

BLOUBERG MUNICIPALITY LAND DISPOSAL AND ACQUISITION POLICY 2017/ 2018

1. PURPOSE

The purpose of this policy is to:

- Guide Council on the procedures to be followed on the alienation of Municipal land and acquisition of land by the Municipality;
- Ensure compliance with the applicable legislations, regulations and ordinances;
- Ensure fairness, equitable, transparency, cost effectiveness and competitiveness;
- Ensure speedy availability of land to developers and the residents of the Blouberg Municipality;
- Ensure that Historically Disadvantaged Individuals are economically empowered;
- Ensure that a racial composition of property ownership is substantially changed;
- Ensure that the economic transformation of the municipality is promoted;
- Ensure the promotion of investment and development;
- Ensure compliance with the amended Property Sector Codes

2. VALUES TO BE ACHIEVED BY THE POLICY

- ☐ Income generation
- ☐ Empowerment of the Historically Disadvantaged Individual's
- ☐ Further the aims and objectives of the Spatial Development Framework (SDF) and the Land Use Scheme of the Municipality
- ☐ Local empowerment

3. PROCUREMENT

The land alienation committee (in this case it can be a bid evaluation committee) will evaluate all tenders and recommend to the tender/Bid adjudication committee for award. The BAC will send its report to the Municipal Manager for appointment and further table it in Council for noting.

4. PROCESS TO BE FOLLOWED FOR THE ALIENATION OF LAND

Before any Immovable property is disposed of, a report will be submitted to Council through the report flow system for Council to take a decision whether the property is not required for the provision of basic municipal services and / or development.

5. LEGISLATIVE FRAMEWORK

The alienation (Lease, Sale and Disposal) of Council land must be executed in terms of the applicable legislation. In this regard the following legislation must be taken into account:

A. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA. 1996 (ACT 108 OF 1996)

1. The objects of Local Government are in particular set out in section 152 of the Constitution, which reads thus:

“(1) *The objects of local government are-*

- (a) *to provide democratic and accountable government for local communities;*
- (b) *to ensure the provision of services to communities in a sustainable manner;*
- (c) *to promote social and economic development*
- (d) *to promote safe and healthy environment and;*
- (e) *to encourage the involvement of communities and community;*
- (f) *Organization in the matters of local government.*

- (2) *A municipality must strive with its financial and administrative capacity to Achieve the objectives as set out in sub-section.*

- (3) The Constitution further determines that local government shall have the developmental duties as set out in section 153 that reads as follows:

‘A municipality must-

- (4.4) *Structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and*
- (4.5) *Participate in national and provincial development programs.”*

- (4) Procurement is specially addressed in section 217 of the 217 of the Constitution and reads as follows:

“PROCUREMENT-

1. *When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation contrast for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.*
2. *Sub-section 1 does not prevent the organ of state or institution referred to in that subsection from implementing a procurement policy providing for -*
 - (a) *categories of preference in allocation of contrast;*
 - (b) *The protection or advancement of persons, disadvantaged by unfair discrimination*

Section 217 (3) of the Constitution provides for the enactment of specifically tailored legislation with regard to procurement. This led to the enactment of the Preferential Procurement Policy Framework Act 2000 (Act 5 of 2000)

B. LOCAL GOVERNMENT MUNICIPAL SYSTEM ACT 2000 (ACT 32 OF 2000)

1. The legislation again provides in chapter 6 of this Act under the heading “*Municipal Services*”, that in the event that a local council should source services through a service delivery agreement it shall, subject to preference or categories of service providers in order to advance the interest of persons, disadvantaged by unfair discrimination as long as the manner in which such preference is exercised does not comprise or limit the quality, coverage, cost and development impact of the services.

C. LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT 2003 (ACT 56 OF 2003)

1. The preamble to this Act reads as follows:
“To ensure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of local government to establish treasury norms and standards for local spheres of government and to provide for matters connected therewith.”
2. The Act in Chapter 3 under the heading “*Municipal Revenue*” provides in section 14 for the disposal of capital assets Section 14 reads as follows:
3. The Act in Chapter 3 under the heading “*Municipal Revenue*” provides in section 14 for the disposal of capital assets Section 14 reads as follows:
 - “1. A municipality may not transfer ownership as a result of sale or other transaction otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services
 2. A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in sub-section (1), but only after the municipal council, in a meeting open to the public-
 - (d) *has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services, and*
 - (e) *has considered the fair market value of the asset and economic and community value to be received in exchange for the assets.*
 3. *A decision by the a municipal council that a specific capital assets is not needed to provide the minimum level of basic municipal services, may not be reserved by the municipality after that asset has been sold, transferred or otherwise dispose of*

4. *A municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsection (2)(a) and (b) in respect of immovable capital assets below a value determined by the council.*
5. *Any transfer of ownership of a capital asset in terms of subsection 2(4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy, which the municipality must have and maintain in terms of section 111.*
6. *This section does not apply to the transfer of capital assets to another municipality or to a municipal entity or to a national provincial organ of state ”*

The aforesaid “Supply Chain Management” is provided for in section 110 to 119 of the Act. This part of the Act is made applicable to “*The Procurement by a Municipality or Municipality Entity of Goods and Services and disposal by a municipality or municipal entity of goods no longer needed.*”

Detailed requirements are set out in Section 112 with regard to the requirements of the supply chain management policy to be fair, equitable transparent, competitive and cost effective.

The provisions of this Act must therefore be taken into account.

D. BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT 2003 (Act 53 of 2003)

1. This Act provides for the establishment of the Black Economic Empowerment Advisory Council
2. The aforesaid aid council will *inter alia* be responsible for the creation of a strategy for broad-based black economic empowerment that must provide for an integrated co-ordinated and uniform approach to broad-based black economic empowerment by all organs of state including local government
3. The objects of the Act are further aimed at increasing the broad-based and effective participation of black people in the economy and to promote a higher growth rate, increased employment and more equitable income distribution.

AMMENDED PROPERTY SECTOR CODES, 2017 AS PUBLISHED IN GOVERNMENT GAZETTE NR 40910, DATED 9 JUNE 2017

- 1 The property sector commits itself to the implementation of transformation within the property sector.

