Area
2489 Vryheid	2176m ²	Vryheid – Industrial Area

4.2 Locality Maps

Sites are highlighted in Yellow. Zooming in on the Locality Map will provide a clear indication of the property description.

**(Commercial)
Business
Site**

ABAQULUSI LM

LOCALITY PLAN:



ABAQULUSI LOCAL MUNICIPALITY



SCALE - 1:1 043



Legend

- primary_roads
- 969_mondo a mask tp
- regproperties_abaqulusi
- Abaqulusi LM Boundary

ABAQULUSI LOCAL MUNICIPALITY GIS
TECHNICAL BUILDING
VRYHEID STREET
3100 314 882 213 314 238
Email: Sisaac Priso (GIS Operator)
sisaac@abaqulusi.gov.za



DISCLAIMER: The data is not guaranteed and is limited.
Abaqulusi Local Municipality accepts no liability for any claims brought
against it in connection with the use of the data and
information supplied.



Residential Sites

LOCALITY PLAN:



SCALE - 1:4 175



Legend

- ext 15 land sale loc
regproperties_abaqulusi
Abaqulusi LM Boundary

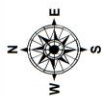
ABAQULUSI LOCAL MUNICIPALITY GIS
TECHNICAL BUILDING
MASON STREET
VRYHEID
3100
Tel: 034 982 2133 Ext 2268
Email: Sitaan Fritze (GIS Operator)
sfritze@abaqulusi.gov.za



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Industrial Sites

LOCALITY PLAN:BAQULUSI LOCAL
MUNICIPALITY

SCALE - 1:2 608

Industrial 1 for sale

Legend

- primary_roads
 industrial sites for sale_tp
 regproperties_abaqulusi
 Abaqulusi LM Boundary

AQUISI LOCAL MUNICIPALITY GIS

AQUISI LOCAL MUNICIPALITY GIS
CHNICAL BUILDINGSON STREET
YHEID[illegible]

Tel: 034 982 2133 Ext 2268
E-mail: Stiaan.Fritze (GIS Operator)

tre@abaqulusi.gov.za



**ABAQULUSI LOCAL
MUNICIPALITY**

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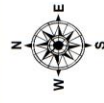


ABAQULUSI LM

LOCALITY PLAN:



ABAQULUSI LOCAL MUNICIPALITY



SCALE - 1:4 173



Industrial 2 for sale

Legend

- primary_roads
- industrial sites for sale_ip
- regproperties_abaqulusi
- Abaqulusi LM Boundary

ABAQULUSI LOCAL MUNICIPALITY GIS
TECHNICAL BUILDING
MUNICIPALITY STREET
VRYHEID
3100 344 882 1131 Ext 1238
Email: Szaan Fritz (GIS Operator)
sfritz@abaqulusi.gov.za



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4.3 Permitted Zoning Rights

4.3.1 Residential 1

STATEMENT OF INTENT: This zone is intended to promote the development of primarily detached dwelling units, but does permit medium density housing (minimum site size of 2400m²). A limited number of compatible ancillary uses which have a non-disruptive impact on neighbourhood amenity may be allowed.

PRIMARY USES		CONSENT USES	PROHIBITED USES			
14 Dwelling House 28 Nature and Resource Conservation		7 Boarding House 13 Day Care Centre 17 Garden Nursery 19 Home Business ⁴ 20 Hospitality Facility (restricted to Bed and Breakfast Establishment ⁴ and Guest House) 24 Medium Density Housing (minimum site size of 2400m ²) 50 Tuck Shop ⁴	1 Abattoir 2 Agricultural Industry 3 Agricultural Use 4 Animal Care Centre 5 ATM 6 Betting Depot 8 Brick Making 9 Builders Yard 10 Chalet Development 11 Commercial Workshop 12 Crematorium 15 Extractive Industrial Use 16 Funeral Parlour 18 General Industrial Building 21 Institution 22 Launderette 23 Light Industrial Building 25 Mortuary 26 Motor Vehicle Showroom 27 Motor Workshop 29 Office Building 30 Parking Garage	31 Petrol Filling Station 32 Place of Instruction 33 Place of Public Amusement 34 Place of Public Assembly 35 Private Recreation Area 36 Public Office 37 Recreational Building 38 Recycling Centre 39 Residential Building 40 Restaurant 41 Restricted Building 42 Retirement Centre 43 Scrap-Yard 44 Service Industrial Building 45 Service Workshop 46 Shop 47 Special Industrial Building 48 Tavern 49 Transportation Terminal 51 Warehouse Any other use not stipulated under primary use or consent use		
DEVELOPMENT PARAMETERS						
BUILDING LINES		MDH DENSITY	MINIMUM ERF AREA	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
STREET FRONT SPACE	SIDE AND REAR SPACE					
7m	2m	1 unit per 900m ²	900m ²	2	35%	0.40

