



REAL ESTATE UNIT : PROPOSED LEASE ON ERF 12281
DURBAN

137 LOWER MARINE PARADE

CONTRACT NUMBER: 7E-23697



REAL ESTATE UNIT

REQUEST FOR PROPOSAL FOR THE LONG-TERM LEASING AND REDEVELOPMENT OF PROPOSED LEASE ON ERF 12281 DURBAN MEASURING 1 457 M² AS DEPICTED ON SJ PLAN NO. 4806/7 FOR A PERIOD OF 45 YEARS. (137 LOWER MARINE PARADE)

EThekweni Metropolitan Municipality, hereby request proposals from interested persons for the long-term leasing of Proposed Lease on Erf 12281 Durban as depicted SJ Plan No. 4806/7 measuring 1 457m² for a period of 45 years.

THIS DOCUMENTS OF 65 PAGES, IT IS THE RESPONSIBILITY OF THE TENDERER / BIDDER TO SEE THAT ALL PAGES ARE INCLUDED IN THE DOCUMENT.

Name of Bidder _____

DOCUMENTS TO BE SUBMITTED: 1 ORIGINAL AND 1 COPY TOGETHER WITH ONE SOFT COPY (EITHER DISK OR MEMORY STICK) TO BE SUBMITTED BY 11:00 AM ON THE CLOSING DATE.

Closing date of the Bid: 08 March 2024

Closing Time: 11:00 am

**Issued by: T.E. Mmusinyane
HEAD: Real Estate Unit
4th Floor,
199 Anton Lembede Street**

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TENDER ADVERT

REQUEST FOR PROPOSAL FOR THE LONG-TERM LEASING AND REDEVELOPMENT OF PROPOSED LEASE ON ERF 12281 DURBAN MEASURING 1 457 M² AS DEPICTED ON SJ PLAN NO. 4806/7 FOR A PERIOD OF 45 YEARS. (137 LOWER MARINE PARADE)

eThekwini Metropolitan Municipality, hereby invites interested persons to submit proposals for the leasing of the property stated hereunder:

BID NUMBERS	TENDER DESCRIPTIONS	SIZE
7E-23697	REQUEST FOR PROPOSAL FOR THE LONG-TERM LEASING AND REDEVELOPMENT OF PROPOSED LEASE ON ERF 12281 DURBAN MEASURING 1 457 M ² AS DEPICTED ON SJ PLAN NO. 4806/7 FOR A PERIOD OF 45 YEARS. (137 LOWER MARINE PARADE)	1 457m ²
Non – compulsory briefing sessions	<p>There will be two clarification meetings.</p> <p>The first clarification meeting will be held on 30th November 2023. All questions and answers from the first clarification meeting will be uploaded onto the eThekwini website by the 14th December 2023.</p> <p>The second clarification meeting will be held on 8th February 2024. All questions and answers from the second clarification meeting will be uploaded onto the eThekwini website by the 15th February 2024.</p>	
Document Availability	10th November 2023	
Documents Cost	Document Cost: R0,00	
Objective criteria in terms of Paragraph 2(1)(f) of the Preferential Procurement Policy Framework Act 5 of 2000 is to give effect to Section 25 (5) of the Constitution of the Republic of South Africa	<p>In line with Section 25 (5) of the Constitution "The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."</p> <p>The objective criteria will be applied in the following manner:</p> <ol style="list-style-type: none"> 1) The demographic profile of property ownership or access to property will be assessed using the Municipality's lease register in relation to the location of the subject property and the level of participation in the sector. Preference will be given to the most underrepresented groups within that property profile. The graph depicted under Annexure A on page 64 represents the current demographic profile of existing leases that would apply to this bid. <p>Bidders must score a minimum of 70 points for Functionality Evaluation in order to qualify for further evaluation in Price and Preference Goal and the Objective Criteria.</p>	
Mandatory Requirements in line with the requirements of Regulation 41 (4) of the Asset Transfer Regulations to ensure that the successful bidder has the ability to develop, maintain and safeguard the capital asset.	<p>Bidders are to provide a funding model to incorporate how and where funding will be sourced/raised, and it must include collateral to be pledged against such funding if required. The bidder is to demonstrate proof of availability of 100% of the funding required for the development. This must include written support from verifiable funding institutions/ expression of interest to fund:</p> <ul style="list-style-type: none"> • The letter from a registered funder with Financial Sector Conduct Authority (FSCA) reflecting the full amount of the development cost. • If there is a shortfall and the bidder must demonstrate how they will fund the shortfall. • Written confirmation from a registered funder with Financial Sector Conduct Authority (FSCA) confirming availability of equity funding to cover the full development cost. • If the AFS reflects cash and cash equivalents. 	
Selection Criteria	Above R10 Million	
	Regulation 21 of the Municipal Supply Chain Management Regulations, 2005 requires bidders for transactions that exceed R10 million to furnish annual financial statements for the past three financial years. This is required to establish liquidity and financial resources of the bidder to	

	<p>execute the project as indicated in the bid documents and proposals. If the bidder was established within the last three years, the most recent audited financial statements are required to be submitted.</p> <p>Failure to meet the following requirements will invalidate the bid:</p> <ul style="list-style-type: none"> • Failure to meet the mandatory requirements. • Any rental offer below the reserve price. • Bids that deviate from tender specification. • Any proposal that does not include a total demolition and redevelopment of the current buildings or the proposed usage is not in line with the zoning of the property. • Any development proposal that is outside the scope of this tender. • Non-Signature and non-commissioning of the declaration of the Bidder's Past Supply Chain Practices in MBD 8 and Bid Submission in MBD. <p>NB: Failure to comply with the above will result in the bid not being evaluated for Stage 1 and stage 2</p>
Closing Date	08 March 2024
Conditions of submission of Request for Proposal	<ul style="list-style-type: none"> • Tax Clearance Certificate, valid on the closing date of the bid, or exemption to pay taxes as issued by the South African Revenue Services (SARS) or Valid Tax Compliant Verification PIN number issued by SARS. • Proof of registration of the Entity as follows: - Natural persons- certified copy of ID document/ passport - Partnership- copy of Partnership Agreement plus IDs of all partners - Company- current CM29 - Close Corporation- current copy of CK1 and/or CK2C - Trust- letter of appointment from the Master of the High Court of SA and deed of trust - Proof of registration of NPO or NGO (Copy of Provincial Registration Certificate etc.) • Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the individual for all his/her properties/ Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up to date municipal account cannot be submitted for all the properties of the directors. • In the event the bidder is tendering as a Joint Venture/Consortium, all members of the JV/Consortium must submit all required documentation, a JV / Consortium agreement and a Joint Venture B-BBEE Certificate. • Completion and signature of all bid documents. • Central Supplier Data Base (CSD) registration.
Address	<p>Ground floor Engineering Unit, Municipal Centre 166 K.E. Masinga Road (formerly Old Fort Road) DURBAN</p>
Evaluation	<p>Functionality, Rental Offer and Preference Goal of contributor using 90/10. 90 for rental value and 10 for Preference Goal status level of contributor</p>

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (ETHEKWINI METROPOLITAN MUNICIPALITY)					
BID NUMBER	7E-23697	CLOSING DATE	08 March 2024	CLOSING TIME:	11:00
DESCRIPTION	REQUEST FOR PROPOSAL FOR THE LONG-TERM LEASING AND REDEVELOPMENT OF PROPOSED LEASE ON ERF 12281 DURBAN MEASURING 1 457 M² AS DEPICTED ON SJ PLAN NO. 4806/7 FOR A PERIOD OF 45 YEARS (137 LOWER MARINE PARADE)				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO ENTER INTO A LEASE AGREEMENT WITH ETHEKWINI METROPOLITAN MUNICIPALITY.					

BID RESPONSE DOCUMENTS MUST BE DEPOSITED IN THE BID BOX SITUATED AT MUNICIPAL CENTRE, 166 K.E. MASINGA ROAD (formerly Old Fort Road) AND PLACED IN THE TENDER BOX LOCATED IN THE GROUND FLOOR FOYER.

SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER		CODE		NUMBER	
CELLPHONE NUMBER					
FACSMILE NUMBER		CODE		NUMBER	
EMAIL ADDRESS					
VAT REGISTRATION					
TAX COMPLIANCE STATUS		TCS PIN:		OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE (TICK APPLICABLE BOX)		Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	Yes
		No			No
(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE / SWORN AFFIDAVIT (FOR EMEs & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)					
SIGNATURE OF BIDDER			DATE		
CAPACITY UNDER WHICH THIS BID SIGNED					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:					

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1 BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—OR DOWNLOADED ONLINE (NOT TO BE RE-TYPED)**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFITABLE AND TAX STATUS.
- 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART 3 BELOW.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

3.1 IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

3.2 DOES THE ENTITY HAVE A BRANCH IN THE RSA?

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

3.3 DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

3.4 DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

3.5 IS THE ENTITY LIABE IN THE RSA FOR ANY FORM OF TAXATION?

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID. NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.

2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.

3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.

4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.

5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za.

6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

PRICING SCHEDULE: FINANCIAL OFFER

1. This offer is made for the property in accordance with the Property Information stated in MBD 13 and in accordance with the bid specification in MBD 12.
2. **Unless stated otherwise all prices excludes VAT.**
3. **FINANCIAL OFFER**

<p>A minimum / reserve amount of R245 000.00 per month.</p> <p>Any offer below the RESERVED/ MINIMUM RENTAL will not be considered and such bids would accordingly be disqualified.</p>	
Rental Offer Per Month	R
Escalation per annum and rental to be reviewed every five years	7%
Bidder / Entity Name	
Represented By	
Capacity	
Signature	
Date	

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.

eThekwini Vendor Portal Registration Number: PR

C.S.D Registration Number: MAAA

S.A.R.S Pin Number: _____

Completion of the following is compulsory. Failure to declare the following will invalidate your offer.

