

POLICY ON DISPOSAL OF IMMOVABLE ASSETS  
MATJHABENG LOCAL MUNICIPALITY



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## 1. DEFINITIONS:

**“Alienate”** in relation to a sale of land means sell, exchange or donate, irrespective of whether such sale, exchange or donation is subject to a resolutive or suspensive condition;

**“Immovable Asset”** means immovable property and includes:

- i. any land (including erven) in the normal sense of the word;
- ii. any sectional unit under the Sectional Titles Act;
- iii. any right to claim transfer of such assets;
- iv. any undivided share in such assets;
- v. initial ownership referred to in section 62 of the Development Facilitation Act, 1995;
- vi. any interest in land, other than a right or interest registered or capable of being registered in terms of the Mining Titles Registration Act, 1967 (Act 16 of 1967);
- vii. any agricultural land as defined in section 1 of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970);
- viii. any real rights in such assets registered in the name of the Municipality;
- ix. any public service infrastructure; and
- x. all other immovable property which, by law, vests in the Municipality;

**“BBBEE”** Broad Based Black Economic Empowerment in accordance with the Broad Based Black Economic Empowerment Act (Act No 53 of 2003) means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:

- a) increasing the number of black people that manage, own and control enterprises and productive assets;
- b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- c) human resource and skills development;
- d) preferential procurement; and
- e) investment in enterprises that are owned or managed by black people;

**“Capital Assets”** included immovable assets such as land, buildings and installations that cannot be moved without changing the identity thereof;

**“Constitution”** means the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996);

**“Council”** means a municipal council referred to in section 157 of the Constitution;

**“Disposal”** means the sale, exchange, donation or letting of Municipal land, including:-

- a) the alienation of immovable assets
- b) the allocation of Municipal land free of charge for a period of time;
- c) the conclusion of any form of land availability agreement in respect of immovable property with any person; and
- d) the registration of any real or personal right in respect of Municipal land including servitudes.

**“Integrated Development Plan (IDP)”** means the Integrated Development Plan of the Municipality as envisaged in section 25 of the Municipal Systems Act (Act No. 32 of 2000);

**“Competitive Process”** means a call for alternative proposals, a closed tender, a public tender or a public auction;

**“Market value”**, in relation to a property, means the amount a property would have realized if sold on the date of valuation in the open market by a willing seller to a willing buyer;

**“Municipality”** means the Matjhabeng Local Municipality;

**“Municipal Manager”**, means the Municipal Manager of the Municipality;

**“Municipal Valuer”** means a person designated as a municipal value in terms of section 33 (1) of the Municipal Property Rates Act no 6 of 2004;

**“Previously Disadvantaged Individuals (PDI)”** means persons who were previously disadvantaged by unfair discrimination and who, in terms of section 9(2) of the Constitution, may be protected and advanced to achieve equality and, for the purposes of this policy, includes the following designated groups:

- a) Men of African, Asian or coloured descent;
- b) women, irrespective of descent; and
- c) disabled persons, irrespective of descent;

**“Viable Property”** means Property that can be developed and function as a separate entity capable of registration by the Registrar of Deeds;

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

**“Social benefit”** is defined as services provided by registered welfare, charitable, non- profit and Religious organisations.



**“Public-Private Partnership”** means a Public-Private Partnership as defined in the Municipal Public-Private Partnership Regulations

**“Real Rights”** means the right to traverse privately owned property with servitudes, which are notarially registered in the Deeds Office or contained in Title Deed Conditions

**“Spatial Development Framework (SDF)”** means the SDF of the Municipality.

**“Supply Chain Management Policy (SCMP)”** means the Supply Chain Management Policy of the Municipality;

**“MFMA”** means the Municipal Finance Management Act, (Act No. 56 of 2003);

**“Systems Act”** means the Local Government: Municipal Systems Act, 32 of 2000

**“Unsolicited bid”** means a bid that is pre-emptively submitted by the prospective supplier to Municipality without any requirements being identified and advertised.”

## 2. PREAMBLE

2.1 The purpose of this Policy document is to:

2.1.1 Provide a policy framework for the management of Council's immovable assets; in accordance with the Municipality's Supply Chain Management Policy as amended in the Supply Chain Management Policy scorecard.

2.1.2 Establish policy prescriptions to regulate the use, disposal and acquisition for various categories of immovable property; and

2.1.3 Provide provisions for regulating and coordinating transactions to facilitate the establishment of appropriate private/public partnership to develop properties.