This commitment was made noting that:

- 1.1 Despite significant progress since the establishment of a democratic government in 1994, South African society, including the property sector, remains characterized by racially based income and social services inequalities. This is not only unjust but inhibits South Africa’s ability to achieve its full economic potential;

- 1.2 The property sector believes that a positive and proactive response through the implementation of the principles enshrined in the draft aligned Property sector code would address inequalities in the sector, unlock the sector's potential, and enhance growth;
- 1.3 The Constitution of the Republic of South Africa, 1996, in particular section 9 thereof, (relating to equality and unfair discrimination), states the imperative of redressing historical and social inequalities; and
- 1.4 Broad Based Black Economic Empowerment (B-BBEE) is a mechanism aimed at addressing inequalities and mobilizing the potential of all South Africans. It will contribute towards sustained economic growth, development and social transformation in South Africa.
2. This Amended Property sector code ("amended sector code") supports the commitment of all the stakeholders within the property sector that strive for transformed property relations in South Africa and to promote a vibrant and growing property sector that reflects the South African nation as a whole. It contributes towards development and the establishment of an equitable society

E. LOCAL GOVERNMENT ORDINANCE 1939 (Ordinance 17 of 1939)

1. In terms of section 3 of the Ordinance, it shall be applicable to every local authority consulted there under in the manner and the extent prescribed.
2. Section 79 of the ordinance contains the general powers of local authorities.
3. Provision is made *inter alia* for the letting and/or granting of use of immovable property to schools, sport clubs, persons or bodies of persons to be used exclusively for games, sport, recreation or cultural activities and the procedure to be followed in such cases is outlined.
4. Provision is further made for granting and donation of land to institutions, organizations, societies or clubs that promote public health, welfare, education, science, literature, sport and recreation and other similar activities.
5. A procedure is provided for in section 79 in respect of the different instances where a local government wishes to dispose of and /or alienate immovable property. The procedure entails in essence that notice should be given of the resolution of the council to alienate the property by displaying it on a public notice board and publishing it in a newspaper inviting any person who wishes to object to the exercise of any such power of alienation to lodge his/her objection in writing with the municipal manager within a stated period not less than fourteen days. This notice in terms of the Ordinance is over and above the subsequent notice to invite tenders.
6. In terms of section 79(24) of the Ordinance the Council may, *inter alia*, hire or lease any immovable property for the performance or discharge of any function or duty which the Council is in terms of any law authorized or required to perform or discharge. In such event the Council is obliged to have the rental to be nominal. However, in terms of subsequent(c) of this section, the Council, not being a Council

- referred to in terms to in part I or II of the sixth Schedule to the Ordinance, is excluded from the above provision and may within its discretion accede to any rental payable for the hiring or leasing of a property, even if such rental exceeds the market related of the different hiring or leasing of a property
7. Should the Council wish to alienate immovable property as set out aforesaid it shall cause an evaluator to evaluate immovable property it wishes to sell in accordance with the specific provisions applicable to the different categories of land.
 8. In terms of section 79(18) (e), a Council referred to in part I or II of the sixth schedule to this Ordinance may let/rent/sale immovable property at less than market value: the said section reads as follows:
A council, excluding a council in part I and II of the Sixth schedule to this Ordinance shall not-
“(i) *Let immovable property at a lower rental than determined,*
(II) *sell, alienate or dispose of immovable in any other manner, excluding exchange, grant a servitude or alienate a right at a lower amount than the amount at which it has been evaluated, and*
(iii) *Exchange immovable property for other property in the amount at which the other property has been evaluated is lower than the amount, at which the immovable property, which the council wishes to exchange, has been evaluated,*
In accordance with paragraph with paragraph (d) unless the Administrator has subject to such terms and conditions as he may determine, granted his approval thereto beforehand.”
 9. Although sub-ordinate to national legislation, the provisions of the Ordinance remain valid, particularly with regard to procedures, relating to the alienation (sale or letting) of property.

F. PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 (ACT NO 5 OF 2000)

1. An organ of state is defined in-section 1(iii) of the said Act as meaning *inter alia* a municipality contemplated in the Constitution and/or any other institution or category of institution.
2. Section 2 of this Act under the heading
“Framework for implementation of preferential Procurement policy”
Provides that:
2(1) *an organ of state must determine its preferential procurement policy and implement it within the following framework:*
(a) *A preference point system must be followed;*
(b)(i) *for contracts with Rand value above a prescribed amount, a maximum of 10 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tenders scores 90 for price;*

- (ii) *for contracts with a Rand value of equal to or below the prescribed amount a maximum of 20 points may be allocated for the specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points;*
 - (c) *Any other acceptable tenders which are higher in price must score fewer points on a pro –rata basis, calculated on the tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;*
 - (d) *The specific goals may include-*
 - (i) Contracting with persons or categories of persons historically disadvantaged by unfair discrimination on the basis of race; gender or disability;
 - (ii) Implementing the programs of the reconstruction and development program as published in Government Gazette Nr 16085, dated 23 November 1994;
 - (e) Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a tender.
 - (f) The contract must be awarded to the tender who scores the highest points unless objective criteria in addition to those contemplated in paragraph (d) and (e) justify the award of another tender;
 - (g) Any contract awarded on account of false furnished by tender in order to secure preference in terms of this Act may be cancelled...
3. The provisions of the Preferential Procurement Policy Framework Act (Act No. 5 of 2000). ("the Procurement Act") and in particular Regulations 5 and 6, promulgated in terms of the said Act, also apply to the letting and hiring of movable and immovable assets by the council.
 4. The provisions of the Procurement Act and its Regulations apply to the alienation (sale or letting) and hiring of assets by the council. This implies the calling of tenders and the application of the 80/20 and 90/10 preferences points system to all contracts of alienation (letting and hiring) to be concluded by the council.
 5. Therefore, if the Council intends to alienate (sale or letting) municipal property to a third party, the principles of the Procurement Act and its Regulations will apply. Thus, in the event of the alienation (sale or letting) of a property at a selling price/rental value less than R30 000-00, the council will be empowered to conclude such lease/sale out of hand. In the case of R30 000-00, the calling of tenders and the preference points have to be applied. Public tenders and the application of the preference points system will not apply to those transactions being exempted from these provisions and which will be discussed below.