4.3.2 Industrial 1

STATEMENT OF INTENT:

This zone is intended to permit manufacturing that is generally compatible with other land uses permitted in adjacent, more sensitive land use zones such as residential, business and open space. Manufacturing activities shall not involve significant vibrations, noise odour or high volume of automobile and truck traffic. Warehousing of a non-hazardous nature is permitted. Outdoor storage as an ancillary use may be permitted in this zone subject to a consent procedure conditions of which shall address the extent of storage area permitted on the Erf, setbacks, screening and the type of materials to be stored outdoors. Office uses are permitted with conditions i.e. via a consent procedure.

PRIMARY USES		CONSENT USES		PROHIBITED USES		
5 ATM 8 Brick Making 11 Commercial Workshop 14 Dwelling House (Restricted to accommodation for manager, foreman or caretaker) 23 Light Industrial Building 26 Motor Vehicle Showroom 44 Service Industrial Building 45 Service Workshop 49 Transportation Terminal 51 Warehouse		6 Betting Depot 9 Builders Yard 16 Funeral Parlour 17 Garden Nursery 22 Launderette 27 Motor Workshop 29 Office Building 31 Petrol Filling Station 33 Place of Public Amusement 34 Place of Public Assembly 35 Private Recreation Area 37 Recreational Building 38 Recycling Centre 40 Restaurant 46 Shop as per Clause 7.2 48 Tavern		1 Abattoir 2 Agricultural Industry 3 Agricultural Use 4 Animal Care Centre 7 Boarding House 10 Chalet Development 12 Crematorium 13 Day Care Centre 15 Extractive Industrial Use 18 General Industrial Building 19 Home Business 20 Hospitality Facility 21 Institution 24 Medium DensityHousing 25 Mortuary		28 Nature and Resource Conservation 30 Parking Garage 32 Place of Instruction 36 Public Office 39 Residential Building 41 Restricted Building 42 Retirement Centre 43 Scrap-Yard 46 Shop (Other than indicated under Consent) 47 Special Industrial Building 50 Tuck Shop Any other use not stipulated under primary use or consent use
DEVELOPMENT PARAMETERS						
BUILDING LINES		DWELLING UNITS PER HECTARE	MINIMU MERF AREA	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
STREET FRONT SPACE	SIDE AND REAR SPACE					
7.5m	2m	N/A	900m ²	2	50%	0.50

4.3.3 Industrial 2

STATEMENT OF INTENT:

This zone is intended to permit manufacturing uses which are generally compatible with other manufacturing uses. As a cumulative industrial zone, it would permit a combination of light manufacturing and more intensive manufacturing uses that would normally be considered incompatible with sensitive land uses. Warehousing of materials considered non-noxious or non-hazardous are permitted. Outdoor storage as an ancillary use may be permitted in this zone subject to a consent procedure conditions of which shall address the extent of storage area permitted on the Erf, setbacks, screening and the type of materials to be stored outdoors. Noxious industries to be permitted by Consent subject to environmental impacts being addressed.