2.1.4 To address the methodology and procedure for the sale and letting of various types of properties, and at the same time make economic opportunities available to investors that will result in the economic growth and development in the local economy.

2.2 In the exercise of its powers, duties and functions, Council has the right to acquire, hold, enhance, lease and alienate land and other immovable property.

2.3 Council is the custodian of the Municipality's land and immovable property and is responsible for the administration thereof.

2.4 A key objective of Council is to ensure that immovable property held by it, which is not envisaged for, or already used for, public purposes and/or in the public's interest, should be dealt with in a manner which will ensure the greatest benefit to the Council and the community.

2.5 All applications to dispose of Council property must be considered in accordance with this policy framework, current legislation and relevant supply chain management policies.

### 3 INTRODUCTION AND OBJECTIVES

3.1 The inequitable spread of ownership of property throughout the Matjhabeng area and the historical causes thereof are recognised, and Council acknowledges that it has a leading role to play in addressing these imbalances by ensuring that the immovable assets under its control are dealt with in a manner that ensures the greatest possible benefit to the strategic objectives of, the municipality and the community that it serves.

3.2 The objective of this policy is to provide a framework for the disposal or transfer of immovable assets or rights thereof and the management and use of Council's immovable property in the event that the property is not subject to disposal, in a manner that would support the strategic objectives of the municipality contained in its IDP, the Spatial Development Framework and the needs and aspirations of the community that it serves.

### 4 POWERS AND RESPONSIBILITY

4.1 Sections 14 read with section 90 of the Local Government: Municipal Finance Management Act No. 56 of 2003 ("the MFMA") prescribes that:

#### ***"Section 14 Disposal of Capital Assets***

*(1) A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.*

*(2) A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public—*

*(a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*

*(b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.*

*(3) A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.*

*(4) ....*

*(5) Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management (SCM) policy which the municipality must have and maintain in terms of section 111.*

*(6) This section does not apply to the transfer of a capital asset to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets provided by the National Treasury, provided that such transfers are in accordance with a prescribed framework.”*

4.2 Apparent from above provisions is that:

- 4.2.1 Council must reserve and manage immovable property in its own ownership for municipal purposes aligned with its strategic objectives and to use, enhance and improve such immovable property enclosed and cultivated.
- 4.2.2 Council must reserve and manage immovable property in its ownership for its purposes and operation needs.
- 4.2.3 Council may only alienate immovable property or rights in immovable property once it is satisfied that such property or right is not required to provide the minimum level of basic municipal services and once it has considered the fair market value thereof as well as the economic and community value to be received pursuant to such disposal.
- 4.2.4 Before alienating immovable property or rights in property, Council must be satisfied that alienation is the appropriate methodology and that reasonable economic and social return cannot be derived whilst ownership of the immovable property or rights is retained by Council.
- 4.2.5 All processes for the disposal of immovable property must be considered in accordance with this policy framework as set out herein.

4.3 Council may acquire immovable property and rights in property by way of private treaty, cession, donation and expropriation to support its strategic objectives.

4.4 Council may alienate immovable property and rights in property in its ownership by way of a direct sale, public tender, auction and donation.

4.5 Council may let immovable property in its ownership on a long term or short term basis by way of direct negotiation or public tender.

4.6 Any disposal should take into account that the municipality has a core responsibility to acquire and avail land and buildings, in the first instance, for its own use for purposes of developing and maintaining municipal infrastructure, promoting service delivery and for facilitating social and economic development and spatial integration. Land assets unrelated to these responsibilities are, by implication, surplus to the municipality's requirements although future requirements must be acknowledged and hence the need to hold immovable property in reserves.

4.7 Thus, the surplus immovable property may be dealt with by the municipality in a manner that it deems fit, which is either to lease it out or dispose of it completely all transactions that the municipality enters into, there should be maximum benefit to the municipality, its operational requirements and the broader community.