6. With regard to the hiring of immovable property by any Council from third parties, the same principles as set out in the preceding paragraph will apply, subject to certain exemptions.
7. it is of importance to note that Section 2(1)(f) creates a ground of exemption in providing that the Council must award the tender to the party who scores contemplated in the specific goals for which points are allocated justifying the award of the tender to another party,
8. The aforesaid exemption must be read together with section 3 under the heading "Exemption" which provides that the Minister of Finance may;
'..... On request exemption organ of state (like the council) from any or all the provisions of this Act if;
 - (a) It is in the interest of national security;
 - (b) The likely tenderors are international suppliers; or
 - (c) It is in the public interest

G. PREFERENTIAL PROCUREMENT REGULATIONS, 2017

The regulations came into effect from 1 April 2017 replacing the previous 2011 regulations.

In line with the principles as contained in the Constitution these Regulations define historically disadvantaged individuals as being South African citizens-

"Who due to the apartheid policy had no franchise in national elections prior the new constitutional dispensation and/or who is a female and/or is disabled?"

And further than that a person who obtained South African citizenship on or before coming into effect of the interim constitution is deemed not to be a historically disadvantaged individual.

1. *"Small medium and micro enterprises* are defined to have the same meaning as assigned in terms of the National Small Business Act (Act 102 of 1996).
2. The National Small Business Act, defines small, medium and micro enterprises as being a small business or organization that are distinct business entities managed by one or more owners that can be classified as a micro, very small, small or a medium enterprise in
3. A "tender" is defined in section 1(o) as follows:
"means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services of goods."
4. it is expressly provided that the Regulations are applicable to the council and the council may –

“only apply a preferential procurement system which is in accordance with the Act (referring to the Preferential Procurement framework Policy Act) and these regulations.”

5. Sections 5 and 6 of the said Regulations contain the prescribed formulae that must be used to calculate the points for price in respect of the sale and letting of assets namely the so called 80/20 and 90/10 preference point system, These preference systems are being defined hereunder.
6. it is obligatory for the Council to state in the tender documents the preference point system that will be applied in the adjudication of any particular tender.
7. in line with the Preferential Procurement Policy Framework Act, the Regulations provide in section 9 thereof that a-
“contract may on reasonable and justifiable grounds be awarded to a tender that did not score the highest number of points.”

9.1 The 80/20-preference point for the alienation (sale and letting) of assets.

- (1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value equal to, or above R30 000-00 and up to a Rand value of R50 000 000 and which relate to the sale and letting of assets. Organs of State may, however, apply this formula for sales and letting of assets with a rand value less than R30 000, if and when appropriate:

$$Ps (1 + \frac{pt - po}{ph})$$

Ph

Where

Ps = Points scored for price of tender

Consideration

Pt = Rand value of tender under consideration

Ph = Rand value of highest tender

- (2) A maximum of 20 points may be awarded to a tenderer for being an HDI and/or sub-contracting with an HDI and/or achieving any of the specified goals stipulated in regulation 17
- (3) The points scored by a tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.

- (4) Only the tender with the highest number of points scored may be selected.
- 9.2 The 90/10-preference point system for the alienation (sale and letting) assets.
- (1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R50 000 000 and which relate to the sale and letting of assets:

$$Ps = 90 \left(\frac{1 + pt - ph}{Ph} \right)$$

Where

Ps = Points scored for price of tender under Consideration

Pt = Rand value of tender under consideration

Ph = Rand value of highest tender.

- (2) A maximum of 10 points scored by a tenderer for being and HDI and/or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.
- (4) Only the tender with the highest number of points scored may be selected.
- (10) In the event that all the tenders received are less in value than R50 000 000 or exceed R50 000 000 and the tender document stipulated that the 80/20 or 90/10 preference point system is applicable and that the tenders received do not fall within/or exceed the said amount, whichever is applicable, the said tender must be cancelled and re-advertised. The section 10 reads as follows:
- (1) *In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all the tenders receive are equal or below R50 000 000-00, the tender invitation must be cancelled.*
- (2) *in the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all the tenders and must, in the tender documents, stipulate the preference point system to be applied.*
- (3) *An organ of state, which has cancelled a tender invitation as contemplated in sub-regulation (1) and (2) must re-invite tenders and must, in the tender documents, stipulate the preference point system to be applied.*
- (4) *An organ of state may, prior to the award of a tender, cancel a tender if –*

- a) *due to changed circumstances, there id no longer need for the goods or services tendered for (it may be read into this sub-section that there exist no longer a need to sell or lease the assets).*
- b) *funds are no longer available to cover the total envisaged expenditure; or*
- c) *no acceptable tenders are received.*

Please note that only sub-section 4(c) is applicable to immovable property.

11. Section 12(8) of the regulations further provide for a mechanism to break any deadlock in tenders in the event of two or more tenderers having scored an equal amount of points.
12. The successful tenderer will be the one who scored the highest number of preference points for specific goals. Should two or more tenderers however be equal in all respects the award shall be decided by the drawing of lots.

6. DEFINITIONS

“acquisition” means to acquire by way of purchase or lease.

“adequate notice” means a notice period of not less than 30 days within which representations, comments or objections may be made.

“advertise” means the giving of adequate notice of the nature and purpose including the material substance of the proposed administrative actions, by publishing a notice in the newspaper, and where deemed necessary by the Municipal Manager, any additional form of notice, which may include-

- (a) serving of a notice; or
- (b) displaying on a notice board; or
- (c) holding a public meeting.

“alienate” means to dispose with ownership of Immovable Property in favour of another person with the intention of transferring the ownership of the Immovable Property to the acquirer thereof.

“BBBEE Act” means the Broad-Based Black Economic Empowerment Act, 53 of 2003.

“BEE” means the economic empowerment envisaged by the BEE Act of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-

- (a) Increasing the number of black people that manage, own and control enterprises and productive assets;

- (b) facilitating ownership and management of enterprises and productive assets by communities, workers cooperatives and other collective enterprises;
- (c) human resources and skill development;
- (d) achieving equitable representation in all occupational categories and levels in the workforce;
- (e) preferential procurement; and
- (f) investments in enterprises that are owned or managed by black people. **“bid”** means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Municipality for a procurement or disposal, as part of the competitive bidding process of the Municipality;

“Black people” means Africans, Coloured and Indians, as referred to in the BBBEE Act, No. 53 of 2005.