Declaration of Interest

Are any of the entity’s directors, managers, principle shareholder or stakeholders currently in the service of the state or have been in the service of the state in the past twelve (12) months?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is any spouse, child or parent of the entity’s directors, managers, principle shareholder or stakeholder currently in the service of the state or have been in the service of the state in the past twelve (12) months?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Name of entity's member	Position in Entity	Name of Relative (if applicable)	Name of State Institution	Nature of Relationship
Do you or any other directors, managers, principle shareholder or stakeholder of your entity have any relationship (spouse, family, friend, associate) with persons in the service of the state and/or who may be involved with the evaluation of this quotation? If yes please furnish particulars below <input type="checkbox"/> Yes <input type="checkbox"/> No				
Name of entity's member	Position in Entity	Name of Relative (if applicable)	Name of State Institution	Nature of Relationship

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.

4. PAYMENT FOR RATES, TAXES AND SERVICES

In addition to the above amount the lessee will be responsible for the payment of all municipal services and other costs deemed necessary on the property, including rates and taxes levied on the property including electricity, water, sewerage and sanitation removal, which are levied on the property. in the event of the amount stated above, being increased at any time during the lease period, or any renewal thereof, the monthly rental payable by the lessee will be automatically increased by the percentage increase in such amount, from the date on which such increase becomes effective.

5. POSSESSION OF THE SITE

The lessee will take possession of the site on the date of signature of the Lease Agreement by the parties.

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name:

3.2 Identity Number:

3.3 Company Registration Number:

3.4 Tax Reference Number:

3.5 VAT Registration Number:

3.6 Are you presently in the service of the state* ** * YES / NO

3.6.1 If so, furnish particulars.

.....

.....

3.7 Have you been in the service of the state for the past twelve months? YES / NO

3.7.1 If so, furnish particulars.

.....

.....

* MSCM Regulations: "in the service of the state" means to be

– (a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

3.8 Do you, have any relationship (family, friend, other)

with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?

YES / NO

3.8.1 If so, furnish particulars.

.....
.....

3.9 Are you, aware of any relationship (family, friend, other) between a bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?

YES / NO

3.9.1 If so, furnish particulars

.....
.....

3.10 Are any of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES /NO

3.10.1 If so, furnish particulars.

.....
.....

3.11 Are any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES /NO

3.11.1 If so, furnish particulars.

.....
.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

.....

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)

For all procurement expected to exceed R10 million (all applicable taxes included), bidders must complete the following questionnaire:

1. Are you by law required to prepare annual financial statements for auditing?

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

***YES / NO**

.....
.....

2. Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.

.....
.....
.....

3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material noncompliance or dispute concerning the execution of such contract?

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT.

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution.

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids: - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included)
- 1.2 a) The value of this bid could not be determined, therefore the lowest acceptable tender will be used to determine the applicable preference point system; or
 b) The 90/10 preference point system will be applicable to this tender.
- 1.3 Points for this bid shall be awarded for:
 - (a) Price; and
 - (b) Preference Goals
- 1.4 The maximum points for this bid are allocated as follows::

	POINTS
RENTAL OFFER	90
Preference goals	10
Total points for Price and Preference goal must not exceed	100

- 1.5 Failure on the part of a bidder to submit proof of CSD report, Consolidated BBEE Certificate for Consortium, Joint Venture, Trust or Consortium, Joint Venture, Trust Agreement together with the bid, will be interpreted to mean that preference points for Preference points are not claimed.
- 1.6 The Municipality reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the Municipality.

2. DEFINITIONS

- (a) **highest acceptable tender**” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;
- (b) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive

tendering process or any other method envisaged in legislation.

- (c) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts.
- (d) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes
- (e) “ **the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
- (f) “**tender for income-generating contracts**” means a written offer in the form determined by Municipality in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the Municipality and a third party that produces revenue for the Municipality, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions.
- (g) “**specific goals**” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

3. DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.1 THE 90/10 PREFERENCE POINT SYSTEMS

A maximum of 90 points is allocated for PRICE on the following basis: **90/10**

$$P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

P_s = Points scored for financial offer of bid under consideration

P_t = Price of bid under consideration

P_{max} = Financial Offer of highest acceptable bid

- 3.2 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 3.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 3.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1 In terms of Regulation 6 and 7 of the Preferential Procurement Regulations 2022 read together

with Section 4 (4) and 4 (5) of the Ethekwini Municipality: SCM Policy 2023, preference points must be awarded for specific goals stated in the tender.

For the purposes of this tender the tenderer will be allocated points based on the points claimed for the goal(s) stated in Table 1 below, as supported by proof/ documentation stated in the Conditions of Tender:

- 4.2 In cases where the municipality intends to use Regulation 3(2) of the Regulations, which states that if it is unclear whether the 80/20 or 90/10 preference point system applies, the municipality must, in the tender documents, stipulate in the case of:
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system:
- 4.3 then the municipality must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Specific Goals for the tender and points claimed are indicated as per table 1 and table 2 below. Tenderers are to indicate their points claim for each of the Specific Goals

Ownership Goal

The tendering entity's Percentage Ownership, in terms of the Ownership Category(s) listed below, is to be used in the determination of the tenderer's claim for Preference Points.

Table 1

Goal Weighting 50%			
Ownership Categories	Criteria	80/20	90/10
Race: Black (w1)	0%	0	0
	>0% and <51%	8	4
	≥51% and <100%	15	7.5
	100%	20	10
<p>Proof of claim as declared on MBD 6.1 (1 or more of the following will be used in verifying the tenderer's status)</p> <ul style="list-style-type: none"> • Companies and Intellectual Property Commission registration document (CIPC) • CSD report. • B-BBEE Certificate of the tendering entity. • Consolidated B-BBEE Certificate if the tendering entity is a Consortium, Joint Venture, or Trust (Issued by verification agency accredited by the South African Accreditation System). • Agreement for a Consortium, Joint Venture, or Trust. 			
<p>The Category Weightings of the Ownership Categories will be: w1 = 50%</p>			

RDP Goal: The promotion of South African owned enterprises

The tendering entity's **Address** (as stated on the National Treasury Central Supplier Database (CSD) or on the eThekweni Municipality Vendor Portal) is to be used in the determination of the tenderer's claim for **Preference Points** for this Specific Goal.

Table 2

Goal Weighting 50%		
Location	80/20	90/10
Not in South Africa	0	0
South Africa	5	2.5
KZN	10	5
ETM	20	10
Proof of claim as declared on MBD 6.1 (1 or more of the following will be used in verifying the tenderer's status) <ul style="list-style-type: none">• CSD report		

- 4.4 All bidders will have to submit BEE rating certificates, issued by either verification agencies accredited by the South African Accreditation System (SANAS) or by registered auditors approved by the Independent Regulatory Board for Auditors (IRBA) or sworn affidavits in a case of Exempted Micro Enterprises or Qualifying Small Enterprise.
- 4.5 Any enterprise with an annual Total Revenue of R 10 million or less qualifies as an Exempted Micro Enterprise.
- 4.6 Exempted Micro-Enterprises are deemed to have B-BBEE Status of "Level Four Contributor" having a BBEE procurement recognition of 100% in terms of the Codes of Good Practice.
- 4.7 An Exempted Micro Enterprise (EME) with at least 51% black ownership qualifies as a Level 2 contributor with BBEE level of 125% in terms of the Codes of Good Practice.
- 4.8 An Exempted Micro Enterprise with 100% black ownership qualifies as a Level 1 contributor with BBEE level of 135% in terms of the Codes of Good Practice.
- 4.9 An Exempted Micro Enterprise that is regarded as a specialized enterprise with at least 75% black beneficiaries qualifies as a Level 1 contributor with BBEE level of 135% in terms of the Codes of Good Practice.
- 4.10 An Exempted Micro Enterprise that is regarded as a specialized enterprise with at least 51% black beneficiaries qualifies as a Level 2 contributor with BBEE level of 125% in terms of the Codes of Good Practice.
- 4.11 A Qualifying Small Enterprise (QSE) with at least 51% black ownership qualifies as a Level 2 contributor.
- 4.12 A QSE with 100% black ownership qualifies as a Level 1 contributor.
- 4.13 A QSE that is regarded as a specialized enterprise with at least 51% black beneficiaries qualifies as a Level 2 contributor with BBEE level of 125% in terms of the Codes of Good Practice.
- 4.14 A QSE with less than 51% black ownership is required to submit a BBEE level verification certificate issued by BBEE verification professional.

4.15 A Trust, consortium or joint venture:

- (a) must submit a B-BBEE status level certificate in order to qualify for points;
- (b) will qualify for points as an unincorporated entity provided, that they submit their consolidated scorecard is prepared for separate tender; and
- (c) where no consolidated scorecard exists, the weighted average (in accordance with participation percentages) will be used and rounded off to the nearest status level.

4.16 If a service is provided by only tertiary institutions, such services must be procured from the tertiary institutions identified by means of bidding process. Tertiary institutions must submit their B-BBEE status in terms of the B-BBEE Codes of Good Practice Specialized Scorecard.

4.17 This tender is subject to an Objective Criteria in terms of Section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) as follows:

Objective criteria in terms of Paragraph 2(1)(f) of the Preferential Procurement Policy Framework Act 5 of 2000 is to give effect to Section 25 (5) of the Constitution of the Republic of South Africa	<p>In line with Section 25 (5) of the Constitution "The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."</p> <p>The objective criteria will be applied in the following manner:</p> <ul style="list-style-type: none">2) The demographic profile of property ownership or access to property will be assessed using the Municipality's lease register in relation to the location of the subject property and the level of participation in the sector. Preference will be given to the most underrepresented groups within that property profile. The graph depicted under Annexure A on page 64 represents the current demographic profile of existing leases that would apply to this bid.• Bidders must score a minimum of 70 points for Functionality Evaluation in order to qualify for further evaluation in Price and Preference Goal and the Objective Criteria.
Tender(s) received need to be evaluated in terms of the preference point system first. Once the highest points scorer has been ascertained only then the objective criteria will be applied.	

