

UMSOBOMVU MUNICIPALITY

SEXUAL HARASSMENT POLICY

Terminology

- All reference to "the employer" should be taken to mean Umsobomvu Municipality.
- All reference to "the employee/employees" should be taken to mean the employees of Umsobomvu Municipality.

1. Introduction

- (a) The objective of this code is to eliminate sexual harassment in the workplace.
- (b) This code provides appropriate procedures to deal with the problem and prevent its recurrence.
- (c) This code encourages and promotes the development and implementation of policies and procedures that will lead to the creation of workplaces that are free of sexual harassment, where employers and employees respect one another's integrity and dignity, their privacy, and their right to equity in the workplace.

2. Application of the Code

- (a) Although this code is intended to guide employers and employees, the perpetrators and victims of sexual harassment may include owners, employers, managers, supervisors, employees, job applicants, clients, suppliers, contractors and others having dealings with the organisation.
- (b) Nothing in 2(a) above confers the authority on employers to take disciplinary action in respect of non-employees.
- (c) A non-employee who is a victim of sexual harassment may lodge a grievance with the employer of the harasser where the harassment has taken place in the workplace or in the course of the harasser's employment.
- (d) Any employee who utilizes this policy and the procedure outlined in the policy for reasons other than those highlighted in the policy e.g. falsely accusing a fellow employee/manager for personal reasons or undictiveness, will be severely disciplined in line with the Council's disciplinary code.

This policy is also applicable to employees who work after hours.

3. **Definition of sexual harassment**

- [i] Sexual harassment is unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual.
- [ii] Sexual attention becomes sexual harassment if:
 - [a] the behaviour is persisted in, although a single incident of harassment can constitute sexual harassment, and/or
 - [b] the recipient has made it clear that the behaviour is considered offensive; and/or
 - [c] the perpetrator should have known that the behaviour is regarded as unacceptable.

4. **Forms of sexual harassment**

- [i] Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, but is not limited to the examples listed as follows:
 - [a] Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
 - [b] Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling directed at a person or group of persons.
 - [c] Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
 - [d] Reverse harassment occurs where an owner, employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.
- [2] Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating or salary increases.

5. **Guiding principles**

- [i] Employees should create and maintain a working environment in which the dignity of employees is respected. A climate in the workplace should also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or fear reprisals. Implementing the following guidelines can assist in achieving these ends:
 - [a] Employers/management and employees are required to refrain from committing acts of sexual harassment.
 - [b] All employers/management and employees have a role to play in contributing towards creating and maintaining a working environment in which sexual harassment is unacceptable. They should ensure that their standards of conduct do not cause offence and they should discourage unacceptable behaviour on the part of others.
 - [c] Employees/Management should attempt to ensure that persons such as customers, suppliers, job applicants and others who have dealings with the organisations, are not subjected to sexual harassment by the employer or its employees.
 - [d] Employers/management are required to take appropriate action in accordance with this code, when instances of sexual harassment which occur within the workplace are brought to their attention.
- [2] This code recognises the primacy of collective agreements regulating the handling of sexual harassment cases, and is not intended as a substitute for disciplinary codes and procedures containing such measures, where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum. However, collective agreements and policy statements should take cognisance of and be guided by the provisions of this code

6. **Policy Statements**

- [i] As a first step in expressing concern and commitment to dealing with the problem of sexual harassment, employers should issue a policy statement which should provide that:
 - [a] All employees, job applicants and other persons who have dealings with the organisation, have the right to be treated with dignity;

[b] Sexual harassment in the workplace will not be permitted or condoned.

- [c] Persons who have been subjected to sexual harassment in the workplace have a right to raise a grievance about it should it occur and appropriate action will be taken by the employer.
- [ii] Management should be placed under a positive duty to implement the policy and take disciplinary action against employees who do not comply with the policy.
- [iii] A policy on sexual harassment should also explain the procedure which should be followed by employees who are victims of sexual harassment. The policy should also state that:
 - [a] Allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively and confidentially.
 - [b] Employees will be protected against victimisation, retaliation for lodging grievances and from false accusations.
- [iv] Policy statements on sexual harassment should be communicated to all employees.

7. Procedures

Employers should develop clear procedures to deal with sexual harassment. These procedures should ensure the resolution of problems in a sensitive, efficient and effective way.

7.1 Advice and Assistance

Sexual harassment is a sensitive issue and a victim may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. As far as is practical employers should designate a person outside of line management whom victims may approach for confidential advice. Such a person:

- [a] Could include persons employed by the organisation to perform inter alia such a function, a trade union representative or co-employee, by outside professionals.
- [b] Should have the appropriate skills and experience or be properly trained and given adequate resources.
- [c] Could be required to have counselling and relevant labour relations skills and be able to provide advice on a confidential basis.

7.2 Options to resolve a problem

- [a] Employees should be advised that there are two options to resolve a problem relating to sexual harassment. Either an attempt can be made to resolve the problem in an informal way or a formal procedure can be embarked upon.
- [b] The employee should be under no duress to accept one or the other option.

7.3 Informal Procedure

- [a] It may be sufficient for the employee concerned to have an opportunity where she/he can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.
- [b] If the informal approach has not provided a satisfactory outcome, if the case is severe or if the conduct continues, it may be more appropriate to embark upon a formal procedure. Severe cases may include: sexual assault, rape, a strip search and quid pro quo harassment.