“church” means place of worship to the extent and for that portion of facility being used for spiritual gathering and/or social/pastoral/welfare caring

“commercial service” means a commercial service as defined in section 1 of the MATR;

“constitution” means the Constitution of the Republic of South Africa, 1996

“Council” means the Council of Blouberg Municipality

“disposal”, means the sale, exchange, donation, or letting of Immovable Property, the conclusion of any form of land availability agreement in respect of immovable property with any person and the registration of any real or personal right in respect of Municipal land, including s servitudes;

“emergency” means an emergency exemption in which one or more of the following conditions are present –

- The possibility of human injury or death;
- The prevalence of human suffering or deprivation of rights;
- The possibility of damage to property, or suffering and death of livestock and animals;
- The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
- The possibility of serious damage occurring to the natural environment;
- The possibility that failure to take necessary action may result in the municipality not being able to render an essential service;
- And the possibility that the security of the state could be compromised

“exchange” means the simultaneous acquisition and disposal of Immovable Property or any right in respect of Immovable Property in terms of an agreement between the Municipality and any other party or parties where the

compensation payable by the parties to each other, are offset and only the difference, if any, is payable to the appropriate party.

“fair market value” means the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller after proper marketing wherein the parties have each acted knowledgeable, prudently, and without compulsion.

“housing stock” means housing units that are leased to members of the public and or members of staff as well as housing sub-sidised units that are earmarked for disposal to qualifying beneficiaries.

“IDP” means the approved Integrated Development Plan of Blouberg Municipality, as provided for in Chapter 5 of the Municipal Systems Act.

“Immovable Property” includes, but is not limited to –

- (a) Any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such land or unregistered land where the ownership can be determined/property or buildings or any share therein registered in the name of a person or entity, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person or entity;
- (b) A right to an exclusive use area held in terms of a notarial deed of cession;
- (c) A real right registered against Immovable Property in the name of a person or entity, excluding a mortgage bond registered against the Immovable Property;
- (d) Any share in a share block company as defined in section 1 of the Share Blocks

Control Act, 59 of 1980;

- (e) A "public place" or "public street" as defined in the Land Use Planning

Ordinance, No 15/1985;

- (f) Immovable Property as defined in section 107 of the Deeds Registries Act, 47 of 1937; and including property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it.

“Income tax act” means Act 58/1962

“land” means-

- (a) Any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such land; or
- (b) Unregistered land where the ownership can't be determined.

“lease” means the letting of Municipal land/Immovable Property/buildings in terms of which the use and enjoyment of the land/property/building is granted for a specified period exceeding 1 month without ceding legal ownership in the asset or any form of land availability agreement in respect of Immovable Property and letting have a corresponding meaning.

“lease agreement” means a written agreement entered into between the Municipality and the lessee specifying rights and duties pertaining to the exclusive use of Immovable Property for a continuous period of time longer than thirty (30) calendar days, and which sets forth the terms and conditions of the use, management and control of the Immovable Property.

“Local Black people” means Africans, Coloured and Indians, as referred to in the B-BBEE Act, No. 53 of 2005, who normally resides within the municipal area of Greater Taung Local Municipality;

“Local Disabled people” means people with disabilities who normally resides within the municipal area of Blouberg Municipality.

“Local women” means women who normally resides within the municipal area of Blouberg Municipality.

“MATR” means the Municipal Asset Transfer Regulations, Promulgated in terms of the MFMA (GG 31346 dated 22 August 2008)

“MFMA” means the Local Government: Municipal Finance Management Act, 56 of 2003, including any Regulations promulgated in terms thereof from time to time;

“municipality” means the Blouberg Local Municipality

“municipal area” means the area under the jurisdiction and control of Blouberg Municipality.

“municipal function” means any of those functions set out in Schedule 4 B and 5 B of the Constitution.

“municipal manager” means a person appointed in terms of Section 82 of the Municipal Structures Act, No 117 of 1998 as the head of the Municipality’s administration and accounting officer of the Municipality or his/her delegate.

“municipality’s property” or “property” means all the Immovable Property managed by the Municipality in terms of this Policy;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

“non-viable Immovable Property” means Immovable Property that, owing to urban planning, physical constraints or extent cannot be developed on its own or function as a separate entity and that can therefore become functional only if used by an adjoining owner in conjunction with such owner’s Immovable Property;

“official” means an employee of the Municipality or a person seconded to the Municipality or contracted by the Municipality to work as a member of staff otherwise than as an employee as defined in section 1 of the MFMA;

“owner” in relation to Immovable Property, means the person in whose name that Immovable Property is registered in a deeds registry, which may include the holder of a registered servitude right or lease and any successor in title of such a person, and includes any person authorized to act as such by the registered owner,

any person who in law has been entrusted with the control of such assets or a person to whom Immovable Property has been made available in terms of a land availability agreement.

“plight of the poor” means the needs of the people that are vulnerable and unable to meet their socio-economic needs independently or to support themselves and their dependents and are in need of social assistance.

“public interest” means disposal or letting to:-

- a) promote the achievement of equality by taking measures to protect or advance persons or categories of persons, disadvantaged by unfair discrimination;
- b) afford black people who are South African citizens a preference in respect of the disposal and letting of Immovable Property as envisaged in Section 9(2) of the Constitution;
- c) promote BBBEE through disposal and letting;
- d) ensure and promote first time home ownership and enterprise development of black people that qualify in terms of the Municipality’s GAP housing policy have access to adequate housing on a progressive basis;
- e) advance agricultural projects for land reform purposes;
- f) promote welfare and charitable purposes including non-profit rehabilitation facilities; shelters for the indigent and destitute, youth development and drug counseling;
- g) foster equitable access to public amenities, social and/or sports clubs and similar organizations by providing discounted prices or rates in the event that the beneficiaries or the membership component of such institution or body consist of at least 50% black people and/or the membership or subscription fee of black people is less than 50% of the normal membership or subscription fee.

“property laws” means the relevant provisions of the MFMA;

“property right” means a right to use, control or manage an Immovable Property for a period exceeding a calendar month, as granted by the Municipality without ceding legal ownership in the Property. For the avoidance of any doubt, a servitude, way leave or encroachment in, on, over or under Immovable Property granted by the Municipality, or a lease agreement entered into by the Municipality as lessor, constitutes a Property Right;

“private treaty” means where the proposed disposal involves a disposal without public competition as defined in the MFMA to a non-government entity.