## 5 LEGISLATIVE AND POLICY FRAMEWORK

There are various legislative framework regulating the management and use of land, including but not limited to the following:

- Alienation of Land Act (Act No. 68 of 1981);
- Broad Based Black Economic Empowerment Act (Act No. 53 of 2003);
- Development Facilitation Act (Act No. 67 of 1995);
- Extension of Security of Tenure Act (Act No. 62 of 1997);
- Formalities in respect of Leases of Land Act (Act No.18 of 1969)
- Rental Housing Act (Act No.50 of 1999)
- Land Use Management Bill;
- Local Government: Municipal Finance Management Act (Act No. 56 of 2003);
- Municipal Supply Chain Management Policy Regulations (Act No. 27636);



- Property Rates Act (Act No. 6 of 2004);
- Spatial Planning and Land Use Management Act (Act No.16 of 2013);
- Matjhabeng Spatial Development Framework
- The Constitution of the Republic of South Africa (Act. No. 108 of 1996);

## 6 POLICY PRINCIPLES

In terms of this Land Disposal Policy for Matjhabeng the following principles shall apply:

6.1 Council may alienate land or rights on land by means of direct sale, public tender, unsolicited bid, auction or donation once it is satisfied that such property or right is not required to provide the minimum level of basic Municipal service.

- a) Special measures be introduced to assist PDI's to acquire land therefor the acquisition, sale, auction or donation of land shall be in accordance with the Municipality's Supply Management Policy and the Supply Chain Management Scorecard.
- b) Natural persons and legal entities that have benefited by means of preferential scoring may not dispose of such property by way of a nomination purchaser or within [five years] of (transfer) acquiring it.
- c) In order to achieve the objective of broad based economic empowerment, Council reserves the right to limit the number of acquisitions per tenderer or bidder in the course of a tender.
- d) Special measures be introduced in support of economic development initiatives on a macro scale, including tourism initiatives in accordance with Council's Trade and Investment Attraction & Retention Strategy as well as Council's Tourism Sector Strategy.
- e) Measures should be introduced to achieve equity within the Broad Based Black Economic Empowerment Act (53 of 2003).
- f) The alienation or lease of property or rights in property shall be subject to the transactions being advertised in the press for objections in the Municipality's official languages.
- g) Council may acquire, use, benefit, alienate, let or permit to be built upon, occupied, enclosed or cultivated any immovable property owned by the municipality, unless it is precluded from so doing by law or the conditions under which such immovable property was acquired by the municipality.
- h) Utilisation of Council immovable property will be guided by Council's IDP, SDF and the Land Use Management Plan.

- i) Unless otherwise expressly provided for in any other law and whereas, various legislation provide for the disposal of land at market related prices, land can only be disposed of at less than the market related value, subject to approval by Council in which case Council must consider:
- i. whether the immovable asset is in surplus;
  - ii. the current market value (details of how arrived at) and the community value to be received in exchange for the disposal;
  - iii. a comparison of disposal methods;
  - iv. an examination of costs and benefits of each disposal method, and
  - v. if the disposal envisaged is by way of an offer to purchase or an unsolicited bid, all documentation (including minutes on meeting/s held) pertaining to said offer must be submitted to Council prior to conclusion of such an offer.
- j) The Municipal Manager must submit a report to council in which he draws a comparison between the various methods of disposal (including consideration of the costs and benefits attached to each method) and justify the proposal of the disposal method recommended.
- k) The proceeds derived from the disposal of immovable property may only be used as a funding mechanism for funding of other capital projects.
- l) Reference should be made to the provisions of the Rental Housing Act, Act 107 of 1997 when letting of residential property is concerned.
- m) In assessing proposals, Council should take cognisance of the total cash and developmental value of the packages offered by the renderers where such packages are permissible in terms of the conditions of tender. In cases where the actual amounts tendered are roughly similar but a particular tenderer, for example, also offers to make improvements to the property or add significant value, the cash and developmental value and the social and economic spin-offs of such improvements and the total development must also be taken into consideration when the highest tender is determined.
- n) Where immovable property is alienated or let for a development project, including a business project, but the specific type of development which Council is prepared to allow is of cardinal importance, the Council may call for development proposals, including a monetary offer. In such a case the price offered for the immovable property by the developer will only be part of the total package. Should Council consider it desirable not to accept the highest tender or decide to accept a particular development proposal or package transaction in which the amount tendered is not the highest offer, the reasons for this decision must be fully set out and recorded in the minutes of the Council meeting in question.