4.18 Award of where Bidders have Scored Equal Points Overall

1. In the event that two or more bids have scored equal total points, the successful bid will be the one scoring highest points for specific goals.
2. However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal points for special goals, the successful bid will be the one scoring the highest score for functionality.
3. Should two or more bids be equal in all respects; the award will be decided by the drawing of lots.

5. DECLARATION WITH REGARD TO COMPANY/FIRM

5.1. Name of company/ firm:.....

5.2. VAT registration number:.....

5.3. Company registration number:.....

5.4. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
 - One person business/sole propriety
 - Close corporation
 - Company
 - (Pty) Limited
- [TICK APPLICABLE BOX]

5.5. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....
.....
.....

5.6. COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

5.7. MUNICIPAL INFORMATION

Municipality where business is situated:
Registered Account Number:
Stand Number:

5.8. Total number of years the company/firm has been in business :.....

5.9. I, the undersigned, who warrants that they are authorised to sign on behalf of the Tenderer, certify that the points claimed, based on the specific goal as specified in the tender, qualifies the tendering entity for the preference(s) shown.:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the bidder may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis, or any of the conditions of contract have not been fulfilled, the organ of state may, in addition

to any other remedy it may have:

- (a) disqualify the person from the tendering process.
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.–

<p>WITNESSES</p> <p>1.....</p> <p>2.....</p>	<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p>
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CONSTITUTIONAL COURT JUDGEMENT

Pursuant to the Constitutional Court judgement which declared Preferential Procurement Regulation 2017 (Regulations) invalid and no force and effect, this procurement document abides by the court order and any reference made to the said Regulations is hereby revoked and replaced by Preferential Procurement Policy Framework Act of 2000.

MDB 7: BIDDERS INFORMATION

Name of Bidder			
ID /Passport/ Registration Number			
Nature of bidder (tick one)	Natural Person/ Sole Proprietor		
	School/NGO/Trust		
	Company/ CC/ Partnership		
	Joint Venture (JV)		
Postal Address		Tel	
		Cell	
		Email	
		Fax	
BIDDER BANKING DETAILS			
Name of bidder's Banker			
Contact details of banker			

I,.....
 ("The Bidder").

in my capacity as

.....
 hereby submit a proposal in the preceding document. I have read the Proposal Call Document in full and hereby submit the MBDs in accordance with the conditions stated in the document, and further declare under oath that the information contained in the MBDs is to the best of my knowledge true and correct. I further state as follows:

Signed and sworn at _____ on this _____ day of _____
 by the Bidder (s) who has stated that:

- He/she knows and understands the contents hereof and that it is true and correct;
- He/she has no objection to taking the prescribed oath; and
- That he /she regards the prescribed oath as binding on his/her conscience
- That the provisions of the regulations contained in Government Notice R1258 of 21st July 1972 (as amended) have been complied with.

 Bidder (s)

Signed before me

 COMMISSIONER OF OATHS

MBD 8: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - b. been convicted for fraud or corruption during the past five years;
 - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.5.1	If so, furnish particulars:		

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME)
 CERTIFY THAT THE INFORMATION FURNISHED ON THIS
 DECLARATION FORM TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE
 TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

MBD 9: CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

MBD 9: CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

MBD 10: STANDARD CONDITIONS OF SUBMISSION

The following conditions apply to all bids submitted:

- All bids must be submitted in compliance with the Bid Specifications specified in MBD 12.
- The property is made available in accordance with the information and stipulations contained in REU MDB 13.
- The bidder(s) will be deemed to be familiar with the state, real rights registered against the property, the zoning and locality of the property.

SELECTION CRITERIA

Failure to meet the following requirements will invalidate the bid:

Regulation 21 of the Municipal Supply Chain Management Regulations, 2005 requires bidders for transactions that exceed R10 million to furnish annual financial statements for the past three financial years. This is required to establish liquidity and financial resources of the bidder to execute the project as indicated in the bid documents and proposals. If the bidder was established within the last three years, the most recent audited financial statements are required to be submitted.

- Failure to meet mandatory requirement.
- Any rental offer below the reserve price.
- Any Bid that deviates from the Tender specifications.
- Any proposal that does not include a total demolition and redevelopment of the current building or the proposed usage is not in line with the zoning of the property.
- Non-Signature and non-commissioning of the declaration of the Bidder's Past Supply Chain Practices in MBD 8 and Bid Submission in MBD's.
- Any development proposal that is outside the scope of this tender.

NB: Failure to comply with the above will result in the bid not being evaluated

CONDITIONS OF SUBMISSION FOR REQUEST FOR PROPOSAL

- Tax Clearance Certificate, valid on the closing date of the bid, or exemption to pay taxes as issued by the South African Revenue Services (SARS) or Valid Tax Compliant Verification PIN number issued by SARS.
- Proof of registration of the Entity as follows:
 - Natural persons- certified copy of ID document/ passport
 - Partnership- copy of Partnership Agreement plus IDs of all partners
 - Company- current CM29
 - Close Corporation- current copy of CK1 and/or CK2C
 - Trust- letter of appointment from the Master of the High Court of SA and deed of trust
 - Proof of registration of NPO or NGO (Copy of Provincial Registration Certificate etc)
- Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the individual for all his or her properties/ Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up to date municipal account cannot be submitted.

- Central Supplier Data Base registration
- Completed and signed bid documents including MBD 1, 2, 3,4,5,8,9, 15,16,17,18,19, and 20, 21, 22.
- Completed and signed bid documents including MBD 1 to MBD 22.

SUBMISSION OF PROPOSALS

- Bidder(s) are invited to submit their Proposals by completing the returnable Municipal Bidding Documents (MBDs) and MBDs contained in this document.
- In this regard:
 - No other form of Proposal will be accepted. The MBDs must not be construed as an offer.
 - The Bidder(s) must submit one (1) original and one (1) copy of the completed Bid document together with one soft copy (either disk or memory stick).
 - All Proposal documentation received shall be deemed EThekwini Municipality property and shall not be returned or thus requested back by any Bidder.
- Proposals must be sealed, clearly marked with RFP name and number, and addressed to Head: Real Estate
- Bidder's return address must be clearly indicated at the back of the envelope.
- The fully completed document with annexures must be submitted before the closing date specified on the front cover, and be deposited in the tender box.
- **PROPOSALS WHICH ARE NOT SUBMITTED IN A PROPERLY SEALED AND MARKED ENVELOPE AND DEPOSITED IN THE BOX BEFORE THE CLOSING DATE, WILL NOT BE OPENED.**
- **PROPOSALS WHICH ARE NOT SUBMITTED IN THE CORRECT FORMAT WITH ANNEXURES ATTACHED, DULY COMPLETED, INITIALLED, COMMISSIONED AND SIGNED, WILL NOT BE CONSIDERED.**
- The information required in the MBDs must be provided accurately and honestly. All details provided by the Bidder(s) will be regarded as material representations, which the Municipality base the evaluation of the Proposal on. Any misrepresentation will be treated as material and will result in the disqualification of the Proposal by the Municipality. Bidders, who fail to provide such information to the satisfaction of the Municipality, will be disqualified.

OPENING OF PROPOSALS

- Proposals will be opened immediately after the closing time on the closing date at the offices of the Municipality at the mentioned address. The RFP number, property description and the name of each Bidder(s) will be announced and recorded in a register.
- Bidder's return address must be clearly stipulated or indicated on the back of the envelope.

EVALUATION OF PROPOSALS

- The Municipality reserves the right to seek clarification or further information from Bidder(s)

and to appoint professionals to advise and verify information on aspects of the Proposals submitted in a manner that the Municipality deems appropriate.

- The preferred Bidder(s) may be required to make presentations to the Municipality.
- The Bidder(s) shall be deemed to know and understand the content of the Request for Proposal document and a submission of the MBDs will indicate the Bidder(s) unconditional acceptance of all the terms and conditions contained in the Request for Proposal.
- The Bidder(s) shall be deemed to have satisfied itself as to all of the conditions, procedures and performance and discharge of the obligations required in terms of the Request for Proposal.
- The non-acceptance or variation of any of the conditions, or the inclusion of any other conditions in the Proposal Call document by the Bidder(s) will be treated as a qualified bid.
- The Proposal(s) will be evaluated by the Municipality. The Municipality may accept any Proposal in whole or in part and is not bound to accept any Proposal
- Proposals will be evaluated using the evaluation criteria stated in MBD 11.
- The Proposal(s) will be adjudicated by the Municipality's Bid Adjudication Committee and awarded in terms of the City's Supply Chain Management Policy and the Land Disposal Policy.
- The Municipality will not be held responsible or liable for any costs whatsoever and /or losses incurred or suffered by the Bidder(s) or any other party or parties for whatsoever reason as a result of the Proposal.
- Any Proposal in the name of a partnership or joint venture or consortium will, on acceptance, be deemed as joint and several agreements with all parties.
- All proposals shall remain valid for a period of 120 days after the closing date, provided that bidders may extend the validity of the proposal on request of the Municipality.

RESOLUTIONS OF DISPUTES

- Persons or bidders who are aggrieved by decisions or actions taken in the implementation In terms of Regulation 49 of the Municipal Supply Chain Management Regulations persons aggrieved by decisions or actions taken by the Municipality, may lodge an appeal within 14 days of the decision or action, in writing to the Municipality. The appeal (clearly setting out the reasons for the appeal) and queries with regard to decision of award are to be directed to the office of the City Manager, attention: Ms. S. Pillay, P.O. Box 1394, Durban, 4000; eMail: Simone.Pillay@durban.gov.za.
- The written complaint must contain the following information:
 - The bid reference number;
 - The section of the Policy, Regulations or Act that has been violated;
 - The details of the violation;
 - The City Department or Municipal Owned Entity involved;
 - Relief sought.

