6.3 MANAGEMENT OF MUNICIPAL PROPERTY POLICY

6.3.1 PREAMBLE

a) To provide a policy framework for the management of Council’s movable and immovable property in order to regulate its use, disposal and acquisition; to establish criteria for regulating and co-ordinating transactions to facilitate the establishment of appropriate private/public partnership to develop properties according to categories.

b) In the exercise of its powers, duties and functions, council has the right to acquire, hold, benefit and alienate property.

c) Council is the custodian of the movable and immovable property of the municipality and is responsible for the administration thereof.

d) Council realises that movable and immovable property held by it which is not envisaged for or already used for public purposes and/or in the public’s interest, should be dealt with in a manner which will ensure the greatest benefit to the council and the community.

6.3.2 OBJECTIVES

2.1. Council may acquire through its Supply Chain Policy, use, benefit, alienate, let or permit to be built upon, occupied, enclosed or cultivated any movable and immovable property owned by the municipality unless it is precluded from so doing by law or the conditions under which such property was acquired by the municipality.

2.2. Movable Properties

Movable properties consist of materials and properties that includes:

- Vehicles
- Equipment
- Furniture’s
- Tools etc

Movable property may be disposed off either by:

- Tender
- Auction
- Donations
- Lease

2.3. Immovable Property

Immovable properties include

- Land
- Minerals
- Houses

Immovable property may be disposed off either by:

- Tender
- Auction
- Donation
- Lease

6.3.3 DEFINITIONS
In this policy a word or phrase to which a meaning has been assigned in Section 1.0 on definitions has that meaning, unless the context otherwise indicates.

6.3.4 METHODS OF DISPOSAL OF PROPERTIES

6.3.4.1 TENDER

Movable property may be disposed of by tender in this way: A public notice will be affixed on the public notice board of the Council and be published in the local newspaper indicating council's intention to dispose property in this tender. Tenderers will be invited to tender for a specific item with specifications provided in the advertisement. The notice will also include the official to be contacted together with his contact numbers, closing date and time of closing of the tender. Tenders will be adjudicated on the basis of the Municipal Supply Chain Policy, as prescribed in the MFMA and Regulations.

The following may be sold on tender:

(1) Land (stands i.e. industrial, business and residential)

(2) Farms

(3) Building

6.3.4.1.1 Special Conditions Of Tender

a) The following are participants in the contract:
   - Community (PDI’S)
   - Businessmen/women
   - Private companies
   - Workers

b) No tenders shall be invited for the disposal of municipal property with the estimated value less than R50 000,00.

c) Tenderers are to note that any tender which is not accompanied by all the information required or which is not properly completed or signed, may be disregarded.

d) Together with the completed tender document, tenderers must submit a written confirmation from their financial institution certifying that the tenderer is in good standing for the amount tendered (This being done only when there is reasonable doubt that the tenderer doesn’t have the necessary resources

e) The tenderers financial position will be taken into consideration during the evaluation and adjudication of tenders. The tender form attached per annexure A will serve as a tender document at the disposal of immovable council properties.

f) A notice detailing period for viewing and sale of properties date and time of closing of tenders should be made by council within a minimum period of 14 days prior to closure of tenders.

6.3.4.2 AUCTION
All movable properties sold on auction will be “voetstoots”. A public notice will be attached on the public notice board of council and be published in the local newspapers indicating the details of the auction.

A notice period for viewing and sale of properties, date and time of auction should be made by council within a minimum period of 14 days prior to the date of auction.

Before the auction a catalogue of all items to be sold at the auction must be drawn by the Department of financial services. The council will appoint an auctioneer who’s responsibility will be to inspect all goods before the auction to arrive one hour before auction, read conditions of sale to all potential buyers and make sure that he and the potential buyers adhere to the conditions of sale, and further to see to it that all buyers are registered and allocated numbers.

Preferred Auction Strategy would be applied. In this sense the Auction would be divided into two sessions:

(1) **Exclusive Session**

This is the first session for previous disadvantaged individuals. All goods to be sold at no less than the reserve price. When reserve price is not determined the goods will be auctioned to highest bidder.

(2) **Inclusive Session**

This is the second session whereby the PDI and the previously advantaged individuals (PAI) would be combined. All goods to be sold at no less than the reserve price. Where reserve price is not determined the goods will be auctioned to the highest bidder.