- o) The municipality may elect to link the sale or development of land within a single transaction to the development of municipal infrastructure or any other public infrastructure. In circumstances where land is included in such a transaction, the transfer of land will be exempt from procurement processes if the transaction has been concluded in terms of the Councils Supply Chain Management Policy and is compliant to the guidelines prescribed in the MFMA.
- p) The Municipality's designated Valuer shall determine rental amounts unless circumstances warrant the use of an independent Valuer.
- q) Council's immovable property must be inspected in accordance with the Rental Housing Act if residential or at reasonable time periods, but at least once every two (2) years, to ensure compliance with the terms and conditions of the agreement of sale or lease.
- r) The letting of sports ground facilities shall be in accordance with the Municipality's policy applicable to sports and recreation.
- s) Public Auction to dispose of land will be used as a last resort.
- t) Different measures should be introduced regarding the allocation of sites pertaining to different residential categories.
- u) Council may grant occupation of its immovable property prior to the transfer thereof on condition that a suitable sale contract has been entered into, that the purchase price is paid in full or alternatively that an acceptable financial guarantee is provided to secure the purchase price, that occupational interest is payable at a rate specified by Council and further that the Council is indemnified against any and all claims that may arise out of the occupation of the immovable property by the purchaser.
- v) Viable immovable property purchased from Council by a first time homeowner (BNG) shall not, without Council's written consent, be resold within a period of [5 years] of the date of transfer.
- w) Council supports the principle of land restitution and acknowledges that any land claim can only be processed in terms of the provisions of the Restitution of Land Rights Act No. 22 of 1994 and any restitution granted can only be made by the Land Claims Court or the National Minister of Land Affairs in terms of the said Act. Council will support every request by the Land Claims Commission for participation in negotiations and the adjudication of land claims and will endeavour to assist the land Claims Commission in its objectives. In regard to claims for Council owned immovable property, Council endeavours to accommodate the wishes of the Land Claims Commission and undertakes to minimise land acquisition costs, subject to the provisions of the Municipal Finance Management Act, in the spirit of giving effect to the provisions of the Constitution of the Republic of South Africa.

- x) Residential letting agreements must be limited to 3 years and continuance of such an agreement will be in accordance with Section 5(5) of the Rental Housing Act. Tenants of Municipal Residential Property will have a right of first refusal should Council decide to sell or otherwise alienate the leased property.
- y) All rental agreements exceeding 3 years in its rental-period (irrespective of the type of immovable property / land) can only be done in accordance with a council resolution pertaining to the specific property in question and agreements exceeding 10 years must be registered against the property Title Deed as prescribed in the Formalities in respect of Leases of Land Act, 18 of 1969 or any amendments thereto.

## 7. CATEGORIES OF MUNICIPAL PROPERTIES

7.1. The municipality's immovable assets are categorised as follows:

7.1.1. Residential land;

7.1.2. Commercial and industrial land;

7.1.3. Social sites (such as place of worship, Crèches and other institutions); and

7.1.4. Sports sites

7.2. Unless otherwise provided for in this policy, the alienation of viable immovable property shall be effected by means of a process of a competitive bidding process and in accordance with council's policies.

7.3. Immovable property may be alienated to social care users. Unless otherwise directed by Council, the purchase price payable shall be a discounted price subject to any conditions that the Council may wish to register against the title deed of the property, including reversionary provisions.

## 8. PRICING

8.1. Unless otherwise provided in this policy, vacant or improved immovable property and rights in immovable property shall be alienated at a fair market related value as determined by council when considering the valuation report in accordance with Section 14 of the MFMA.

8.2. Immovable capital assets, must be sold at market related prices, unless public interest or the plight of the poor demands otherwise.

- 8.3. Immovable capital assets that are leased, must be leased at market related rates, unless public interest or the plight of the poor demands otherwise.
- 8.4. In the event that immovable capital assets are traded – in for other immovable capital assets, the highest possible trade – in price must be negotiated.
- 8.5. All fees, charges, rates, tariffs, scales of fees or other charges relating to the leasing of property must be paid regularly and reviewed annually.
- 8.6. Should circumstances warrant a decision by Council to donate an immovable asset to any person other than an organ of state consideration should be given to the transfer duty and/or donations tax such a donation may attract.

## 9. MANNER OF DISPOSAL OF THE MUNICIPAL'S VARIOUS CATEGORIES OF ASSETS

### 9.1. Definition of the Process

- 9.1.1. The disposal must seek to achieve objectives of the municipality read with Council's SCMP. The following methods can be employed:
- a) The outright tender method which involves the call for purely financial offers for the immovable property offered for alienation. In adjudicating such tenders the highest financial offer will score a determined number of points with lower offers scoring proportionately in relation to the highest offer. In addition, points must be allocated for complying with the municipality's Black Economic Empowerment Policy.
  - b) The main objective of the outright tender method is the promotion of first time home ownership in previously disadvantaged communities. Black persons who had never before owned immovable property, either directly or indirectly, but are financially able and otherwise qualified will be afforded preference in the adjudication of the tenders. This will apply solely to the disposal of single residential erven in areas and on sites considered suitable to meet this objective.
  - c) Competitive bidding, defined in the Supply Chain Management Regulations.
  - d) An unsolicited bid as per this policy.
  - e) Private treaty applicable between organs of state.