PRIMARY USES		CONSENT USES		PROHIBITED USES		
5 ATM 9 Builders Yard 9 Brick Making 11 Commercial Workshop 14 Dwelling House (Restricted to accommodation for manager, foreman or caretaker) 18 General Industrial Building 23 Light Industrial Building 26 Motor Vehicle Showroom 27 Motor Workshop 38 Recycling Centre 43 Scrap-Yard 44 Service Industrial Building 45 Service Workshop 49 Transportation Terminal 51 Warehouse		1 Abattoir 2 Agricultural Industry 6 Betting Depot 12 Crematorium 16 Funeral Parlour 17 Garden Nursery 22 Launderette 25 Mortuary 31 Petrol Filling Station 35 Private Recreation Area 37 Recreational Building 40 Restaurant 46 Shop (ancillary to primary use, See Clause 7.2) 47 Special Industrial Building 48 Tavern		2 Agricultural Use 4 Animal Care Centre 7 Boarding House 10 Chalet Development 13 Day Care Centre 15 Extractive Industrial Use 19 Home Business 20 Hospitality Facility 21 Institution 24 Medium Density Housing 28 Nature and Resource Conservation		29 Office Building 30 Parking Garage 32 Place of Instruction 33 Place of Public Amusement 34 Place of Public Assembly 36 Public Office 39 Residential Building 41 Restricted Building 42 Retirement Centre 46 Shop (Other than indicated under Consent) 50 Tuck Shop Any other use not stipulated under primary use or consent use
DEVELOPMENT PARAMETERS						
BUILDING LINES		DWELLING UNITS PER HECTARE	MINIMUM ERF AREA	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
STREET FRONT SPACE	SIDE AND REAR SPACE					
5m	2m	N/A	1800m ²	4	65%	1.00

4.3.4 Business 1

STATEMENT OF INTENT: This zone is intended to provide for the use of retail, entertainment, offices, residential, public facilities, and related commercial uses at high intensities. Minimum erf size within this zone is 450 m². Where residential usage is provided this shall be in the form of a composite building which includes shopping and/or offices in which case the minimum erf size shall be 1 800m².

PRIMARY USES		CONSENT USES	PROHIBITED USES			
5 ATM 6 Betting Depot 7 Boarding House 11 Commercial Workshop 20 Hospitality Facility (Restricted to Bed and Breakfast Establishment, Guest House and Conference Centre) 22 Launderette 26 Motor Vehicle Showroom 29 Office Building 30 Parking Garage 36 Public Office 39 Residential Building (above ground floor) 40 Restaurant 44 Service Industrial Building 46 Shop		13 Day Care Centre 16 Funeral Parlour 17 Garden Nursery 21 Institution 27 Motor Workshop 31 Petrol Filling Station 32 Place of Instruction 33 Place of Public Amusement 34 Place of Public Assembly 35 Private Recreation Area 37 Recreational Building 38 Recycling Centre 48 Tavern 49 Transportation Terminal 51 Warehouse	1 Abattoir 2 Agricultural Industry 3 Agricultural Use 4 Animal Care Centre 8 Brick Making 9 Builders Yard 10 Chalet Development 12 Crematorium 14 Dwelling House 15 Extractive Industrial Use 18 General Industrial Building 19 Home Business 23 Light Industrial Building 24 Medium Density Housing 25 Mortuary 28 Nature and Resource Conservation	39 Residential Building (other than specified as a Primary Use) 41 Restricted Building 42 Retirement Centre 43 Scrap-Yard 45 Service Workshop 47 Special Industrial Building 50 Tuck Shop Any other use not stipulated under primary use or consent use		
DEVELOPMENT PARAMETERS						
BUILDING LINES		DWELLING UNITS PER HECTARE	MINIMUM ERF AREA	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
STREET FRONT SPACE	SIDE AND REAR SPACE					
0m	2m	N/A	450m ² (1800m ² for a composite building)	6	80%	2.00

5. Conditions of Sale

1. **All properties will be sold to the highest bidder.**
2. Bids from all type of stakeholders will be accepted, ie. Individuals, businesses, NGO's, NPO's, etc.
3. The successful bidder will have to enter into a sale agreement/deed of sale with the Abaqulusi Local Municipality for the purchase of the property of which he/she lodged a bid for within 14 days after receiving notice that he/she has been awarded the bid.
4. The successful bidder will have to pay 10% of the bid price that he/she has lodged within 7 days after signing the sale agreement.
5. The successful bidder will have to pay the outstanding 90% of the bid price within 21 days after making the 10% payment as indicated in point 4 above.
6. All conveyancing costs will be the responsibility of the successful bidder.
7. The property is to be used strictly for residential purposes.
8. The successful bidder will ***not be allowed*** to conduct the following:
 - a) *Rezoning of the Property (within first 10 years of ownership)*
 - b) *Subdivision of the Property (within first 10 years of ownership)*
 - c) *Consolidating the Property (within first 10 years of ownership)*
10. Within 3 months upon finalisation of transfer and registration of the property, the successful bidder must submit building plans to the Abaqulusi Local Municipality in order to begin the process of developing the property.
11. Within 6 months after receiving approval of the building plans, the successful bidder must ensure that construction on site begins.
12. Within 18 months after approval of the building plans, the successful bidder must ensure that all construction on site is complete.
13. Construction on site must be fully compliant to the permitted zoning of the property and to the satisfaction of the Building Inspectorate Unit of the municipality.
14. Failure to complete construction as per the prescribed time frames stipulated above will result in administration penalties imposed on the site owner as per the Abaqulusi Local Municipality's Spatial Planning and Land Use Management Act, Act No. 13 of 2016 (SPLUMA) By-laws.