The following may be sold on auction:

(1) Vehicles

(2) Equipments

(3) Tools or spares (e.g redundant and used spares as scrap metals)

(4) Accessories (e.g cell phones)

(5) Furniture

### 6.3.4.3 DONATION

Any of the property of Council may be donated to any institution or organisation provided the legislation thereto permit.

### 6.3.4.4 SALE / LEASE

Council shall determine a list of available properties and prices thereof annually and determine whether properties will be sold or leased per tender or auction.

Properties remaining from sale, lease or auction would be disposed off on a first come first serve basis at the determinable prices.

### 6.3.4.1 Special conditions of sale/lease
Immovable property will be sold/let at market value except

(a) in circumstance described in paragraph 7; and

(b) in the case of immovable properties referred to in the Housing Act, Act 107 of 1997, where such properties shall be sold/let as provided for in that act.

1. All applications to acquire, sell/let of municipal immovable property must be considered in accordance with this policy framework, current law and legislation and the current Supply Chain Policy.

2. Alienations and leases must be effected by means of public competition which shall be by means of tender, auction or proposal call, except in the instances detailed in paragraph 7, and the highest offers will as a rule be accepted, provided all terms and conditions have been met. In assessing tenders, council will take cognizance of the total cash value of the packages offered by the tenders, where such packages are permissible in terms of the conditions of tender. In other words, where the actual amounts tendered are roughly similar but a particular tenderer, for example, also offers to make improvements to the property, the cash value of such improvements must also be taken into consideration when the highest tender is determined. Where immovable property is alienated or let for some or other development project, but the specific type of development which council is prepared to allow is of cardinal importance, the council may call for development proposals, including a monetary offer. In such a case the price offered for the immovable property by the developer will only be part of the total package. Should council consider it desirable not to accept the highest tender or decide to not the highest offer, the reasons for this decision must be fully set out and recorded in the minutes of the council meeting in question.

3. The market value of selling prices or rentals must be determined departmentally unless circumstances warrant the use of an independent valuer.

4. Council’s immovable property must be inspected at reasonable time periods to ensure compliance with the terms and conditions of the agreement of sale lease.

5. Immovable property may be sold/let out of hand to social care users and sports council or sports boards under market value in terms of the provisions of paragraph 7.

6. Adjudication of tender

   Tenders will be awarded in terms of the Preferential Procurement Policy of Council

6.3.5 CONDITIONS OF LEASE

6.3.5.1 Incidental Costs

   No application shall be processed unless the applicant has confirmed in writing that he/she will bear all costs, eg. legal, survey, re-zoning, sub-division, consolidations, advertisements, relocation or provision of services. A deposit to cover incidental costs may be required.

   1. The following deposits shall apply to leases where the rental is based on market value.

      (i) a deposit equal to 2 months rental for commercial transactions;
(ii) a deposit equal to 1 month rental for residential and social services transactions;

(iii) no deposit in respect of garden and parking leases other than commercial parking leases.

6.3.5.2 Approval by Council

No immovable property shall be sub-let, ceded or assigned without the prior approval of council.

6.3.5.3 Succession Title

An owner of fixed immovable property who leases an adjoining municipal immovable property may be substituted by his successor in title for the duration of the remained of the lease term as deemed necessary on the same terms and conditions and/or additional terms and conditions.

6.3.5.4 Rental

Rentals shall escalate annually at a percentage as determined by council from time to time.

6.3.5.5 Rates and Taxes

Lessee shall be liable for payment of rates and service charges upon signing the necessary deed of sale irrespective of whether the property has already been transferred or not.

1. The letting of lanes, public open spaces, road reserves shall be subject to the following:

   (i) closing off/securing to council’s satisfaction

   (ii) costs for the relocation or installation of services where required shall be for the account of the lessee

   (iii) securing of servitudes

6.3.5.6 Indemnity

Lessees shall indemnify council against any possible claims arising from the lease or use of the immovable property.

6.3.5.7 Town Planning Scheme

Where land is leased for development, such development must commence, if applicable, within one (1) year or such longer period as may be agreed to from the date of occupation or in accordance with the provisions of the lease agreement or the development programme submitted by the lessee and be completed in accordance with the provisions of the lease agreement or the development programme. A suspense condition must be included in the lease agreement to provide for forfeiture in the event that the development has not been commenced with. Council furthermore reserves the right to impose such conditions as deemed necessary, without limiting its rights to liquidated damages and reversionary clauses.