## 9.2. Process for Residential Assets.

9.2.1. Residential land incapable of development on its own (non – viable residential land):

- a) Will be offered as first preference to the respective adjoining owner.
- b) Will be priced at market value. The purchaser will be responsible for any costs associated with the possible relocation of services, rezoning, survey, registration and transfer.

9.2.2. Residential land capable of developments on its own (viable residential land):

- a) Will be subject to an upset price that is market related determined by council in accordance with Section 14 of the MFMA.
- b) Will, within certain pricing cohorts as determined by the Council from time to time, be allocated to take into account persons who might have been previously disadvantaged.
- c) The creation of a free- standing (new –spaces-development) lot will in each instance be preference of the Council in order that the new residential opportunities be created.

9.2.3. Residential land not immediately required by the Municipality’s needs:

- a) These are typically land parcels that have been acquired for a capital project, which has yet to commence.
- b) In such instances:
  - 9.2.3.b.1. the property will be offered on a short-term lease basis, as per lease agreement.
  - 9.2.3.b.2. the rental will be at a market rate, unless otherwise determined by Council.

## 9.3. Process for Commercial Property

9.3.1. Commercial and Industrial land incapable of development on its own:

- a) will be offered in ownership of the respective adjoining owner.
- b) will be priced at market value
- c) the purchaser will be responsible for all costs associated with the possible relocation of services, rezoning, survey, registration and transfer.

9.3.2. Commercial and Industrial land capable of development on its own.

- a) Ownership will be offered by competitive bidding process.

- b) The transaction will be subject to an upset price that is market related.
- c) Might be subject to conditions in support of certain objectives or programmes of the Council.
- d) Might be allocated within an area of specific focus or subject to a specific development or social programme.
- e) The maximum return will not necessarily be the determining factor.
- f) The objectives of Council will be clearly articulated through a competitive bidding process.
- g) The disposal must be subject to development conditions to ensure that Council's aims are achieved.
- h) May be offered in leasehold title to achieve certain objectives or to overcome specific constraints, as may be the situation from a site and/or time specific point of view.

9.3.3. Commercial and Industrial Property not immediately required for the municipality's needs.

- a) These are typically land parcels that have been acquired for a capital project, which is yet to commence.
- b) The property will be offered on a short or long term lease basis, and the period will vary based on when the property will be required.
- c) The rental will be market rate, unless determined otherwise by the Council.
- d) Ownership of the property will be offered by means of private treaty in the event that there is no demand for the site, or where it can be used by the adjoining property owner.

9.4. **Process for Public Service Infrastructure** not needed to provide the minimum level of basic municipal services as contemplated in Section 14 of the MFMA.

9.4.1. Closed streets, lanes and public open spaces may be sold/let to adjoining owners, provided that written notice has been served on all adjoining owners.

9.4.2. The selling price or rental amount for the out-of-hand sale and lease of closed streets, lanes and public open spaces to adjoining owners, shall be determined as follows:

- a) Streets, lanes and public open spaces which will enhance the value of the immovable property of the adjoining owner shall be sold or let at market value;
- b) Streets, lanes and public open spaces which will not enhance the value of the property of the adjacent owner shall be sold or let at 30% of market value, and

- c) Streets, lanes and public open spaces leased/sold to organizations not for gain or to adjacent owners and which land is regarded as a burden to Council shall be sold/let at an annual tariff or sale price calculated at 20% of the market value.

## 9.5. Process for Social Benefit Sites

9.5.1. Social care is a social benefit service provided by registered welfare, charitable, non- profit, cultural and religious organisations and includes, but is not limited to a place of worship to the degree and for that portion of a facility being used for spiritual gathering by, and social / pastoral / manse / welfare caring and support to worshippers and the broader community.