Name of Bidder

Signed and Accepted Conditions of Sale

Date

6. Compulsory Returnable Documents

All proposed bids for a specific property must be accompanied by the following compulsory returnable document:

1. Signed and Completed Formal Bid Offer.
2. Signed and Completed Acceptance of the Conditions of Sale.
3. Certified Copy of ID.
4. Certified Copy of Proof of Residence.
5. Bank Guarantee or Letter of financial support for the bid offer lodged.
6. Signed and Completed Certificate of Independent Bid Determination (MBD9).

7. Submission Format

- All tender documents must be placed into the Tender Box outside the Municipality, located at the corner of Mark and High Street, Vryheid, KZN, 3100.
- All tender documents must be submitted timeously.
- No late submissions will be accepted.
- All tender documents must be completed in full and all supporting documents must be attached as required.
- No email or faxed submissions will be accepted.
- All costs related to the submission of this tender shall be carried out by the bidder.

8. Legalities and Rules

- The Abaqulusi municipality reserves the right not to award a tender as per the bids received.
- If successful upon a bid to purchase a property, the purchaser will have to enter into a sale agreement with the seller, the Abaqulusi Local Municipality.
- All returnable documents must be signed where applicable.
- All conditions of sale must be strictly adhered to, read and understood by the bidder.
- The Abaqulusi Local Municipality will not be held responsible for any submission delays whatsoever.

9. Validity Period

- All Bids are valid for a period of 90 days after submission closing date.

10. Briefing Session

- There will be **no briefing session**.

11. Evaluation Criteria

All bids received must comply with the following criteria:

1. All properties will be sold to the highest bid offer.
2. All bid documents must be signed and completed in full where applicable.
3. All bidders must submit a certified copy of their ID.
4. All bidders must submit a certified copy of their Proof of Residence.
5. All Bidders must submit a Bank Guarantee or Letter of financial support for the bid offer lodged.
6. All bidders must submit a Signed and Completed Certificate of Independent Bid Determination (MBD9)

12. Reasons for Disqualification

A bid document will be rejected or disqualified based on the following reasons:

1. Late submission of a bid will not be accepted.
2. A bid document received that is not signed and completed in full.
3. Non-Submission of Certified copy of ID.
4. Non-Submission of Certified copy of Proof of Address.
5. Non-Submission of Bank Guarantee in support of the bid offer lodged.
6. A proposed Bidder whose information is found out to be fraudulent, factually untrue or inaccurate.

13. Abaqulusi Municipality's Rights

- The Abaqulusi municipality is entitled to amend any tender conditions, validity period, specifications, or extend the closing date of tenders before the closing date. All tenderers, to whom the tender documents have been issued, will be advised in writing of such amendments in good time.
- The Abaqulusi municipality reserves the right not to award a tender as per the bids received.

14. Enquiries

Enquiries may be directed to the following persons:

Technical Queries

Mr JS Landman

Telephone No. : 034 982 2133 / 082 805 4014

Working Hours: Monday – Thursday 7:30 – 16:30

: Friday – 7:30 – 13:30

Email: slandman@abaqulusi.gov.za / tmpanza@abaqulusi.gov.za

Supply Chain Queries

Ms P Nxumalo

Telephone No. : 034 982 2133

Working Hours: Monday – Thursday 7:30 – 16:30

: Friday – 7:30 – 13:30

Email: pnxumalo@abaqulusi.gov.za

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:

- (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