“Property management Department” the department which carries the responsibilities of immovable property management in Blouberg Municipality, which in this case is the Economic Development and Planning Department

“property transaction” means either a Disposal of Immovable Property or the granting of a Property Right in Immovable Property;

“public street” means-

- (a) any street which has at any time been-
 - (i) used without interruption by the public for a period of at least thirty years;
 - (ii) declared or rendered such by a Municipality or other competent authority; or
 - (iii) constructed by Council; and
 - (iv) constructed by someone other than Council and which vests in the Municipality.
- (b) any Immovable Property, with or without buildings or structures thereon, which is shown as a street on-
 - (i) any plan of subdivision or diagram approved by Council or other competent authority and acted upon, or
 - (ii) any plan or diagram as defined in Section 15 of the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in the office of the Registrar of Deeds or the Surveyor-General's office. unless such Immovable Property is on such plan or diagram described as a private street.

“real rights” means the rights to traverse privately owned property with servitudes which are notarially registered in the Deeds Office or contained in Title Deed Conditions

“SCM policy” means the Supply Chain Management Policy of the Municipality, as approved from time to time and implemented in terms of section 111 of the MFMA, read with the SCM Regulations;

“SCM regulations” means the Municipal Supply Chain Management Regulations promulgated in terms of the MFMA and published under GN 868 in Government Gazette No. 27636 of 30 May 2005;

“spatial development framework” means the framework contemplated in Section 26(1)(e) of the Municipal Systems Act, Municipal SPLUM By-laws and Spatial Planning and Land Use Management Act 16 of 2013.

“Systems act” means the Local Government: Municipal Systems Act, 32 of 2000, including any Regulations promulgated in terms thereof from time to time;

“unsolicited bid” is a bid/proposal received from a developer to acquire Immovable Property, or rights in immovable property, that is owned by the Municipality, outside the normal bidding process, i.e. without the Municipality having asked for such proposal/bid.

“viable Immovable Property” means Immovable Property that can be developed and function as a separate entity capable of registration by the Registrar of Deeds.

7. DISPOSAL MANAGEMENT PRINCIPLES

The Core Principles in terms of section 14(5) of the MFMA, a Disposal of Immovable Property by the Municipality must be fair, equitable, transparent, competitive and consistent with the Municipality's SCM Policy ("the Core Principles").

7.1 General Principles pertaining to the disposal of Immovable Property and Property rights in Immovable Property

7.1.1 Unless otherwise provided for in this policy, the disposal of Viable Immovable Property shall be affected-

- (a) by means of a process of public competition; and
- (b) at market value except when the public interest or the plight of the poor demands otherwise.

7.1.2 All transaction for the disposal of Immovable Property must be considered in accordance with this policy and other applicable legislation.

7.1.3 Before alienating Immovable Property or rights in Immovable Property Council shall be satisfied that alienation is the appropriate methodology and that reasonable economic and social return cannot be derived whilst ownership of the Immovable Property or Property rights is retained by Council.

7.1.4 Council reserves the right to entertain unsolicited proposals for the development of Viable Immovable Property for development purposes, with the provision that it is in line with Council's strategic objectives and more specifically that it favours the promotion of black ownership, entrepreneurship and community upliftment.

7.1.5 Council may grant occupation of its Immovable Property prior to the transfer thereof on condition that a suitable sale has been entered into, that the purchase price is paid in full or alternatively that an acceptable financial guarantee is provided to secure the purchase price, that occupational rent is payable at a rate specified by Council and further that Council is indemnified against any and all claims that may arise out of the occupation of the Immovable Property by the purchaser.

7.1.6 Viable Immovable Property purchased from Council by a first time homeowner shall not, without Council's prior written consent, be resold within a period of 5 years of the date of transfer.

7.2. General principles and guidelines pertaining to the letting by Council of Immovable Property

7.2.1 Where possible, Council's Immovable Property should be managed as a sustainable resource by leveraging environmental, social and economic returns on such Immovable Property while Council retains ownership thereof.

7.2.2 Immovable Properties that have been let shall be inspected at reasonable time periods to ensure compliance with the terms and conditions of the agreement of lease.

7.2.3 Council reserves the right, where necessary, to resume Immovable Property let, or a portion thereof, and to cancel an existing lease in its entirety where such Immovable Property is required for operational purposes, in pursuance of Council's strategic objectives or in the interests of the community. In such an event the lessee shall be compensated for improvements established by him/her on a basis to be determined by an independent valuator, taking into account the remaining period of the lease agreement.

7.2.4 No application for a lease agreement shall be processed by the designated Property Management Department unless the prescribed application fee as per tariff has been paid nor shall any proposed lease be advertised unless the applicant has confirmed, in writing, that it will bear all costs involved in such transaction including- but not limited to- legal, survey, rezoning, subdivision, consolidations, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.

8. METHOD OF DISPOSAL

Council may in terms of Section 14 of the MFMA, read with the MATR, dispose of Immovable Property or Property rights in Immovable Property by way of sale, letting or registration of a servitude once it is satisfied that such Immovable Property or Property rights is not required to provide the minimum level of basic municipal services and once it has considered the fair market value thereof as well as the economic and community value to be received in exchange for such Immovable Property or Property right. The alienation of municipal land or immovable property can be dealt with using various methods. Disposal methods are as follows:

8.1 Public Competition

8.1.1 Formal Tender

- (a) The Bid Adjudication Committee, as established by the municipal Manager in terms of the municipality's supply chain Management Policy, is hereby authorized to consider reports from land alienation committee, award tender and submit tender report to municipal manager for appointment. Thereafter a report must be submitted to Council for noting.
- (b) The adjudication of offers submitted by way of public competition shall be based on a points system. As a general rule, the offer scoring the highest points will be accepted provided all terms and conditions are complied with as set out in the municipality's supply chain management policy. The tender documents must include a contract for sale or lease which could be completed with the tenderer's details, the tender price and be signed by the tenderer. A binding legal agreement is created upon the acceptance in writing

of a tender by Council. The general valuation roll shall determine the market value for the purpose of selling prices except when the public interest or the plight of the poor demands otherwise.

8.1.2 Closed Tender

- a) If a Non-Viable Immovable Property has more than one adjacent owner and if such an Immovable Property is capable of being consolidated with more than one of the properties owned by such adjacent owners, then a closed bid will be called from all the registered owners of all the adjacent properties with which the Immovable Property can be consolidated.