- a) An application or proposal for the disposal of immovable assets to a social care service provider must be accompanied by or include the following:
- i. The name of the Church / Organisation;
  - ii. The Reverend / Pastor / CEO's credentials;
  - iii. The organisation / church's Constitution / Code of Conduct;
  - iv. **Extracts from the minutes of a meeting- or a signed resolution by the board, authorising the signatory to act on behalf of the church / organisation;**
  - v. Proof that the organisation / church is registered at the South African Receiver of Revenue as a Public Benefit Organisation (PBO);
  - vi. In the instance of a church - proof of minimum membership of not less than 500;
  - vii. Names of other branches / congregations of the same organisation / church within **South Africa;**
  - viii. Proof of address where the organisation / church is operating from;
  - ix. If the organisation is a school / crèche proof that it is registered with the Department of Social Development or Department of Education.
- b) When the immovable property disposed of is a piece of land or an erf and the beneficiary is a church:
- 9.5.1.b.1. when the site is not zoned for church purposes, the site should be sold at market value;



- 9.5.1.b.2. If the site is zoned for church purposes the purchase price should be 50% of the market value of the property and that the money be paid in cash on signing the sale agreement;
- ~~9.5.1.b.3. a permanent church building must be constructed on site within 3 years; with additional non-renewable 2 years extension depending on improvements being done at end of the 3 years;~~
- 9.5.1.b.4. no residential unit (parsonage) shall be permitted on the site. ~~Should the need for such a parsonage arise a subdivision and rezoning of the church's erf must be done;~~
- 9.5.1.b.5. the Church building should comply with the National Building and Health Regulations;
- 9.5.1.b.6. the electrical installation of the building must comply to the Occupational Health and Safety Act and to the SANS 10142-2 regulations as obtainable from the Electrical Department of the Municipality;
- 9.5.1.b.7. The cost estimate for the provision and installation of the Electrical Connection to the stand must be obtained from the service provider in the area (Eskom or the Matjhabeng Municipality);
- 9.5.1.b.8. The church must take transfer of the property within 120 days from date of signing the agreement or else ownership and all right, title and interest will revert back to Matjhabeng Municipality;
- ~~9.5.1.b.9. Should a church be unable to purchase the property, council may give a land usage right in the form a notarially registered usufruct in favour of the church provided it complies with all other relevant requirements set out in this policy;~~
- 9.5.1.b.10. Should clause 9.5.1.b.9 applies:
- ~~9.5.1.b.10.1. the property may only be used for the purposes specified and the usufruct will be cancelled, reverting full property rights back to council if the property is not used in accordance with its intended purpose or the conditions set for the use thereof are breached;~~
- ~~9.5.1.b.10.2. the church will be responsible for all rates and taxes (if any), municipal service charges, property insurance and the maintenance or improvement of the properties and any structures thereon;~~

9.5.1.b.10.3. the church can take possession and occupation of the property to start with the development pending registration of the usage rights given by council;

9.5.1.b.10.4. the church will have the first option to buy the erf at its market value less the improvements done by the church during its occupation of the property;

9.5.1.b.11. The option of an instalment sale agreement to churches shall require the church to pay the purchase price together with interest thereon (to be calculated at a market related rate) in monthly instalments over a period of not more than 4 yrs. In addition the purchaser may not take transfer of the property, unless the full purchase price has been paid.

9.5.1.b.12. Council will endeavour to have one communal tap per leased/ allocated erf provided and an applicant shall be requested to provide own portable toilet as means of temporary sanitation, when allocating / leasing subserviced land;

9.5.1.b.13. The church may not tamper with Municipal Infrastructure as a means of connecting (illegally or not) internal services on the property;

c) When the immovable property disposed of is a piece of land or an erf and the beneficiary is a church, bidders in the instance of competitive bidding, will be subject to screening process that will take into account the needs of the community, nature of the organization and ability to discharge intention, and the following factors shall be considered relevant in the selection and allocation of immovable property to places of worship:

9.5.1.c.1. the size of congregation/membership;

9.5.1.c.2. availability of finance to acquire the site and develop same;

9.5.1.c.3. whether or not such a denomination is already represented in the area;

9.5.1.c.4. whether or not welfare type facilities and activities will be in addition to religious activities;

9.5.1.c.5. whether or not the congregation/membership is drawn from the area in which a site is being applied for;

9.5.2. As stated above social care is a social benefit services and furthermore includes, but is not limited to:

- a) child care facility insofar as it contributes to the function of multi-use childcare facility and is operated on a non-profit basis;
- b) retirement villages for that portion of the building or facility available to general public use at subsidized/nominal prices;
- c) schools or educational centres – utilised as homes for the handicapped and disabled persons;
- d) non-profit rehabilitation centres;
- e) homes / centres for indigent, battered or destitute persons;
- f) organisations for the homeless and elderly;
- g) youth activity centres;
- h) facilities for accommodation, care and burial of animals; and
- i) cemeteries, non-profit funeral parlours and non-profit crematoria.