6.3.5.8 Use of property
Save with prior approval the property may only be used for the purpose for which it was let and purposes regularised by town planning schemes.

6.3.5.9 Validity of notification

The lease agreement, where applicable, shall be finalised and concluded within 60 days from date of council’s official notification. Failure to comply within 60 days from date of request the awarding shall be regarded as having lapsed and applicant shall forfeit part or one whole of his/her deposit and be held liable for costs exceeding the deposit amount, where Council has incurred such costs.

6.3.5.10 Right to inspect property

Officials from council shall at all reasonable times be entitled to enter/inspect the immovable property.

6.3.5.11 Maintenance of property

All agreements shall contain a clause which requires the lessee to maintain the leased property.

6.3.5.12 Improvement on property

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, has been cancelled.

6.3.6 CONDITIONS OF SALE

6.3.6.1 Incidental Costs

All costs pertaining to a transaction shall be borne by an applicant, eg. survey, re-zoning, sub-division, consolidations, advertisements, relocation or provision of services, provided that council may waive its right to claim those costs if the reason for the sale is to rid council of a burden to maintain the property or exercise control there over.

No application shall be processed unless the applicant has confirmed in writing that he/she will bear all costs, e.g. legal, survey, rezoning, sub-division, consolidations, advertisements, relocation or provision of services. A deposit to cover costs may be required.

6.3.6.2 Statutory Provisions

All statutory requirements must be complied with.

6.3.6.3 Registration of Servitudes

Where applicable, existing services shall be secured by means of the registration of a servitude in favour of council and costs shall be for the account of the applicant.

6.3.6.4 Sale of adjacent property
Immovable property sold to an adjacent owner must be re-zoned, closed and consolidated with the property of the adjacent property, if the property to be purchased is smaller in extent than the adjacent property.

6.3.6.5 Town Planning Scheme

When immovable property is sold, development must commence, if applicable within one (1) year or such longer period as may be agreed to from the date of transfer or possession or in accordance with the provisions of the deed of sale or the development programme submitted by the purchaser and be completed in accordance with the provision of the deed of sale or the development programme. A suspense condition must be included in the sale agreement to provide for forfeiture in the event that the development has not been commenced with within the required time period. Council furthermore reserves the right to impose such conditions as deemed necessary, without limiting its rights to liquidated damage and reversionary clauses.

6.3.6.6 Property to revert to Municipality

A reversionary clause shall be applicable to immovable property transactions sold below market value or in such instances where the conditions of sale are not met.

6.3.6.7 Use of property

Save with prior approval the immovable property may only be used for the purpose as approved by council and purposes regularised by town planning schemes.

6.3.6.8 Contract

An agreement of sale shall be finalised and concluded within 60 days from date of council’s official request; failure to comply shall cause the approval to lapse.

6.3.6.9 Suspense Clause

A suspense condition clause shall be applicable to all transactions which are subject to the approval of a re-zoning, sub-division, consolidation etc.

6.3.7 LEASE PERIODS NOT EXCEEDING 12 MONTHS

6.3.7.1 Immovable property let for short term periods, i.e. 14 days for circuses, etc, shall be subject to the following:

(a) applicant to provide or arrange with council at its cost for provision services, i.e. refuse, water, electricity, ablution facilities if required;

(b) applicant to return land in its original state;

(c) rental to be determined by council;

(d) applicant to indemnify council against any claims.

(e) applicant to undertake in writing to compensate council for any damages caused to council property which may arise from any circumstance whatsoever.

6.3.8 PROJECTIONS, PROJECTING STRUCTURES AND ENCROACHMENTS
6.3.8.1 Council may, subject to such conditions as it may deem fit, including the payment of a rental-

(a) permit the erection or retention of veranda, balcony, sign, signboard or similar structure device or contrivance which projects or extends into or over any public place or public street (hereinafter referred to as a "projection"); provided that -

(i) the erection or retention of such a projection shall not be permitted on the level of more than one floor;

(ii) no such projection shall be wholly enclosed to a height of more than one comma five metres measured from the floor level thereof; and

(iii) no such projection shall be partially enclosed to a height of more than one comma five metres measured from the floor level thereof except with the prior written approval of the council and subject to such conditions as it may impose,
or

(b) where the erection or retention of a building or structure which projects or extends into, over or under any public place or public street (hereinafter referred to as a "projecting structure") is not permitted in terms of paragraph (a), permit such erection or retention where the land comprised in such place or street-

(i) is not owned by the municipality if, in the opinion of the council, such projecting structure will not or does not impede, restrict or interfere with the construction, maintenance and use of such place or street, or

(ii) is owned by the municipality, if in the opinion of the council, such projecting structure is erected as part of the development of property in accordance with a provision contained in the council's town planning scheme which applies specifically to such property.