8.1.3 Unsolicited proposals

- a) It is important that the municipality is in a position to entertain unsolicited proposals in exceptional circumstances. Such proposals may inter alia include property development proposals, land sales and leases. In this regard the following principles will apply:
 - i) Proposals received will be analysed and evaluated by the Land disposal Committee;
 - ii) Realistic propositions will be advertised in the media to elicit competitive proposals or objections from the public;
 - iii) Should the advertisement elicit a response from the market, then a competitive proposal call will be initiated by means of an invitation to bid;
 - iv) The final lease or sale transaction will be submitted to the municipal manager for approval and Council for noting;
 - v) The prudent control will be by way of the market valuation certificate.

8.2 PRIVATE TREATY AGREEMENTS

8.2.2 Non-Viable Immovable Property

In respect of Non-Viable Immovable Property which can only be utilised by one adjacent land owner, a Property Transaction(s) may be approved without any competitive process having been followed, including in response to an unsolicited application, on the basis that no purpose would be served by a competitive process.

8.2.3 Viable Property: Deviation from a Competitive process

The Municipal Manager may dispense with the competitive processes established in this policy, and may enter into a Private Treaty Agreement through any convenient process, which may include direct negotiations, response to an unsolicited application, but only in the following circumstances, and only after having advertised his or her intention so to act. Should any objections be received as a consequence of such a notice, such objections must first be considered before a final decision is taken to dispense with the competitive process established in this

policy. However, should any objections, be received from potential, competitive bidders, then a public competitive process must be followed:

- (a) due to specific circumstances peculiar to the property under consideration, it can only be utilized by the one person/organization wishing to enter into the Property Transaction;
- (b) an owner of fixed immovable property who leases Council immovable property, may be substituted by a successor-in title as deemed necessary on the same terms and conditions and/or additional terms and conditions;
- (c) where unsolicited applications are received for access servitudes, right of ways and way leaves over municipal land, subject to approved tariff structure.
- (d) In an emergency; due to specific circumstances peculiar to the property under consideration , it can only be utilized by the one person/organization wishing to enter into the Property Transaction;
- (e) where the person wishing to enter into the Property Transaction is the sole provider of the service or product in respect of which the property will be used and the use of the Property is inextricably linked to the provision of that service or product;
- (f) where the Municipal Manager is satisfied that the Property Transaction will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality which would not be realised if a competitive process were to be followed by the Municipality; or will be exceptionally beneficate to the community or the natural environment;
- (g) in exceptional cases where the Municipal Manager is of the opinion that the public competition would not serve a useful purpose or that it is in the interest of the community and the Council, and where none of the conditions as set out in the policy provides for such exception, is permitted, and where they are not in conflict with any provision of the policy. In such cases the Municipal Manager must record full reasons for preferring such out-of hand sale or lease over those by public competition;
- (h) where unsolicited applications/proposals are received from telecommunication companies to construct or put up communication infrastructure on Council owned Property, such as masts, dishes, ect, subject to approved tariff structure;
- (i) where encroachment applications are received from adjoining owners, including applications for outdoor dining permits, subject to approved tariff structure;
- (j) where sale by public competition has failed to attract a purchaser and it can be established that further efforts to dispose of the property by public competition are likely to fail;
- (k) where the applicant is an organization receiving funding support from a government department which makes a substantial contribution towards the outputs of such a government department; or whose contribution to such government departments outputs would depend upon or be substantially enhanced by gaining priority to a particular property;

- (l) where the applicant is an organization receiving funding support from the municipality for the rendering of a municipal function(s) within the municipal area, on behalf of the municipality;
- (n) where the land is part of a larger area of land that is proposed for development, redevelopment or regeneration. Also, the nature and complexity of the proposed development of the overall site is such that the Council's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area;
- (o) lease contracts with existing tenants of immovable properties may be renegotiated where Council is of the opinion that public competition would not serve a useful purpose or that renewal is aligned with Council's strategic objectives and in the interest of the Community, subject to such renewal being advertised calling for public comment. The existing tenant shall give notice of the intention to renegotiate the lease at least six months before the date of termination;
- (p) where agricultural allotments becomes available, it can be allocated to qualifying emerging farmers on the waiting list for a lease period not exceeding 9 years and eleven months, subject to the approved tariff structure.
- (q) The Municipal Manager must record the reasons for any such deviation in writing and report them to Council.

Exchange of Land Disposal by exchange of land will be appropriate when it is advantageous to the Council and other parties to exchange land in their ownerships and will achieve best consideration for the municipality.

® Council must authorize the disposal of land by exchange with another land owner for alternative land. Reasons for justifying this manner of disposal must be recorded in writing. A binding legal agreement will be created when a contract is exchanged for the exchange.

(s) The exchange will usually be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. In such circumstances Council must seek an independent valuation to verify that "best consideration" will be obtained.

(u) Council shall, in a case where there is an available piece of land to be alienated, follow SCM policy to place a notice on a local or national newspaper in at least two dominant languages inviting the public to tender. Upon receipt of applications, tenders received are then referred to the procurement Tender Committee for adjudication.

8.3 Public Auction Method

The Public Auction Method will be implemented where there is a higher demand for specialized land use e.g. shopping malls, etc, or where the application property is strategically located.

- a) Disposal by public auction may be appropriate where there is no obvious potential purchaser and where speed and the best price can be obtained by auction.

- b) The decision to dispose of Immovable Property by way of public auction must be recorded in writing and must include-
- (i) the reasons justifying a disposal by public auction;
 - (ii) the reserve price, if any, for the auction;
 - (iii) the authority for a staff member to attend the auction and to act on behalf of the Council on the disposal.
- c) The contract for sale or lease must be ready for exchange at the auction.
- d) The binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed and exchanged.
- e) The terms and conditions of each auction shall be determined on a project-by project basis, appropriate to the specific characteristics and attributes of the Immovable Property, and to the Municipality's strategic objectives.
- f) Where the services of an auctioneer are utilized, the auctioneer's commission shall be payable by the successful bidder and shall not form part of the financial offer to the Municipality.

8.4 Sale of land to the HDI's

In order to avoid camouflaging (fronting) of the historically disadvantaged Individuals more especially blacks, the purchaser will be restricted to change ownership of the application property within a period of ten (7-10) years.