9.5.3. Immovable property may be disposed of in favour of social care users by means of an unsolicited bid only in exceptional cases where Council is of the opinion that public competition would not serve a useful purpose, is in the interest of the community and is in line with Council’s strategic objectives.

## **9.6. Unsold property after following competitive bidding process**

Where viable immovable property is offered for sale by a competitive bidding process, any immovable property which remains unsold in such a project may be sold out- of hand by Council at the upset price or higher, as long as it is satisfied that the market prices are stable. The upset price must be determined in a way that corresponds with a fair market value and must include the recoverable development costs such as municipal services, advertising and survey costs. The upset price must be reviewed at least every [six months].

## **9.7. Dispensing with the competitive bidding process (Unsolicited bids)**

9.7.1. In accordance with section 113 of the Municipal Finance Management Act, 2003 (Act 56 of 2003), there is no obligation to consider unsolicited bids received outside a normal bidding process in respect of immovable assets.

9.7.2. Council reserves the right to entertain unsolicited bids for the purchase of viable immovable property for development purposes, with the proviso that it abides by Council's strategic objectives and more specifically that it favours the promotion of black ownership, entrepreneurship and community upliftment.

9.7.3. Council may decide in terms of section 113 of the Municipal Finance Management Act, 2003 (Act 56 of 2003) to consider an unsolicited bid, only if –

- a) the disposal is linked to a substantial beneficial development and / or improvement commitment that is demonstrably proven as a unique innovative concept by the person who made the bid (the bidder);
- b) the disposal and linked development will be exceptionally beneficial to, or have exceptional benefit and income advantages for Council and Matjhabeng's economy in the form of an agreed value of capital outlay for the development and its related operations ;
- c) the application / proposal sets out details of the feasibility and viability of the project as well as clear financial plan with evidence that the finances are secured for the development;
- d) the allocation / procurement of other or alternative immovable property will render the bidder's proposal uneconomical, useless or impossible;
- e) going through the normal bidding process will deprive the bidder of his intellectual property right to his unique innovative proposal;
- f) the proposed purchase price is equal or higher than the marked related value as determined in accordance with Section 14(2)(b) of the MFMA; and
- g) the reasons for not going through the normal bidding processes are found to be sound by Council.

9.7.4. If the Municipal Manager decides to submit to Council an unsolicited bid that could qualify in terms of section 9.7.3 of this policy, outlines of the proposal must be made public in accordance with section 21A of the Municipal Systems Act, 2000 (Act 32 of 2000), together with –

- a) reasons as to why the bid should not be open to other competitors;
- b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- c) an invitation to the public to submit their comments within 30 days of the notice.

9.7.5. The accounting officer must submit all written comments received pursuant to section 9.7.4 including any responses from the unsolicited bidder, to National and Provincial Treasury for comment.

9.7.6. A meeting of Council to consider an unsolicited bid must be open to the public and when considering the matter, Council must take into account –

- a) any comments submitted by the public; and
- b) any written comments and recommendations of the National and Provincial Treasury.
- c) the documentation submitted in terms of Section 6.1(i)(v)

## 10. TRANSPARENCY AND PRUDENCE CONTROL

10.1. As a local authority, it is important that all immovable property transactions and developments of the municipality involving real rights are conducted in a transparent manner with a high degree of prudence and efficiency.

10.2. A quarterly report must therefore be submitted to council by the accounting officer in cooperation with the Local Economic Development. Such report must contain:

- 10.2.1. a list of the names of all applicants, (and their current residential addresses) requesting property / land / stands or rental units from Matjhabeng Municipality for residential purposes specifying the preferred area, suburb or township;
- 10.2.2. a summary of all applicants for commercial / industrial property containing the names of the applicants, their current addresses, the extent of the property needed, the preferred area township or suburb they are interested in and their intended use of the property;
- 10.2.3. a report giving a description of all pending development-, subdivision-, rezoning- and special consent applications / proposals, specifying the progress made in processing such proposals / applications, the outstanding requirements for final approval, and the estimated timeframe for finalisation.