PROHIBITIONS

- The Municipality will not, subject to such amendments to the Act and Regulations and any exemptions as the Minister may promulgate from time to time, award contracts to Bidder(s) who are owned directly or indirectly by the following categories of persons: -

- Defined as an employee or public servant in the service of the state working for Local, Provincial and National Government; or
- Defined as an employee in the service of a government owned entity including the municipal entities;
- If the employee mentioned above is actively or inactively a director, manager or principal shareholder of the service provider concerned (refer to GN44 in GG 28411 of 18 January 2006 for the exemption);
- Is a member of the board of directors of a municipal entity within its area of jurisdiction (refer to GN44 in GG 28411 of 18 January 2006 for the exemption);
- Who is an advisor or consultant contracted to the Municipality for the purposes of assisting the Municipality with defining of requirements, drafting of specifications or evaluation of the proposals.
- The Municipality will not award Proposals to any Bidder(s) owned directly or indirectly by politicians serving as councillors for any municipality.
- The Municipality will not award Proposals to any Bidder(s) owned directly or indirectly by politicians serving in National Assembly, Provincial Legislatures and National Council of Provinces.
- Failure by the above mentioned persons to comply with the above shall lead to cancellation of the contract.

CONSIDERATION OF PROPOSALS FROM CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

- The Municipality does not encourage awarding of contracts to close family members of employees in decision-making positions in line with Regulation 45 of the Supply Chain Management Regulations.
- The bidder must declare and state whether a spouse, child or parent of the bidder or of a director, manager or shareholder is in the service of the EThekweni Municipality or has been in the service of the state in the previous twelve months.

GENERAL ENQUIRIES

Only email enquiries will be accepted, such enquiries must be directed to Sindy.Magadla@durban.gov.za

REU MBD 11: EVALUATION CRITERIA

Bids which satisfy the qualification criteria will be evaluated using a two-stage evaluation process as follows:

Stage 1: Functionality Evaluation

Bids will be evaluated in order to establish whether they meet a minimum threshold score of 70 points out of 100 for functionality, based on the following criteria:

FUNCTIONAL CRITERIA	Max Points	Returnable documents to be used in evaluation
PROPOSED CONCEPT	30	
<p>Conformity of the Development Proposal to the vision for the property as expressed in REU MBD 12.</p> <p>Development Concept - High level conceptual design outlining the intended uses = 10 Points</p> <p>Detailed level theoretical design outlining the intended uses and ratios = 5 Points</p> <p>Floor area and elevations = 5 Points</p> <p>No submission = 0 Points</p>	10	A detailed concept plan-the bidder must submit a detailed concept plan that include all the information as outlined on this page. The Business concept should include a list and description of services to be offered, must submit drawings showing the proposed layout and appearance of the facility and the site to be leased site. All final designs must be approved by Council and before construction can commence on the site
<p>Development Programme (10)</p> <p>High level development programme including Inception Stage, Planning, Design, Construction and Commissioning.</p> <p>A high-level plan indicating 5 stages and each timeframe for each stage = 10 Points</p> <p>A high-level plan indicating 4 of the 5 stages and each timeframe for each stage = 8 Points</p> <p>A high-level plan indicating 3 of the 5 stages and each timeframe for each stage = 6 Points</p> <p>A high-level plan indicating 2 of the 5 stages and each timeframe for each stage = 4 Points</p> <p>A high-level plan indicating 1 of the 5 stages and each timeframe for each stage = 2 Points</p> <p>A high-level plan indicating 0 of the 5 stages and each with no timeframe for each stage or no submission = 0 Points</p>	10	Narrative – High level redevelopment/ refurbishment programme including Inception Stage, Planning, Design, Construction and Commissioning and including timeframes for each stage.
<p>Development Experience of the bidding entity (10)</p> <p>Bidder to indicate total value of development projects completed. Scoring will be based on the total value of development.</p> <p>No submission or below R10 million = 0 Points</p> <p>Between R10 million – R15 million= 2 Points</p> <p>Between R16 million – R30 million = 4 Points</p> <p>Between R31 million, - R50 million =6 Points</p> <p>Between R51 million – R70 million = 8 Points</p> <p>Above R71 million = 10 Points</p>	10	<p>Certificate of Practical Completion issued in terms of the Joint Building Contracts Committee (JBCC) clearly reflecting the bidding entity or its Consortium/JV partners as employers or developers.</p> <p>Bidder to complete REU MBD 21 and attach proof of completion certificates reflecting the projecting value of the completed developments.</p>

CAPACITY AND EXPERIENCE	24	
<p>Professional Team (12).</p> <p>Must have 5 years post registration experience, provide CVs and Proof of Registration documents and a maximum of 2 traceable references of work that is ≥ R10 million for each project. This amount refers to consultants' fee portion of the project value.</p>	12	CV's of the professional team and proof of registration with professional bodies where requested, a maximum of 2 traceable references of work that is ≥ R10 million for each project. This amount refers to consultants' fee portion of the project value.
<p>Architect with 5 years post registration experience, (registration with relevant institutions/statutory bodies and 2 traceable references = (3 Points)</p> <p>Proof of professional registration = 1 Point Proof of 5 years post registration experience = 1 Point Proof of 2 traceable references of work that is ≥ R10 million for each project = 1 Point</p> <p>NB: No points will be allocated to the Architect without proof of registration, less than 5 years post registration and has less than 2 traceable references of work that is ≥R10 million for each project.</p>	3	REU MBD 21
<p>Quantity Surveyor (registration with relevant institutions/statutory bodies and traceable references) =) 3 Points)</p> <p>Proof of professional registration = 1 Point Proof of 5 years post registration experience = 1 Point Proof of 2 traceable references of work that is ≥ R10 million for each project = 1 Point</p> <p>NB: No points will be allocated to the Pr QS without proof of registration, less than 5 years post registration and has less than 2 traceable references of work that is ≥R10 million for each project.</p>	3	REU MBD 21
<p>Engineers (civil and electrical) (registration with relevant institutions/statutory bodies and traceable references) = 3 Points</p> <p>Proof of professional registration = 1 Point Proof of 5 years post registration experience = 1 Point Proof of 2 traceable references of work that is ≥ R10 million for each project = 1 Point</p> <p>NB: No points will be allocated to the Engineer without proof of registration, less than 5 years post registration and has less than 2 traceable references of work that is ≥R10 million for each project.</p>	3	REU MBD 21
<p>Project Manager (registration with relevant institutions/statutory bodies and traceable references) = 3 Points</p> <p>Proof of professional registration = 1 Point Proof of 5 years post registration experience = 1 Point Proof of 2 traceable references of work that is ≥ R10 million for each project = 1 Point</p> <p>NB: No points will be allocated to the PM without proof of registration , less than 5 years post registration and has less than 2 traceable references of work that is ≥R10 million for each project .</p>	3	REU MBD 21

Construction Team Bidder to submit, profiles, experienced and qualifications (with a minimum of 5 years' experience)	12	Bidders to complete REU MBD 21 and provide any verifiable documents to demonstrate its experience.
Site Manager = 3 points Proof that the Site Manager has in excess of 5 years' relevant work experience= 1 Point Proof of the Site Manager has completed 2 projects in the last 5 years = 2 Points NB: No points will be allocated to Site manager with less than 5 years of experience and have not completed 2 projects in the last 5 years.	3	
Registered Health & Safety Officer = 3 Points Proof of professional registration as health and Safety officer = 1 Point Proof that the Health & Safety Officer has in excess of 5 years' relevant work experience= 1 Point Proof of the Health & Safety Officer has completed 2 projects in the last 5 years = 1 Point NB: No points will be allocated to Site manager with less than 5 years of experience and have not completed 2 projects in the last 5 years.	3	REU MBD 21
Social Facilitator = 3 Points Proof that the Social Facilitator has in excess of 5 years' relevant work experience= 1 Point Proof of the Social Facilitator has completed 2 projects in the last 5 years = 2 Points NB: No points will be allocated to the Social Facilitator with less than 5 years of experience and has less than 2 traceable references of work that is for each project.	3	REU MBD 21
Main contractor- Evidence of at least 3 or more Completed Projects of a similar nature (i.e. Development/ Building Conversion/Refurbishment) = 3 points Proof of 3 more similar projects= 3 Points Proof of 2 similar project = 2 Points Proof of 1 similar project= 1 Point 0 points will be awarded for contractors who have completed 0 project of a similar nature.	3	REU MBD 21
TRANSFORMATION AND EMPOWERMENT PLAN	26	
a Job Creation Plan including the plan During Construction = 4 points After Construction = 7 points	4 7	
Enterprise Development (during and after construction) = 3 points	3	
Training and Development Programmes (throughout the lifecycle of the project) = 3 points	3	
Demonstrate how the development will benefit the local		

community and/or community-based organisations = 3 points	3	
Procurement of Material from Local Suppliers = 3 points	3	
Partnership with Women, Youth, and People with disabilities owned Companies= 3 points	3	
FINANCIAL CAPABILITY	20	
a) Investment Value	10	REU MDB 22
Total realistic monetary investment value into the project based on the similar projects backed by the QS report/ estimated development cost and a financial feasibility.		The Financial Viability that is requested as part of the Development Proposal would also be assessed.
The reserved price indicated on the offer page should be used as a benchmark for the market value of the property. =10 Points		
total investment not specified = 0 Points		
total investment value of development of R11 million between and R15 million = 2 Points		
total investment value of development of between R16 million and R30 million = 4 Points		
total investment value of development of between R31 million and R50 million = 6 Points		
total investment value of development of between R51 million and R70 million = 8 Points		
total investment value of development of between R71 million and above = 10 Points		
b) Funding Model	10	REU MBD 22
Provide funding model to incorporate how and where the funding will be sourced/raised and it must include collateral to be pledged against such funding if required.		Copy of bank statements showing availability of funds.
The bidder to demonstrate proof of availability of 100% of the funding required for the development. This must include written support from verifiable funding institutions.		Financial Statements
Letter from registered funding institutions confirming funding for the project Proof of available funds (bank statements or financial statements of the bidder. = 10 Points		Letter from registered funding institutions confirming funding for the project
Non Submission of a Letter from registered funding institutions confirming funding for the project Proof of available funds (bank statements or financial statements of the bidder = 0 Points		Proof of available funds (bank statements or financial statements of the bidder
Total	100	

Bids which do not meet the minimum threshold of 70 points will not be considered further.

