

eThekweni Municipality
COMPLIANCE MONITORING BRANCH
Report Submission/Compliance Certificate
(To be completed with submission of reports for Bid Evaluation and Bid Adjudication Committees)



Report To:	BAC	Name of recommended bidder(s)	SOUTH AFRICAN ASSOCIATION FOR MARINE BIOLOGICAL RESEARCH (RF)
Tender No:			
Name:	UMW 322		
Description:	CONTRACT FOR THE OPERATION AND MANAGEMENT OF THE OCEANARIUM AND MARINE LIFE FACILITY AT DURBAN MARINE THEME PARK T/A uSHAKA MARINE WORLD		
Tender Validity Period:	Section 36		

COMPLIANCE CERTIFICATE FOR BID COMMITTEE

Recommended Tender's

SOUTH AFRICAN ASSOCIATION FOR MARINE BIOLOGICAL

Proof of registration on Central Supplier	MAAA0089497	(Compliant)
Proof of registration with Municipal Database (V- BBBEE Verification Certificate	Expiry Date:	
	Level:	

Item	Status	Comments
Form of offer	Checked Not Required	N/A
Received documents	Checked Not Required	N/A
Benchmarking	Checked Not Required	N/A
Above 30M Contract: Set aside 30% of the project	Checked Not Required	N/A
Price preference points correctly calculated	Checked Not Required	N/A
Original valid Tax Certificate	Checked Approved	Status: Compliant Expiry date: 16/09/2025
Proof of Registration on CIDB	Checked Not Required	N/A
Between 5M-30M: 30% reserved for Sub-Contract	Checked Not Required	N/A
Compliant with DTI Local Content	Checked Not Required	N/A
Compulsory/ briefing attendance register	Checked Not Required	N/A

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Fully completed declaration interest	Checked Approved	26/06/2025
ITC Printout for recommended tenderer	Checked Approved	Crosscheck attached
Fully completed declaration of municipal fees	Checked Approved	Clear
Certificate of Independent Bid Determination Form	Checked Approved	26/06/2025
Audited Financial Statements	Checked Not Required	N/A
Minutes of negotiations and draft contract	Checked Not Required	N/A

CSD Status

Check	Message	Status	Status Check Date
Supplier Status		Pass	30/06/2025
CIPC Business Status	In Business	Pass	30/06/2025
Restricted Supplier		Pass	30/06/2025
Tax Status	Tax Compliant Expiry Date:2024-	Pass	30/06/2025
Bank Account Verified	051504251 Verification	Pass	30/06/2025

Notes

1. Signature of compliance monitoring authenticate that at the date of closing the tender all applicable certificates were valid.
2. All Bid Reports are to be hand delivered to a receptionist at Tenders and Contract co-ordination branch
3. Price Preference Points correctly calculated and functional threshold fairly achieved. (The technical department/Unit has applied it's mind to deal with all relevant and applicable implications as called for in both functionality evaluation and technical specification accordingly.)

Officer's Comments or Notes

Officer's Signature

Simphiwe Mhlongo

30/06/2025

Name

Signature

Date



REPORT TO BID ADJUDICATION COMMITTEE

(Deviations from, and ratification of minor breaches of, procurement processes: Regulation 36 of the Municipal Supply Chain Management Regulations)

To:	Bid Adjudication Committee
Contract Description:	Contract for the Operation and Management of the Oceanarium and Marine Life Facility at Durban Marine Theme Park t/a uShaka Marine World
Date:	18 June 2025

Contract no:	UMW322	Unit:	uShaka Marine World
Project Manager:	Ndabezitha Khoza	Department:	CEO's Office
E-mail:	nkhoza@ushakamarineworld.co.za	Cellular phone no:	076 984 9126
Telephone number:	0313288032	Fax no:	

Project Objective/s:	Periodic Review of the pre-MFMA indefinite contract with South African Association for Marine Biological Research in terms of section 116 (1)(b)(iii) of the Municipal Finance Management Act.
Scope of Works:	Operation and management of the oceanarium and marine life facility
IDP Linkage:	2E. Developing a Competitive Tourism Sector

1. CATEGORY:

Goods		Professional Services (Built Environment)	
Services	X	Professional Services (Other)	
Engineering & Construction Works		Movable Asset Disposal	
Leases		Immovable Asset Disposal	

2. ELEMENT OF REGULATION 36 APPLICABLE:

1(a)	(i)	An emergency	
	(ii)	The goods or services are produced or available from a single provider only	
	(iii)	The acquisition of special works of art or historical objects where specifications are difficult to compile	
	(iv)	The acquisition of animals for zoos; or	
	(v)	Exceptional case where it is impractical or impossible to follow the official procurement processes; and	X
1(b)	To ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature		