8.5 Data Base Registration

The method is specifically designed for sites zoned as residential. An advert must be placed on municipal website, municipal notice boards, social media and local newspaper calling all residents of the municipality to enlist their names in the municipality database for consideration in sale of municipal sites. Sites then get services (if necessary), and get valued at market related price or price as determined by municipal Council. The sites then get sold on a first in first out bases using the data base. The database report must be signed by the land alienation committee chairperson for a fair and transparent process. The full price of the site will be paid on cash basis OR bank guaranteed cheque.

8.6 DONATION

The donation of a capital asset to other organs of state or to CBO's, NGO's, NPO's, and Civil Society Organisations may be considered by the Council provided that the motivation for such action has been presented and is of satisfactory to municipal Council.

8.7 PUBLIC PRIVATE PARTNERSHIP

In the context of disposals, a PPP is a transaction between the Municipality and a private party. A PPP agreement may only be entered into following the provisions of Section 120 of the MFMA.

9 VALUATION OF COUNCIL PROPERTY.

9.1 Determination of selling price

Council owned property sold at a fair market related price including VAT, as determined by the valuer unless the Council resolved otherwise. Comments of the relevant departments of the Municipality including the Town Planning Division on the future development potential of the Council owned property should be taken into consideration in determining a fair market price.

All valuations are done in terms of the following principles:

Title deed information

- Full description of the property
- Size
- Registered owner/s
- Purchase date
- Purchase price
- Date of registration
- Existing bonds
- Limitations (including servitudes, conditions and any endorsements or caveats)
- Minerals rights
- Local government information
- Town Planning Information – (including zonings, rights and other use restrictions)
- Municipal Valuations
- Rates & Taxes payable

Physical description

- Physical address
- Situation / Locality
- Nature of surrounding neighborhood
- Historical background
- Availability of services
- Availability of amenities
- Features of the property – (including dimensions, frontage, contours, accommodation, finishes and other value forming attributes)
- Leases (terms)

Market Criteria

- Market Conditions – (including going prices, rentals, affordability, financing restrictions, etc)
- Highest and Best Use
- Potential target Market
- Comparable properties
- Valuation report with current Market Value – (Definition of Market Value)
- Valuation report with current Market related Rental value
- Compensation in the case of expropriation
- Any financial loss or inconvenience, in the case of servitude

10. EXCEPTIONS TO THE MARKET RELATED PRICES

In terms of section 14 of the Municipal Finance Management Act 2003, (Act 56 of 2003):

2. “A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in sub-section (1), but only after the municipal council, in a meeting open to the public –
(e) has considered the fair market value of the asset and the economic and community value to be received in exchanged for the asset.” (Own emphasis added)

The council may therefore in terms of the said Act and also in terms of section 79 18(e) of the Local Government Ordinance 1939, (Ordinance 17 of 1939) dispose of immovable property at a price below the market value subject to a Council resolution to do so. The following categories are proposed as such circumstances.

10.1 Small, medium and micro enterprises (SMME)

Those types of business require assistance in the form of positive action from Council by increasing their access to amongst others, economic activities and infrastructure.

It should also be noted that these types of businesses contribute towards the creation of employment and have the potential to develop further.

In the light thereof small medium and micro enterprises that comply with the Council policy can purchase lease Council owned land at a nominal amount (for a short period) in the event that the property / properties is/are available for sale/ letting.

10.2 Non-government organizations, sports clubs and other non-profit- making organizations and community co-operatives (BEE status).

An application to purchase/lease Council land by NGO's sports and other non profit making organizations for non profit purposes, shall by means of a comprehensive report, be referred to Council for consideration. Consideration will be given by Council for requests to purchase/lease same at a nominal or market related price/rental amount as these organizations contribute to the rendering of community service.

10.3 Organs of state

In terms of section 239 of the Constitution of the Republic of South Africa, 1996 (Act 106 of 1996), an Organ of State is defined as follows:

Organ of state means-

- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution-
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

It is therefore suggested that for the sake of promoting good governance and inter-governmental, relations, the alienation (sale or lease) of immovable Council properties, to an organ of state, be exempted from the tender procedure.

11. LAND ACQUISITION

- 11.1 Council may acquire a piece of land and rights in a piece of land within or outside its municipal area by purchase, expropriation, exchange, donation, gift, lease or otherwise, subject to compliance with the procedures set out in this policy;
- 11.2 Council may expropriate a piece of land in terms of the Expropriation Act (Act 63 of 1975), or any other applicable legislation from time to time, provided that such expropriation shall only be for public purposes or in the interest of the public.

12. ACQUISITION ASSESSMENT PROCESS

- 12.1 Prior to arriving at a decision to acquire a piece of land the Municipal Manager is required to undertake a detailed assessment to ensure that:
- (a) the service delivery needs of the Municipality are best met by the proposed acquisition;
 - (b) that broader government objectives are also considered; and
 - (c) the expenditure of public funds is justified and are approved.
 - (d) the planned acquisition is in line with the approved Spatial Plans.
- 12.2 The Municipal Manager must ensure land acquisitions associated with infrastructure projects are consistent with (where relevant) Regional Plans, Municipal Infrastructure Master Plans, or other plans that cover a significant proportion of the municipal area. This is to ensure strategic landholdings contribute to a range of social, economic and environmental outcomes sought by Council, including the efficient, coordinated and timely provision of infrastructure.

13 METHODS OF ACQUIRING IMMOVABLE PROPERTY

The Municipality may acquire Immovable Property by:-

- 13.1 Open market (selection in a particular area/location of a suitable site)
- The Municipality usually acquires Immovable Property through the open market place by either public auction or private sale.
- 13.2 Private treaty agreement (for site specific acquisition)
- Private treaty contracts are suitable where the property has clear title or where clear title is reasonably achievable and the owner is willing to negotiate on reasonable terms.

13.3 Acquisition by expropriation

This method should only be used under circumstances where acquisition by agreement has been rejected as being unsuitable, or the Municipality has been unsuccessful in concluding an agreement with the owner and it can be shown that the Immovable Property required is site specific and essential.