STAGE 2: EVALUATION FINANCIAL OFFER & PREFERENCE GOAL

- The following formula that will be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes.
- A maximum of 90 points is allocated for financial offer on the following basis:

$$PS = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of tender bid under consideration

Pt = Rand value of bid under consideration (Net Present Value of the rental amount over the lease period discounted at 10%)

Pmax = Financial Offer of highest acceptable bid

√ **Only those bids that attain the minimum threshold score of 70 Points in Stage 1 (functionality) will be evaluated in this stage. Bids will be evaluated as follows:**

EVALUATION CRITERIA	POINTS WEIGHT 90/10
RENTAL OFFER	90
PREFERENCE GOALS	10
Total	100

Ownership Goal

The tendering entity's Percentage Ownership, in terms of the Ownership Category(s) listed below, is to be used in the determination of the tenderer's claim for Preference Points.

Table 1

Goal Weighting 50%			
Ownership Categories	Criteria	80/20	90/10
Race: Black (w1)	0%	0	0
	>0% and <51%	8	4
	≥51% and <100%	15	7.5
	100%	20	10
Proof of claim as declared on MBD 6.1 (1 or more of the following will be used in verifying the tenderer's status) <ul style="list-style-type: none"> • Companies and Intellectual Property Commission registration document (CIPC) • CSD report. • B-BBEE Certificate of the tendering entity. • Consolidated B-BBEE Certificate if the tendering entity is a Consortium, Joint Venture, or Trust (Issued by verification agency accredited by the South African Accreditation System). • Agreement for a Consortium, Joint Venture, or Trust. 			
The Category Weightings of the Ownership Categories will be: w1 = 50%			

RDP Goal: The promotion of South African owned enterprises

The tendering entity's **Address** (as stated on the National Treasury Central Supplier Database (CSD) or on the eThekweni Municipality Vendor Portal) is to be used in the determination of the tenderer's claim for **Preference Points** for this Specific Goal.

Table 2

Goal Weighting 50%		
Location	80/20	90/10
Not in South Africa	0	0
South Africa	5	2.5
KZN	10	5
ETM	20	10
Proof of claim as declared on MBD 6.1 (1 or more of the following will be used in verifying the tenderer's status) <ul style="list-style-type: none">• CSD report		

The following Specifications apply to this bid:

1. Property Information

PROPERTY DESCRIPTION	Proposed Lease on Erf 12281 Durban
Ownership	Ethekwini Metropolitan Municipality
Locality	137 Lower Marine Parade
Land Size	1 457 m ²
Zoning	Beach
Current Use	Retail
FAR	As per scheme
Coverage	As per scheme
Height	n/a
Access	137 Lower Marine Parade
Building lines	As per scheme
Structural and Physical feature	Currently developed with a number of restaurant and take away facilities.
Geotechnical Conditional	Any geotechnical conditions will be the responsibility of the Developer.
Other Requirements	A Site Development Plan shall be submitted to the Local Authority Any further town planning Proposals and or rezoning shall be the responsibility of the Developer. The bidder is required to comply will all relevant building regulation laws, including but not limited to SPLUMA, NEMA, Municipal Bylaws etc.

2. Overview

The Ethekwini Municipality is the owner of property described as Proposed Lease on Erf 12281 Durban situated on the Durban Beachfront at 137 Lower Marine Parade measuring 1 457 m². The building on the property consists of a number restaurant and take-away facilities.

Durban, South Africa’s famous Surf City that is now part of the greater eThekwini Metropolitan Municipality, is justifiably proud of its Golden Mile – a stretch of some of the safest swimming beaches in South Africa.

Durban’s beachfront promenade is patronised by early morning joggers, cyclists, pram-pushing moms, dog-walking seniors and a host of perambulating city dwellers who love taking in the fresh, salt-laden morning breeze. From Addington Beach, just north of the Point and Durban Harbour, the promenade passes a laid-back African-style restaurant overlooking the beach with a quaint pub on the pier that gives patrons a bird’s-eye view of surfers and bathers.

To the south is Vetch’s Pier, with its great snorkelling opportunities, and a sheltered region popular among kayakers, windsurfers and jet-ski enthusiasts. Next stop is uShaka Marine World, an impressive shipwreck-themed aquarium incorporating the Wet 'n' Wild water park. The aquarium is home to a diversity of Indian Ocean marine species and includes 2 restaurants, one of which forms part of a shark tank. Curio and clothing shops, along with daily dolphin and penguin shows, complete this tourist attraction.

Both southern and northern beaches attract thousands throughout the year with waves ideal for swimming, surfing and body-boarding. You'll pass several piers along Durban's beachfront, most of which are used daily by anglers, and there's a host of hotels overlooking the beachfront, many offering excellent accommodation and restaurants. There are also more relaxed beer and burger spots, and a couple of trendy coffee shops worth a visit.

Travellers with small children might prefer to spend time at the paddling pools, where slides and fountains add to the kids' enjoyment. There's also the Rachel Finlayson salt-water swimming pool, as well as fast-food eateries on and around North Beach.

3. Vision for the property

The proposals should align the facility to the City's vision for the area in line with the strategies, legislative requirements and regulatory frameworks. The paragraph 7.2 of eThekweni Inner City Local Area Plan has outlined the vision Beachfront as follows:

"7.2 BEACH

Bounded by Bay Terrace to the South, Argyle Road (M17) to the north, the M4 to the west, and the beach to the east; the precinct encompasses the primary tourist beaches, including what is known colloquially as the Golden Mile with its hotel strip, and the back of beach area.

7.2.1 ROLES

7.2.1.1 STRATEGIC

The strategic role of the beachfront is clearly tourism. The beach and associated promenade is Durban's playground.

7.2.1.2 ECONOMIC

The primary economic role is also tourism and entertainment, but includes significant residential and commercial property assets, along the coast as well as in the 'back of beach' zone. Commercial uses are mostly entertainment related or providing local amenity for residents.

7.2.1.3 SOCIAL

The beachfront is Durban's largest and most inclusive public open space, so the social roles are important. Local, National, and International recreational events take place within the precinct, and the area is very well used by residents across the metro.

7.2.1.4 ECOLOGICAL

From an ecological perspective, the beach edge is the physical coastline and has an important coastal drainage role. Biodiversity is being improved with the revegetation of several of the dunes which is designed to improve the resilience of the area to storm damage.

7.2.2 KEY IDEAS

- Protect and enhance the beachfront as a key tourism asset
- New connections and reconfigured M4

- Release land for fine grained, perimeter block, mixed use green/brown field/in-fill/conversion development in support of creating high density, integrated walkable neighborhoods.
- Reinforce and optimize the pattern of green open spaces parallel to the beachfront, one block back to create a second layer of higher value properties
- Protect biodiversity and adopt a managed retreat approach to infrastructure along the coast
- Provide landscaping shade and protection to encourage outdoor use.
- The implementation of land-scape to provide a softening to the urban environment and provide a tropical environment commensurate with the beach front activity.
- Development should promote a mix of interesting, vibrant and exciting leisure activities during the day and in the evening that will attract both residents and visitors. This needs to go beyond the provision of restaurant site opportunities. Opportunities exist for cultural recognition and artworks.”

Figure 83: Beach Precinct Vision



CONDITIONS OF DEVELOPMENT LEASE.

The property is made available in accordance with the site information made available in MBD13.

Suspensive Condition

This transaction is subject to the following suspensive conditions:

1. Funding

This Agreement is subject to the suspensive condition that within 90 (ninety) days after the Signature Date, a loan be approved / bank guarantee granted to the Lessee by a funder registered with Financial Sector Conduct Authority (FSCA) inter alia, the following conditions –

- 1.1 Against registration of a first mortgage bond as security for the loan for the total development cost of the lessee.

In this regard it is specifically agreed that the aforementioned condition precedent shall be fulfilled as soon as a financial institution has issued the Lessee with a pre-agreement/quotation/ guarantee, in whichever form, as provided for in the National Credit Act, No. 34 of 2005. For the avoidance of doubt the suspensive condition shall be deemed to have been met upon approval of the Loan/ submission of the guarantee.

- 1.2 If the suspensive condition in clause 1.1 is not fulfilled within the time period contemplated above ("**the Specified Date**"), then this Agreement shall automatically lapse and be of no further force and effect, but any Party may, on written notice prior to the expiry of the specified date ("**the Notice**") to the other Party, require that the suspensive condition be fulfilled within 30 (thirty) days after the Specified date of the Notice and, failing fulfilment (to the extent legally permissible) of the suspensive condition within the aforesaid 30 (thirty) day period, then this Agreement shall cease to be of any force and effect and no Party shall have any claim against the other of them as a result of the failure to fulfil of the suspensive condition.

2. Rental deferment

The rental may be suspended for the development period stipulated on the bidders proposal or until the Practical Completion Certificate is issues (whichever comes first) from date of registration of the lease to allow for the redevelopment of the property provided that the capital investments is above R50 million. Should the developer not complete the development within the 3-year period an application can be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.

The Lessee must subcontract a minimum of 30% of the construction cost to companies owned costs to local companies that 51% black owned in line with paragraph in line with paragraph 5.12.4 of the eThekweni Municipality Land Disposal and Granting of Rights Policy read together with paragraph 52 (21) (e) of the eThekweni Municipality: Supply Chain Management Policy, 2023.