Motivation overleaf



MOTIVATION FOR APPLICABILITY OF REGULATION 36

- 2.1. The Municipality established Durban Marine Theme Park (DMTP) trading as uShaka Marine World, a private company, whose objective was to construct and operate a world-class tourist attraction in the form of a Theme Park, including a marine park, waterpark, a retail mall and other tourist facilities.
- 2.2. The Marine facility comprises of sea aquarium, dolphinarium, shark tank and various additional charge activities.
- 2.3. The Municipality engaged a nonprofit, non-government organization called South African Association for Marine Biological Research (SAAMBR) which was operating independently to relocate and undertake to operate the Marine Park at DMTP but still remaining a separate company. The relationship between SAAMBR and DMTP is that of an independent contractor not partnership. A Heads of Agreement was concluded between DMTP and SAAMBR. (Annexure A).
- 2.4. Although the City initiated and negotiated these engagements, they were not a signatory in these Heads of Agreement.
- 2.5. SAAMBR remains the owner of all the marine animals at DMTP, retain their own staff compliment who are experts at management of the animals and are also responsible for the maintenance of the infrastructure housing the animals. They also remain as the only Pan-African Association of Zoos and Aquaria (PAAZA) accredited aquarium in Africa. PAAZA is an internationally recognised organisation and a member of the World Association of Zoos and Aquariums.
- 2.6. The Heads of Agreement was entered into before the commencement of the Municipal Finance Management Act 56 of 2003 (MFMA). The Heads of Agreement is a perpetual agreement as opposed to the prescribed three-year period as stipulated in section 116(1)(b) of the MFMA. The Heads of agreements provides for the signature of a Service Level Agreement (SLA) between SAAMBR and DMTP to provide detailed service level and other terms of engagement not included in the Heads of agreement. The SLA is reviewed and signed every three years. The current SLA is up for review (Annexure B).
- 2.7. The Heads of Agreement provided for the funding of SAAMBR operations from the gate takings of the Marine Park, however the Marine Park has never been in a profit position since inception of the theme park and therefore operations of SAAMBR have been funded by the Municipality through an annual grant. The Municipality has undertaken this responsibility to ensure that SAAMBR has sufficient funding to carry out properly their obligations and cover costs to ensure animal health; husbandry without reduction in stock; continuation of research; education and conservancy capacity of SAAMBR, all of which is provided for in the Heads of Agreement.
- 2.8. Up until 2016, SAAMBR was paid directly by the Municipality at which time that the Auditor General issued a finding to the City around the direct disbursement as the agreement with SAAMBR was between DMTP and the SAAMBR. From 2017 to' date the City budgets for the SAAMBR grant but it is paid to DMTP who in turn disburses it to SAAMBR.
- 2.9. The services provided by SAAMBR fall within the scope defined in section 76 (b)(iv) of the Municipal Systems Act of 2000 (MSA). Furthermore, section 81 of the MSA defines the responsibilities of a municipality when providing a service through a service delivery agreement with an external mechanism.
- 2.10. As stated in paragraph 6 above, the agreement with SAAMBR is perpetual but is reviewed every three years in terms of section 116(1)(b)(iii) of the MFMA. Hence the Entity also



enters into a 3 year SLA. With the pending expiry of the current SLA, the Entity has entered into negotiations for the new 3 year SLA covering the period 01 July 2025 to 30 June 2028. The municipality has also confirmed availability of grant funding for SAAMBR for this purpose over the MTREF as set out paragraph 3 below.

- 2.11. Based on the background and the current circumstances provided above, it is impractical for the municipal entity to procure services of SAAMBR through a competitive bidding process. Thus, the Entity is submitting this matter to the Committee for it to note that a new SLA will be entered into with SAAMBR for the MTREF period stated above including the provision of grant funding using section 36(i)(v) of the SCM Policy.

3. PROJECT ESTIMATES, FINANCIAL AUTHORITY & RECOMMENDED COMPANY:

	2025/2026	2026/2027	2027/2028	Total Excl. VAT
Services Rendered – Animal Care	86 400 000	86 400 000	864 00 000	R259 200 000

Financial Provision has been made for the project as follows:

BU	Item	Funding	Costing	Project	Region	Provision	Commitment to Date	Amount Available
97540	10530	11200	0000	MRC01	0010	R259 200 000		R259 200 000

Financial Provision:

This is an operational expense for services of oceanarium and marine life facility at uShaka Marine World. The amount is funded through the City budget allocation which is transferred to UShaka Marine World. The financial provision R259 200 000 (Excluding. VAT)

4. RECOMMENDATIONS:

It is recommended that the Committee:

4.1 Notes that the appointment and the continued utilisation of SAAMBR as a service provider is the best possible solution as the only service provider capable of providing the services required by the entity and the municipality, considering that:

- There is already a perpetual Heads of Agreement in place which was entered into prior to the MFMA coming into effect; and
- SAAMBR has the ownership of the marine animals at DMTP as well operational rights (licenses), staff compliment and the expertise to operate the aquarium.

5.2 Notes that the Entity will be entering into a new SLA with SAAMBR for the MTREF period stated above including the provision of grant funding using section 36(i)(v) of the SCM Policy.



Ndabezitha Khoza		
Name of Project Manager	Signature	Date
031 328 8038	Declaration by Project Manager: I have prepared this report in a fair and proper manner in accordance with the conditions of contract, and relevant Codes of Conduct	
Contact Telephone Number		
Nokwazi Nzimande: Procurement Manager		
Name of SCM Committee Member	Signature	Date
031 328 8244		
Contact Telephone Number		
Saloshini Govender: Compliance Officer		
	Saloshini Govender (Jul 2, 2025 15:49 GMT+2)	
Name of SCM Committee Member	Signature	Date
031 328 8239		
Contact Telephone Number		
Zimbali Khwela: Finance Manager		
Name of SCM Committee Member	Signature	Date
031 328 8026		
Contact Telephone Number		
Mbali Ngubane: CFO		
Name of SCM Committee Member	Signature	Date
031 328 8026		
Contact Telephone Number		
Musa Ndaba: SCM Compliance and Monitoring Manager		07/07/2025
SCM Compliance and Monitoring	Signature	Date
031 322 6082		
Contact Telephone Number		

✶ SUBJECT TO BAC DETERMINING
IF ELEMENT 36(1)(a)(v) IS THE
MOST APPROPRIATE OVER 36(1)(a)(ii).