6.3.8.2 When municipal immovable property under the control or management of council is encroached upon, the council may take such steps as may, in the opinion of the council, be necessary to remove or regularise such encroachment.

6.3.8.3 Council may reduce the extent of a public place or Public Street which is encroached upon by the extent of the encroachment or by such greater extent as may, in its opinion, be desirable.

6.3.9 OUT OF HAND SALE AND LEASE

A. Where any immovable property is offered for sale or lease by public tender/auction remaining immovable property may be sold or lease out of hand by council at the upset price or higher, as long as it is satisfied that market prices are stable. The upset price must be determined in such a way that it corresponds with a reasonable market value and must include the recoverable development costs such as municipal services, advertising and more than one erf may be sold out of hand to a purchaser where the demand for erven exceeds the number of erven available for sale.
B. Immovable property may be sold/let out of hand to social care users, except where the market value is paid. The out-of-hand sale of immovable property below market value, shall be fixed at between 10% and 25% of market value, subject however to a suitable reversionary clause being registered against the title of the property. The out of hand lease of immovable property to social care organisations is permitted and rental shall be determined by council. Social care is defined as services provided by registered welfare charitable, non-profit, cultural and religious organisations.

C. Closed street, lanes and public open spaces may be sold/let out-of-hand to adjoining owners, provided that -

(a) written notice has been served on all adjoining owners; and

(b) the sale price shall be at market value; or

(c) the rental shall be at market value, provided that the rental of land for garden purposes shall be determined by council.

D. Immovable property may be sold/let out of hand to other spheres of government and other local authorities. All such immovable property transactions must be considered on a market value basis, except in cases where immovable property is acquired for the development of a less formal township and such township is again later to be transferred to council.

E. Industrial land may be sold/let out of hand where supply exceeds demand.

F. Immovable properties may be sold/let out of hand to existing tenants who have leased such premises for five years or longer on condition that the immovable property is sold at market value. Immovable property may be sold/let out of hand in exceptional cases where the council is of the opinion that 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 this policy provides for such exception, is permitted, and where they are not in conflict with any provision of the policy. In such cases council is required to record in the minutes of the council meeting concerned their full reasons for preferring such out-of-hand sales or lease to those by public competition.

H. Odd lots of land which can be of no practical use to any other person may be sold or let out of hand to any applicant.

I. Immovable property acquired by a council for public purposes or in the public's interest, may be let out of hand to any applicant for temporary use until such time as the property is required for development.

J. House may be sold/let out of hand to the personnel of council, on condition that rentals comply with any policy laid down and that selling prices are market related and that the provisions of all related legislation are followed.

K. The out-of-hand lease of land for outdoor seating to adjoining to restaurant owners is permitted and the rental charges shall be determined by the council.

L. The out-of-hand lease of sports facilities and other public amenities by Sports Boards, Sports Councils and other similar bodies is permitted at a rental determined by council which may not be market related.
Lease contracts with existing tenants of immovable properties may be renewed.
TENDER FORM

NAME OF TENDERER: ________________________________________________________

POSTAL ADDRESS: __________________________________________________________

PHYSICAL ADDRESS: _________________________________________________________

TELEPHONE NUMBER: ________________________________________________________

NATIONALITY: _______________________________________________________________

GOODS/VEHICLE TENDERER FOR
___________________________________________________________________________
___________________________________________________________________________

INTENDED USE OF THE GOODS/PROPERTY TENDERED FOR: ______________________
___________________________________________________________________________

AMOUNT TENDERED FOR: ______________________________________________________

METHOD OF PAYMENT (Mark the applicable with a cross)

\[\text{\checkmark} \quad \text{CASH}\]

\[\text{\checkmark} \quad \text{CHEQUE}\]

\[\text{\checkmark} \quad \text{ELECTRONIC TRANSFER}\]

___________________________________________________________________________

FOR OFFICIAL USE ONLY

TENDER GRANTED/NOT GRANTED AT AMOUNT OF R_____________________________

SIGNATURE