Property Tenure

The Property shall be made available by means of a lease agreement in accordance with Municipality's standard agreement. The following terms of contract are non-negotiable:

The Property shall be made available by means of a long-term lease agreement in accordance with eThekweni Municipality's standard agreement. The following terms of contract are non-negotiable:

1. The lease period will be for a period of **45 (Forty-Five) years**. Upon expiry or termination of the Development and Lease agreement, possession of the property will revert to the eThekweni Metropolitan Municipality without any compensation.
2. Bidders are required to make an offer not less than the minimum acceptable offer for the lease of the facility on the property as part of the proposal form; as indicated in REU MBD 3.
3. Market Rental will be reviewed every five years.
4. Should the successful bidder's proposal include land use rights over and above the allowable proposed land uses, costs of acquiring consents for additional land uses will be for the bidders account.
5. The Lessee will not be entitled to cede and /or assign all or any of its rights and /or obligations relating to the construction of the Development under this agreement to any third party, without the prior written consent of eThekweni.
6. The Lessee shall not be entitled to cede and/ assign all or any rights and obligation under this agreement to any other party without a prior written consent of the Lessor, which consent shall not be unreasonably withheld or delayed unless the cession / assignment will result in a reduction of ownership % upon which the awarding of the lease was based upon by the Lessor, the BBBEE Level must be the same or better than that imposed at the time of award.
7. Any change of directorship of the company or transfer of the Lessee 'shares, capital or any transaction which results in a change in the effective control of the Lessee shall constitute an assignment of lease. A change in control of the Lessee without the written consent of the Lessor shall deemed to be a breach of the Lease in terms.
8. The successful bidder will be responsible for the cancellation, protection and/or relocation of all servitudes that may be registered over the property.
9. Bidders are required to demonstrate their ability and capacity to deliver and manage the proposed development.
10. The successful bidder will be responsible to obtain all statutory approvals (Environmental, Water Use Licence, Site Development Plan/s, Building Plan/s, etc.) which are required for the development of the property.
11. Development shall be subject to all related legislation and Municipal by-Laws.
12. Bidders are required to demonstrate their ability and capacity to deliver and manage the proposed development by submitting a detailed profile of the professional team and their successfully completed development. They must further demonstrate their ability to secure funds required to carry out the project.
13. The premises shall only be utilised for the purpose as advertised and may not be rezoned for any other purposes for the duration of the lease period;

14. That, a deposit equal to one month's rental shall be paid by the lessee upon signature of the lease agreement. Such deposit shall be refundable if all rental amounts are paid up date at the time of the expiry of the lease agreement or vacation of property, subject to the property being returned in a clean and tidy condition.
15. All administrative and incidental costs relating to the drafting of the lease shall be for the lessee's account.
16. Bidders are required to submit a financial proposal which is not limited to but should include;
 - o A detailed cost estimate, together with supporting documentation of the costs of development.
 - o A time schedule for the redevelopment of the building.
17. That, the application shall be liable for the payment of all sewerage, refuse removal fees, Levied or payable in respect of the site and all electricity and water supplied to the site.
18. That all environmental and related legislation and By-laws applicable to the Property shall be complied with and that all building plans to be submitted to the Local Authority for approval prior to any construction.
19. That, all Emergency Management Services By-laws be complied with and adhered to and that access to emergency vehicles should be provided on the property.
20. The Council and its authorised representatives/agents shall have 24 hours' unrestricted access to the electricity, water and any Municipal Servitudes on the property and that no structures will be allowed within these servitudes.
21. The bidder is expected to submit a detailed empowerment plan demonstrating how the following will be achieved:
 - a. Job Creation Plan (during and after redevelopment)
 - b. Enterprise Development (during and after construction)
 - c. Training and Development Programmes (throughout the lifecycle of the project)
 - d. Demonstrate how the development will benefit the local community and/or community based organisations
 - e. Procurement of Material from Local Suppliers
 - f. Partnership with Women Owned Companies

Bidders are expected to advice and provide a detailed plan and how the numbers are achieved .

1. Ariel Photo



2. SITE INFORMATION

Property Description	Proposed Lease on Erf 12281 Durban
Size (Lease area)	1 457 m ²
Zoning	Beach
Structures and Physical features	<p>The property is a building measuring 1 457 m² in a good condition.</p> <p>The interior of the structure is in a average condition.</p>
Current Use	Currently occupied by a number of restaurants and take away facilities
Minimum Acceptable Rental Offer	R245 000.00 per month
Highest and Best Use	<p>The highest and best use is in line with town planning of promoting and using the sea shore in a sustainable manner and as part of broader coastal management, and provide a mix of uses which permits recreational, pleasure, tourism and commercial activities.</p> <p>Reflected as beach zone in town planning scheme, see attached controls. Land size can be enhanced if redeveloped appropriately within designated controls and approvals. No dedicated parking available.</p> <p>Rezoning and special consent will be responsibility of developer</p>

ZONE: BEACH								
<p>SCHEME INTENTION: To :-</p> <ul style="list-style-type: none"> • promote and use the sea shore in a sustainable manner and as part of broader coastal management, • provide a mix of uses which permits recreational, pleasure, tourism and commercial activities, and • preserve the open character of the beach zone through the appropriate use of scale and positioning of development. 								
MAP COLOUR REFERENCE: Orange Dots on White background						MAP REFERENCE:		
PRIMARY			SPECIAL CONSENT			PRECLUDED		
<ul style="list-style-type: none"> • Action Sports Bar • Beach Amenity Facility • Garden Nursery • Conservation Area • Flea Market • Government / Municipal • Health Studio • Museum • Nature Reserve • Nature-Based Tourism • Place of Public Entertainment • Restaurant / Fast Food outlet • Shop • Utilities Facility • Zoological Garden 			<ul style="list-style-type: none"> • Museum • Telecommunication Infrastructure • Conference Facility • Mobile Home Park & Camping Ground • Night Club • Special Building • Any other use authorised in terms of Section 9.4 (Important Buildings and Objects) 			<ul style="list-style-type: none"> • All other uses not indicated in the Primary and Special Consent columns 		
ADDITIONAL CONTROLS - LAND USE								
1. Parking shall be in accordance with Section 6 of this scheme.								
DEVELOPMENT PARAMETERS								
SPACE ABOUT BUILDINGS			DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION(m ²)	HEIGHT	PARKING	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE	REAR						
Nil	Nil	To the discretion of the Municipality	N/A	N/A	Refer to additional development parameters below	Parking provided by the Municipality	N/A	N/A
ADDITIONAL CONTROL - DEVELOPMENT PARAMETERS								
<p>Height: The following height provisions shall apply to the Beach Zone:</p> <p>(a) Notwithstanding the provisions of (a), (b) and (c) hereof, the following shall be permitted:</p> <p>(i) Masts, poles or towers of a decorative or functional nature shall be permitted provided that they are not designed to be occupied and do not exceed a height of 50.0m above mean sea level; and</p> <p>(ii) Lifeguard towers and ancillary facilities inclusive of ablutions and administrative offices.</p> <p>(b) The Municipality may authorise the erection of a building or structure to a greater height than stipulated in above/below regulations, if it considers that the proposed building or structure will be so situated in relation to any existing building or structure, topography or established vegetation that there will be no additional adverse visual impact, or if the Municipality considers that the proposed building or structure will have an insignificant or minor visual impact and such building or structure will provide a useful public amenity. Provided that any such application shall be supported by an analysis of actual sea views in the area where the building is to be sited, with a graphic impression of the proposal illustrating the potential visual impact thereof.</p> <p>(c) The Municipality may at its discretion, require application for Special Consent in order that public comment may be obtained and taken into account.</p> <p>(d) The two North beach restaurant buildings have fixed height limits based on a beach development, i.e. 12.9m and 12.4m respectively</p>								

5.2.2 Notwithstanding the requirements in respect of floor area and coverage, the Municipality may in special circumstances authorise by special consent the erection of a building of a greater floor area and/or coverage, if it is satisfied that such greater bulk will not result in any significant detriment to the amenities of the area and furthermore that the general intent of the floor area and coverage restrictions imposed within the particular zone is not being deliberately circumvented by such application.

5.2.3 Notwithstanding the provisions of this sub-subsection:

the Municipality may disregard any garage or portion of any other building which, whether by reason of the topography of the site or not, is erected below the level of the ground, where it considers that there will be no interference with the amenities of the area existing or as contemplated by this Scheme; provided that such garage or portion of any other building is covered over to its satisfaction;

5.3 HEIGHT

5.3.1 The maximum permitted height shall be provided for in Section 7: Development Facilitation Tables of this Scheme. In calculating the height for any building.

- (a) No part of any building on a site in a General Business (Central), General Residential 5, Education 3 or Cultural and Entertainment Zones or on a site zoned for Government or Municipal purposes situated on Sea View Street shall project above a line drawn at an angle of 59° to the horizontal from a point at street level on the opposite boundary of any street which the site upon which the building is situated has frontage; provided that the Municipality may by Special Consent authorise a lift motor room or lift tower, an electricity transformer and meter room, a mechanical ventilation or air-conditioning plant room, a water tank and any architectural or structural feature of the building to project above the 59° angle line.
- (b) In the case of any building on a corner site fronting onto streets of different widths, the line referred to in paragraph (a) hereof, shall be drawn as aforesaid provided that in respect of the first 30, 0 metres of the frontage along the narrower street, measured from the street corner, the said line shall be drawn as if the width of such narrower street was that of the wider street.
- (c) The provisions of paragraph (a) and (b) hereof shall not apply: -
 - (i) to that part of a building having frontage to a vehicular street which, from a height of 15,0 metres or less above street level, is set back for its full remaining height a distance not less than 5,0 metres from any building line, or where there is no building line from the boundary of any road reserve (existing or as contemplated in terms of this Scheme) to which the building will have frontage provided that every such setback shall, unless the Head: Development Planning, Environment and Management otherwise directs, extend over the whole length of such frontage; to that portion of a building which fronts a non-vehicular street to the extent that compliance with such provisions along any frontage to a vehicular street is not affected;
 - (ii) where the Municipality has agreed to the encroachment of a building above any street, existing or as contemplated in terms of this Scheme, to such portion of such building and, if the encroachment is to the full width of such street, to such portion of any building directly facing the encroaching building on the opposite side of such street, as the Municipality in its absolute discretion may determine; Provided that no such building may, without the Special Consent of the Municipality be built to a height which exceeds 110.0m.

(d) For the purpose of this sub-section:-

- (i) no street shall be regarded as being less than 9,0 metres, or more than 30,0 metres wide; and
- (ii) the street level shall be deemed to be the mean pavement level adjacent to the building concerned.

