

Information Statement

1. The Local Government Systems Act, Act 32 of 2000 (the "MSA") and the Local Government Municipal Finance Management Act, act 56 of 2003 (the "MFMA") provide for a municipal service being rendered through a "municipal entity."

A municipal entity is, in this context, a private company in the effective control of the City of Tshwane Metropolitan Municipality. "Effective control" means the power to:

- (a) appoint or remove the majority of the board of directors; or,
- (b) control the majority of the voting rights at a general meeting.

2. The patent and prime benefits of making use of a municipal entity as a service provider, amongst others, are:

- (a) access to external business acumen and skills through board members; and,
- (b) access to private funding through loans and shares.
- (c) The ability to lend and borrow in own name.

3. The MFMA requires the City of Tshwane Metropolitan Municipality, when considering the establishment of, or participation in, a municipal entity, to:

- (a) determine precisely the function or service that such entity would perform on behalf of the municipality (see annexure 1); and
- (b) make an assessment of the impact of the shifting of that function or service to the entity on the municipality's staff, assets and liabilities.

The assessment in terms of sec 84(1) is published herewith, titled
"Assessment in terms of sec 84(1) of act 56 of 2003." (annexure 2)

4. The MSA further requires the City of Tshwane Metropolitan Municipality to first assess (sec 78(1)(a)): —

- i) the direct and indirect costs and benefits associated with the project if the service is provided by the municipality through an internal mechanism, including the expected effect on the environment and on human health well-being and safety;
- (ii) the municipality's capacity and potential future capacity to furnish the skills, expertise and resources necessary for the provision of the service through an internal mechanism mentioned in section 76 (a);
- (iii) the extent to which the re-organisation of its administration and the development of the human resource capacity within that administration as provided for in sections 51 and 68, respectively,

- could be utilised to provide a service through an internal mechanism mentioned in section 76 (a);
- (iv) the likely impact on development, job creation and employment patterns in the municipality, and
 - (v) the views of organised labour.

The report in terms of sec78(1)(a) is published herewith, titled “**Report in terms of sec 78(a) of act 32 of 2000**” (annexure 3)

5. The MSA (sec 78(3)) further requires the City of Tshwane Metropolitan Municipality to assess the different service delivery options in terms of section 76 (b), taking into account—

- (i) the direct and indirect costs and benefits associated with the project, including the expected effect of any service delivery mechanism on the environment and on human health, well-being and safety;
- (ii) the capacity and potential future capacity of prospective service providers to furnish the skills, expertise and resources necessary for the provision of the service;
- (iii) the views of the local community;
- (iv) the likely impact on development, job creation and employment patterns in the municipality; and
- (v) the views of organised labour;

The provisional assessment in terms of sec 78(3)(b) is now being compiled for publication as “**Assessment in terms of sec 78(3)(b) of act 32 of 2000.**”, with these documents. A separate notice will be published in the daily press when it is available. The local community and organised labour are invited to submit their views. It will be annexed as “annexure 4”

6. An amendment to the MSA (sec. 78(3)(c)) further requires the City of Tshwane Metropolitan Municipality to conduct or commission a feasibility study which must be taken into account and which must include—

- (i) a clear identification of the municipal service for which the municipality intends to consider an external mechanism;
- (ii) an indication of the number of years for which the provision of the municipal service through an external mechanism might be considered;
- (iii) the projected outputs which the provision of the municipal service through an external mechanism might be expected to produce;
- (iv) an assessment as to the extent to which the provision of the municipal service through an external mechanism will—
 - (aa) provide value for money;
 - (bb) address the needs of the poor;
 - (cc) be affordable for the municipality and residents; and

- (dd) transfer appropriate technical, operational and financial risk;
- (v) the projected impact on the municipality's staff, assets and liabilities;
- (vi) the projected impact on the municipality's integrated development plan;
- (vii) the projected impact on the municipality's budgets for the period for which an external mechanism might be used, including impacts on revenue, expenditure, borrowing, debt and tariffs.

The provisional feasibility study is now being compiled for publication with these documents after notification, as "annexure 5".

7. A private company is being set up according to the prescripts of the applicable legislation. In particular it is ensured through entrenchment in its Memorandum and Articles of Association that it will always comply with the criteria for "effective control" and which can only be altered with the consent of the City of Tshwane Metropolitan Municipality according to the applicable legislative prescripts.

A draft titled "**Memorandum and Articles of Association**" is included with these documents.

8. The City of Tshwane Metropolitan Municipality will consider a draft Service Delivery Agreement which will ensure that the municipal entity complies with applicable legislation, policies and practices.

A draft titled "**Service Agreement**" is submitted herewith. A detailed agreement can be provided in terms of the current legislation. The MSA however deals with service agreements with municipal entities, and companies not controlled by local government alike, but for the CTMM dealing with an entity that is in any case controlled by the City of Tshwane Metropolitan Municipality, is obviously vastly different situation. In terms of the **Service Agreement**, (the overarching agreement) a **Service Level Agreement**, based on budget and performance targets, will annually be entered into between the City of Tshwane Metropolitan Municipality and the municipal entity.