14. IMPLEMENTATION OF THE POLICY

The policy is to be implemented in conjunction with other relevant Council policies and strategies including the following:

- ☐ Blouberg Municipality's Integrated Development Plans
- ☐ Blouberg land use scheme
- ☐ Blouberg Municipality's Spatial Development Framework
- ☐ Supply Chain Management Policy
- ☐ Local Economic Development Strategy

The Policy and Implementation Guidelines are intended to cover the sale of real property and the defined scope of real property interest and the disposal of non-fixed corporate assets in the manner of personal property as owned by the Blouberg Municipality.

15. EFFICIENCY OF POLICY OPTION IN ACHIEVING THE VALUES

The policy is efficient and is in-line with the relevant legislations. The values efficient for this policy are Batho Pele principles which must be considered when implementing the policy, as well as ensuring that the policy is transparent, fair and open to all citizens.

16. VALUATION OF PROPERTY

Council shall appoint a Professional Valuer who will determine the fair market value of all the identified properties, and this person must be an independent Professional Valuer or Professional associated Valuer registered in terms of the Property Professional Act, 2000 (Act 47 of 2000) or any ensuing act of the cost of the purchaser

17. DEVIATION FROM THE ZONING

- 17.1 Immovable property sold or let by the municipality shall be inspected regularly by officials of the municipality to ensure compliance with the terms and conditions of the agreement of sale.

- 17.2 The municipality shall at all times when considering the alienation of its immovable assets, take into consideration the municipality's obligation to, as part of its process of Integrated Development Planning, take all reasonable and necessary steps within the framework of national and provincial legislation and policy to identify and designate land for housing.

18. CONDITIONS OF SALE

- 18.1 All cost pertaining to a transaction shall be borne by the buyer, e.g. Survey, advertisement, valuation, rezoning, relocation or provision of services where necessary, etc. Council may, however, waive its right to claim the costs should it be to its advantage to bear the cost. Where necessary, a deposit to cover the costs may be required.
- 18.2 Where applicable, existing services must be relocated or secured by means of the registration of servitude in favour of the municipality and costs shall be for the account of the buyer.
- 18.3 Small areas of land such as closed roads or portions of public place sold to an adjacent owner must be consolidated with the existing property of the adjacent owner, unless circumstances exist which, in the opinion of the municipality, make such consolidation undesirable.
- 18.4 Where immovable property is sold for development, a condition must be included in the Deed of Sale stipulating that such development must be completed within a year from date of purchase. Likewise a condition must be included in the agreement to provide for forfeiture in the event that the development has not be completed within the required time period, unless an extension has been granted in writing by the municipality.
- 18.5 Save with prior approval, the property alienated may only be used for the purpose for which it was originally sold and purpose permitted by the Land Use Scheme regulations.
- 18.6 The agreement of sale shall be finalized and concluded within 60 days from the date of the municipality's official request; failure to comply shall cause the sale to lapse.
- 18.7 The agreement must contain a suspensive condition in respect of property, which is sold subject to approval in terms of land use legislation.

- 18.8 The buyer is expected to have constructed the applicable structure within a period not exceeding twelve (12) month.
- 18.9 Council has the power to repossess the application property should the buyer fail to comply to the conditions of sale.

19 CONDITIONS OF LEASE

- 19.1 All cost pertaining to a transaction such as legal-, survey-, re-zoning-, sub-division-, consolidations-, advertisement-, relocation or provision of services cost shall be borne by the applicant.
- 19.2 The following deposits shall apply to leases where the rental is based on market value-
- (a) a deposit equal to 2 months rental for commercial transactions;
 - (b) a deposit equal to 1 month's rental for residential and social services transactions.
 - (c) No deposit are payable in respect of encroachment agreements.
- 19.3 An owner of Immovable Property who leases an adjoining municipal Immovable Property may be substituted by his successor in title for the duration of the remainder of the lease term on the same terms and conditions or additional terms and conditions as deemed necessary.
- 19.4 Lessees shall be liable for payment of rates and service charges, unless otherwise agreed upon.
- 19.5 The letting of lanes, public open spaces, road reserves shall be subject to the following:
- (a) closing off/securing to Council's satisfaction;
 - (b) costs for the relocation or installation of services, where required, shall be for the account of the lessee; and
 - (c) securing of servitudes.
- 19.6 Lessees shall indemnify Council against any possible claims arising from the lease or use of the Immovable Property.
- 19.7 No lessee of Immovable Property shall without the prior consent in writing of the Council, sublet such Immovable Property or any portion thereof or assign any right acquired by him in respect hereof and any such subletting or assignment without such consent shall be null and void.
- 19.8 Save with prior approval the Immovable Property may only be used for the purpose for which it was let and purposes regularized by town planning schemes.
- 19.9 Officials from Council shall at all reasonable times be entitled to enter/inspect the Immovable Property, having regards for the right to privacy as contemplated in Chapter 2 of the Constitution.
- 19.10 All agreements shall contain a clause which requires the lessee to maintain the leased Immovable Property.

- 19.11 All agreements shall contain a clause which requires that improvements provided by the lessee and which Council wishes to retain shall revert, free of charge, to Council once the lease period has terminated and/or in the event the agreement, due to breach of conditions by the lessee, has been cancelled. Provision must also be made on how to deal with such improvements Council should terminate the contract prior to the lapse of the lease period, where the lessee has not been in default.

20. DELEGATION

The Council is responsible for alienation of municipal land, this powers cannot be delegated.

21. ADVERTISEMENTS

No piece of land may be sold and transferred into the name of a buyer unless:

- 21.1 The proposed transaction has been advertised in the local and national newspaper for objections and objections (if any) lodged in accordance with the advertisement, have been considered
- 21.2 Advertisement period is 21 days while the objection period is 30 days after advert
- 21.3 If the zoning of the piece of land is residential or industrial, it will not be required to advertise each and every transaction in such development provided that:
- 21.3.1 A notice advertising the initial development and proposed sale of erven, has been placed in the local and national newspaper prior to the sale of erven in that development
- 21.3.2 All transactions take place in accordance with the arrangement and detail initially advertised and approved by council

22. OBJECTIONS AND COMPLAINTS

- 22.1 Persons aggrieved by decisions or actions taken in the implementation of this policy may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action to the Municipal Manager, or if the Municipal Manager is involved then it must be lodged to the Mayor. The advert must invite any objections or claim in terms of the provision of Section 79(18) of the Local Government Ordinance, 17 of 1939 as amended.