By Special Consent:-

1. in the case of a zone referred to in (a) or (b) above, authorise on a sloping site the erection of a building which is more than three storeys in height if such building will at no point have more than two storeys in a vertical line or the erection of a building which is three storeys in height; provided that the Council may exempt an applicant from applying for special consent; provided further, that the prior written consent of the registered owner of each adjoining property and such other properties as the Council may direct, has first been obtained.
 2. in the case of a zone referred to in (c) above, authorise the erection of a building more than three storeys in height.
 3. in the case of a zone referred to in (d) above, authorize on a sloping site the erection of a building which is 3 storey's in height; provided that the council may exempt an applicant from applying for special consent; provided further, that the prior written consent of the registered owner of each adjoining property and such other property as the council may direct has first been obtained.
- 5.3.2 Notwithstanding the requirements in respect of height, the Municipality may authorise by special consent the erection of a building of a greater height, if it is satisfied that such greater height will not result in any significant detriment to the amenities of the area, that such greater height is reasonable having regard to the topography and/or the uniqueness of the site and furthermore that the general intent of the height restriction imposed within the particular zone is not being deliberately circumvented by such application.

The floor area, coverage and height controls shall apply to the overall parent erf and not to the individual curtilages within a multi-unit development unless specifically stated to the contrary. Unless otherwise agreed, the individual curtilages shall have a maximum floor area and coverage based on the mean per curtilage of that allowed for the overall development.

5.3.3 THE BEACH ZONE

- (1) For the purposes of this Scheme, the Beach Zone shall include:
 - (i) All land which is zoned Beach in terms of this Scheme;
 - (ii) The beach north of the southern bank of the Umgeni River; and
 - (iii) The beaches of the Bluff and Merewent.
- (2) The height requirements pertaining to the Beach District are provided under Section 7: Development Facilitation Table: Additional Development Parameters within the Beach Zone.

SJ No. 4806/7

Plan showing
Land to be Leased
Lower Marine Parade / 122228 Street
Suburb of Durban Beachfront
Ethekwini Municipality

Cadastral Description:
Proposed Leases on Erf 12281 Durban

Notes :

- Street address is 137 Lower Marine Parade
- All services shown or otherwise, are as obtained from the Corporate GIS database or other relevant internal or external departments and should be verified on site as applicable
- Areas, dimensions and building positions are subject to survey as the plan was drawn using 2019 aerial photography
- Proposed Lease is currently zoned as Beach. Zoning information is obtained from the Corporate GIS database.
- Leases 69-76, 78 and Remainder of Lease Erf 12308 to be cancelled.

PROJECT TITLE :
SNELL PARADE - JOE KOOL'S

Proposed Lease 2

Sides	Metres
Q1R1	8.6
R1S1	8.6
S1T1	8.6
T1Q1	8.6
Area	74 sq m

Proposed Lease 1

Sides	Metres	Sides	Metres
AB	11.6	VW	4.7
BC	1.6	WX	3.7
CD	2.5	XY	6.8
DE	7.6	YZ	4.7
EF	2.7	ZA1	11.9
FG	7.3	A1B1	1.1
GH	4.2	B1C1	5.2
HJ	1.7	C1D1	0.8
JK	9.2	D1E1	1.3
KL	3.5	E1F1	0.7
LM	4.4	F1G1	1.4
MN	4.4	G1H1	0.9
NP	2.3	H1J1	3.6
PQ	2.2	J1K1	8.1
QR	8.0	K1L1	1.0
RS	7.5	L1M1	5.2
ST	7.1	M1N1	3.0
TU	3.1	N1P1	3.3
UV	5.5	P1A	5.2

Area = 1383 sq m

LOCALITY SKETCH

NOT TO SCALE

SCALE 1:500

OWNERSHIP SCHEDULE

PROPERTY	REGISTERED OWNER	DIAGRAM NUMBER	CURRENT DEED
Erf 12281 Durban	Ethekwini Municipality	SV 630 F 38	G 9752/1920

Ownership details obtained via "DEEDSWEB"

PRELIMINARY

ETHEKWINI MUNICIPALITY

Approved: *Z. K.*
Deputy Head: Surveying & Land Information

Prelim. Plan Date : 2020/09/01
Final Plan Date : **SJ 4806/7**

Sheet No. : 1:1000 U41 1:2000 U41

Drawn by : A. Misra
Job No. : 2020/104
Ward No. : 26

Checked by : B. Byrnes
Digital Ref. : 4806_7

Survey Correspondence Ref. : L152
Land Transactions Ref. : 13064/L
Vote No. : 31521.27999.7101.99000.7101.PD001.0010

Prepared by:
Surveying & Land Information Department
Engineering Unit
180 K.E. Masinga Road (Old Fort Road)
Durban
Tel: 031 - 311 7228



MBD 14: REGISTRATION DOCUMENTS

The following documents must be submitted at the time of tender closing

- Natural persons, Sole proprietors and JVs – copy of ID document/passport
- Schools – copy of Provincial School registration certificate
- NGO – copy of Provincial registration certificate
- Society Club/ Association – copy of Constitution / founding document
- Partnership -copy of partnership agreement plus IDs of all partners
- Closed Corporation - Copy of CK1 and/or CK2 and members' agreement
- Company – current CM29,
- Trust – letter of appointment from the Master of the High Court of SA and deed of trust
- Joint Venture / Consortiums– JV agreement plus ID documents/ company Registration document of all members of JV/ Consortiums.

MBD 15: AUTHORITY TO SUBMIT BID

If bidder is a legal entity, a company resolution /Power of Attorney must be attached (these documents must authorise the named person to submit this application and to enter into agreements with the eThekweni Municipality should the application be successful)

Is a company resolution attached?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Is the bidder a natural person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Is a certified ID copy attached?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Is a copy of the bidder's power of attorney attached?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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MBD 16: PAYMENT OF MUNICIPAL ACCOUNT



DECLARATION OF MUNICIPAL CHARGES FROM TENDERER

EtheKwini Revenue
Florence Mkhize Building
251 Anton Lembede Street
Durban
4001

Tel: 031 328 1200
Fax: 031 328 1002
E-Mail: revline@durban.gov.za
Website: http://www.durban.gov.za

I, _____
(Full Name and Surname)

ID Number in my capacity as the duly authorised member / director / owner or partner of

(Full name of Company / Close Corporation / partnership / sole proprietary/Joint Venture) hereinafter referred to as the TENDERER

do hereby declare that all Municipal charges of the aforesaid TENDERER, are, as at the date hereunder, fully paid or an Acknowledgement of Debt has been concluded with the Municipality to pay the said charges in installments.

The following account details relate to property of the said TENDERER:

ACCOUNT	ACCOUNT NUMBER
ELECTRICITY	_____
WATER	_____
RATES	_____
OTHER (specify)	_____

I acknowledge that should the aforesaid Municipal charges fall into arrears, the Municipality may take such remedial action as is required, including termination of any contract, and any payments due to the Contractor by the Municipality shall be first set off against such arrears. **ATTACHED** please find copies of the above account's and or agreements signed with the municipality.

- Where the **TENDERER'S** place of business or business interests **are outside the jurisdiction of eThewini municipality**, a copy of the accounts/agreements from the relevant municipality must be attached.
- Where the tenderer's Municipal Accounts are part of their lease agreement, then a copy of the agreement, or official letter to that effect is to be attached.

Full Name and Surname

Signature

Date

Designation

Company Stamp

Contact No

REU MBD 17: DEVELOPMENT PROPOSAL

Bidders are required to submit a concise development proposal for the site. The development proposal must include a concept Site Development Plan, an Architectural concept of the proposed development, proposed tenancing and preservation of the natural environment. The redevelopment/refurbishment proposal must contain the following:

Concept Site Development Plan (Tenancing)	Total Floor area (m²)
Building footprint	
Public places	
Parking bays (Number of bays)	
Landscaping	
Others	
Totals	

1.2 Proposed improvements summary (if any)

Use	Total Floor area (m²)
Totals	

1.3 Estimated Cost of Development.

A breakdown of all costs to be incurred by the bidder in the preparation of the site must be provided. The cost provided in this section will form a critical part of the evaluation of proposals and will be a contractual condition of the development agreement awarded.		
No	Item Description	Estimated cost (Including vat)
1	Civil and Electrical Services	R
2	Civil Works	R
3	Top Structure (Building) Costs	R
4	Professional Fees	R
5	Sundry Development Costs	R
6	External/Bulk Services Contributions	R
7	Other	R
8	Totals	

1.4 Estimated development time frames

Estimated time, in months, from date of signature of lease agreement to date of start of construction.	Months
Estimated time, in months, from start of redevelopment/ refurbishment to completion of construction.	Months

REU MBD 18: SUSTAINABILITY MODEL (FUNDING/ DONOR/ SPONSOR)

<p>Ideas in sourcing and growing the following aspects:</p> <ul style="list-style-type: none">- Membership- Subsidy- Sponsor- Donation- Fund Raising- Bank Institution	
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REU MBD 19: PUBLIC/SOCIAL BENEFIT PROPOSAL

It is a requirement that bidding entity or individual should demonstrate the following social benefits:

1. Demonstrate how the development will benefit disadvantaged communities, youth, women and people with disabilities	
2. Demonstrate how the development will benefit the local community and/or community based organisations	

REU MBD 20: PROPOSED EMPOWERMENT PLAN

FRAMEWORK FOR ACCELERATING ECONOMIC EMPOWERMENT AND TRANSFORMATION

1. EThekweni municipality is and will remain deliberate about transformation and its economic empowerment goals and is committed to the empowerment agenda.
2. The successful bidder will be required to champion the entrenchment of true economic transformation and empowerment in its spheres of influence. The successful bidder will be required to go beyond redressing historical imbalances and towards intrinsic true value that will result in active deliberate facilitation of sustainable and meaningful participation of Black people in the mainstream of the economy through its assets, investments and projects.
3. The bidder will be required to commit to the achievement of the following specific targets by completing the table below. The commitments made on the table below will be measured against the targets and used in the evaluation of the functional compliance evaluation. The commitments made in this table will form part of the contractual obligations of the successful bidder:

EMPOWERMENT TARGETS

DESCRIPTION	TARGET	Bidders Commitment in numbers of persons
Job Creation & Job intensive plan		
Total number of jobs to be created during construction	Total jobs created	
Total number of jobs to be created after construction	Total jobs created	
Training & Development programme		
Training and Development Programmes (throughout the lifecycle of the project)	60% of workforce	
Rand value of spend to local SMMEs that have black ownership	50% of project value	
Full use of locally sourced or locally assembled material and/or products	70% of project value.	
Procurement of Material from Local Suppliers	30% of project value	
Enterprise Development Enterprise (during and after construction)		
	Subcontracting a minimum of 30% of the Construction Cost to companies owned costs to local companies that 51% owned by Black people.	
Partnership with Women, Youth, and People with disabilities owned Companies	Total jobs number of Companies	
Demonstrate how the development will benefit the local community and/or community based organisations		

REU MBD 21: DEVELOPMENT EXPERIENCE OF THE BIDDING ENTITY

Certificate of Practical Completion issued in terms of the Joint Building Contracts Committee (JBCC) clearly reflecting the bidding entity or its Consortium/JV partners as employers or developers, indicating the name and type of development.

No	NAME / TYPE OF DEVELOPMENT (Shopping centre, Offices, Residential Development)	DATE OF COMPLETION	PROJECT VALUE IN RANDB	PRINCIPAL AGENT NAME	CONTACT DETAILS (PHONE NUMBER AND EMAIL ADDRESS)
1					
2					
3					
4					
5					
6					
7					
8					

REU MBD 21: DEVELOPMENT EXPERIENCE OF THE BIDDING ENTITY

- a) Details of proposed team including relevant experience and qualifications.
- b) The team must be appropriately qualified.
- c) Provide CVs and certified copies (copy with original stamp) of their relevant qualifications etc.

Details of experience completed by professional team.				
(PLEASE EXPAND TABLE IF REQUIRED) NB: DO NOT ATTACH A SEPARATE TABLE				
DISCIPLINE & NAME OF TEAM MEMBER	EMPLOYER/ CLIENT	NATURE OF WORK	VALUE OF WORK	CLIENT & CONTACT NUMBERS
Architect				
Quantity Surveyor				
Engineers (civil and electrical)				
Project Manager				

THE BIDDER MUST INCLUDE TRACABLE REFERENCES FOR EACH PROFESSION.

Construction Team Relevant Company Experience and References

- (a) Construction Team Bidder to submit, profiles, experienced and qualifications (with a minimum of 5 years' experience)
- (b) Main contractor- Evidence of at least 3 or more Completed Projects of a similar nature (i.e. Development/ Building Conversion/Refurbishment - Certificate of completion or traceable reference letters must be attached for project of similar nature.

Main contractor- Evidence of at least 3 or more Completed Projects of a similar nature (i.e. Development/ Building Conversion/Refurbishment - Certificate of completion or traceable reference letters must be attached for project of similar nature.

No	PROJECT SUMMARY / SCOPE	START DATE – END DATE	PROJECT VALUE IN RANDS	CONTACTABLE REFERENCE INFORMATION
1				
2				
3				
4				
5				

Construction Team Bidder to submit profiles, experience and qualifications (with a minimum of 5 years' experience)

DISCIPLINE & Name of team member	EMPLOYER/ CLIENT	NATURE OF WORK	VALUE OF WORK	Client & contact Numbers
Site Manager				
Registered Health & Safety Officer				
Social Facilitator				

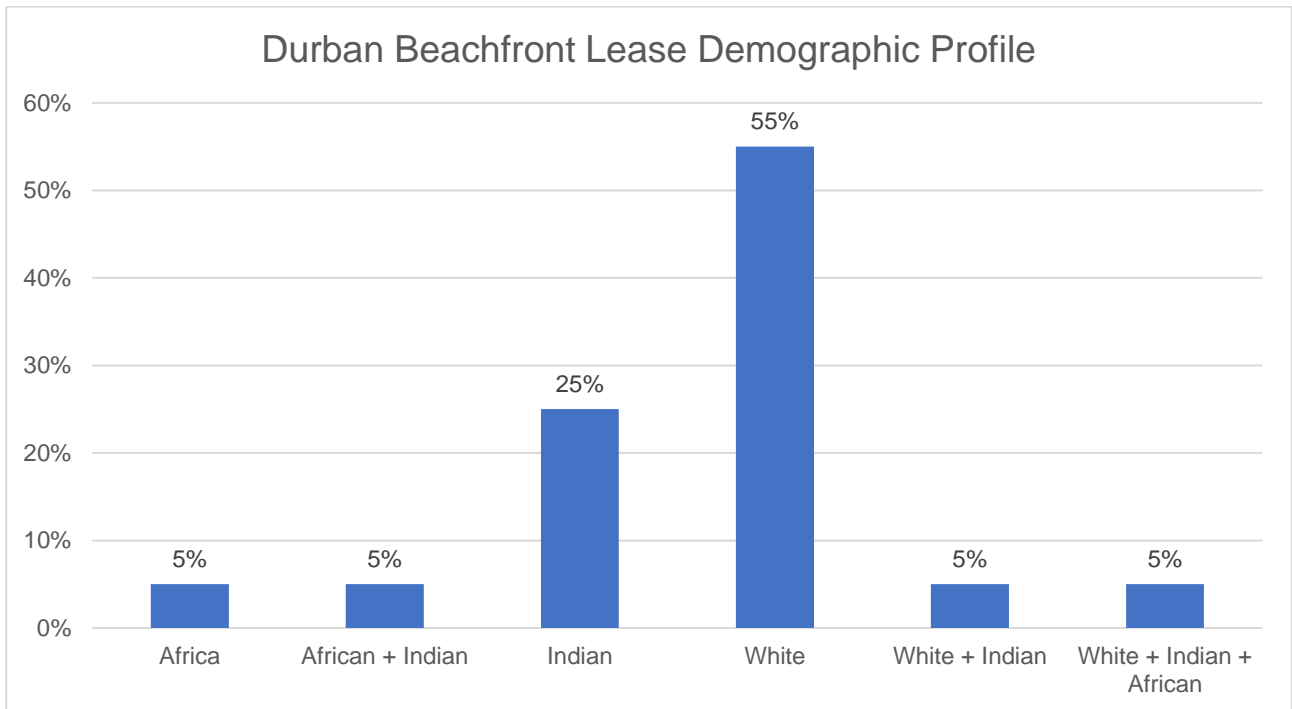
REU MBD 22: ACCESS TO FUNDING

<p>The bidder must submit proof of availability of 100% of the funding required for the development as per MDB 17.</p> <p>Please note that the following definitions will be used in assessing the proof of availability of finance:</p> <p>Proof of available funds qualifies as a letter/ expression of interest from a registered funder with Financial Sector Conduct Authority (FSCA) on an official letter head confirming the bidder’s ability to access the funding required for the proposed development.</p> <p>Provide funding model to incorporate how and where the funding will be sourced/raised, and it must include collateral to be pledged against such funding if required.</p>	
Total Development Cost	R
Debt Finance	R
Equity Investments (if any)	R
<p>Source of Debt Finance</p> <ul style="list-style-type: none"> Letter confirming access to debt funding 	
<p>Source of Equity Finance</p> <ul style="list-style-type: none"> Written confirmation of equity funding <p>(Note: this source may not be a bank loan).</p>	

ANNEXURE A: DEMOGRAPHIC PROFILE

DEMOGRAPHIC PROFILE APPLICABLE TO OBJECTIVE CRITERIA

Current demographic profile of existing leases - Durban Beachfront



In instances where the leased premises is currently vacant the historic demographic profile was used.

COMMITTEE RECOMMENDS:

- 1.3.1 That the Municipal Council declares in terms of Section 14 of the Municipal Finance Management Act No.56 of 2003, that:
- 1.3.1.1 The property described as proposed lease 1 on Erf 12281 Durban in extent of 1457m² is not required to provide a minimum level of basic Municipal services and is considered to be a surplus to the requirements of the Municipality for the period of the proposed granting of the rights to use, control or manage the said property; and
- 1.3.1.2 The Municipality has considered fair market value of the asset, economic and community value to be received in exchange for the asset, and the current market value of the property being R17 800 000.00 (Seventeen Million Eight Hundred Thousand Rand) at an assessed market rental of R245 000.00 (Two Hundred and Forty Five Thousand Rand) per month.
- 1.3.2 That the Municipal Council approves the granting of rights to use control or manage the capital asset described as proposed lease 1 on Erf 12281 Durban in extent of 1457m² as depicted on Plan No.: SJ 4806/7, in terms of Regulation 34 (1) (b), read with Regulation 36 and Regulation 41 of the Municipal Assets Transfer Regulation 2008, and the approval to consider the following:
- 1.3.2.1 A long-term right is proposed to be granted in respect of the capital asset;
- 1.3.2.2 The rental be assessed on the open market value;
- 1.3.2.3 The property described as proposed Lease 1 on Erf 12281 Durban be leased by way of public tender in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation Framework, at a basic rental of R245 000.00 per month, escalating by 7% per annum, and reviewable every 5 years for a period of 45 years;
- 1.3.2.4 All costs incidental to the transaction shall be borne by the lessee and all the developmental plans must be submitted to the Local Authority for approval prior any construction; and
- 1.3.2.5 The rental be suspended for up to three years from the date of registration of the lease to allow for development of the property and should the Developer not complete the development within a three-year period, an application be made to the Head: Real Estate to submit a request to full Council to consider an extension of time to complete the development in accordance with suitable terms and conditions as recommended by the Head: Real Estate.
- 1.3.3 That subject to the adoption of .1 and .2 above and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all documents necessary to conclude the required lease agreement.

ADOPTED.