7.4 Formal Procedure

Where a formal procedure has been chosen by the aggrieved, a formal procedure for resolving the grievance is available and attached hereto:

- [a] Specify to whom the employee should lodge the grievance.
- [b] Make reference to timeframes which allow the grievance to be dealt with expeditiously.
- [c] Provide that if the case is not resolved satisfactorily, the issue can be dealt with in terms of the dispute procedures contained in item 10 of this code.

8. Investigation and Disciplinary Action

- [a] Care should be taken during any investigation of a grievance of sexual harassment that the aggrieved person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwarranted.

- [b] The Code of Good Practice regulating dismissal contained in Schedule 8 of the LRA, reinforces the provisions of Chapter VIII of this Act and provides that an employee may be dismissed for serious misconduct or repeated offences. Serious incidents of sexual harassment or continued harassment after warnings are dismissable offences.
- [c] The range of disciplinary sanctions to which employees will be liable should be clearly stated, and it should also be made clear that it will be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

9. **Criminal and Civil Charges**

A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator.

10. **Dispute Resolution**

Should a complaint of alleged sexual harassment not be satisfactorily resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the Bargaining Council for conciliation in accordance with the provisions of section 135 of the LRA. Should the dispute remain unresolved, either party may refer the dispute to the Labour Court within 30 days of receipt of the certificate issued by the Commissioner in terms of section 135[5].

11. **Confidentiality**

- [a] Employers and employees must ensure that grievances about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.
- [b] In cases of sexual harassment, management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses and interpreter if required, must be present in the disciplinary enquiry.

12. **Formal Procedure**

Employee lodge completed Annexure A form to Manager or next reporting level



Address grievance within 3 working days



No resolution, refer to Municipal Manager



Address grievance within 6 working days



No resolution, refer grievance to the Council/Bargaining Council

COMPLAINT FORM FOR SEXUAL HARASSMENT

1. To: _____ (Manager) Date: _____

2. Complaint: _____

3. Department: _____

4. Branch: _____

5. Description of complaint:

6. What is the desired outcome:

EMPLOYEE

MANAGER

OUTCOME OF REPORT FOR SEXUAL HARASSMENT CLAIMS

1. To: _____ (Employee) Date: _____
2. From: _____ (Responsible Manager)
3. An investigation was done with regards to your complaint, the outcome of which is:

4. I am recommending/not recommending for further action to be taken against the accused.
5. The form that this action would take is: Informal/Formal (disciplinary action). (If applicable).

Please be advised that if you are happy with the outcome as contained herein, you can discuss the basis for your unhappiness with the writer and your rights herein is fully protected.

EMPLOYEE

MANAGER

Note : that subject to any superior law or other instrument, this policy repeals all or any policy on the same subject matter existing on the date of its coming into operation.

UMSOBOMVU LOCAL MUNICIPALITY SMOKING POLICY

1. OBJECTIVES

- 1.1 Commitment to a clean, safe and healthy environment for all employees and clients
- 1.2 To give effect as an employer and comply with the Tobacco Products Control Amendments Act, 1999 (Act No 12 of 1999).
- 1.3 To ensure that employees who do not want to be exposed to tobacco smoke in the workplace are protected from tobacco smoke.
- 1.4 Provide a safe working environment and protect the health of all employees from illness and injury arising from the workplace.
- 1.5 Move towards a smoke-free working environment.

2. SMOKE-FREE POLICY

- 2.1 Smoking will be prohibited within all municipal buildings as from 1 February 2001 except in designated areas.
- 2.2 Staff may only continue to smoke in the designated smoking areas, which has to comply with the requirements of the law and should display clear signs indicating that it is a designated smoking area.
- 2.3 The policy shall apply to all employees, clients and visitors.

3. BREACH OF THE POLICY

- 3.1 The policy shall form part of the Health, Safety and Environmental of the Local Municipality
- 3.2 Any breach of the policy will lead to application of the Disciplinary Code and Procedure or to a fine of R50.00 as imposed by the Tobacco Products Control Act (Act no 12 of 1999)
- 3.3 The fine should be paid fifteen days after the person is alleged to have contravened the policy. The human resources may with the written instruction of the Municipal Manager deduct the fine from the employee's salary or allowance.
- 3.4 It is the responsibility of the human resources to make sure that the fine or penalty is effected.
- 3.5 In the event of any conflict, the interest of non-smokers will prevail

4. **IDENTIFICATION OF SMOKING AND NON-SMOKING ZONES**

- 4.1 The municipality should identify areas for smoking and non-smoking
- 4.2 All areas within the local municipality where employees are working are non-smoking zones
- 4.3 All areas within the municipality where our clients and visitors or gather for service or any reasons are non-smoking zones.
- 4.4 All vehicles or means of transport of the municipality are non-smoking zones
- 4.5 All area where the municipality utilizes for official purposes are non-smoking zones
- 4.6 Smoking zones will be identified by the Municipal Manager five days after the approval of this policy
- 4.7 Areas identified as smoking zones will be communicated by the Municipal Manager through a notice placed on the official notice board(s).
- 4.8 It is the responsibility of all employees to enquire which areas are identified as smoking zones.

UMSOBOMVU

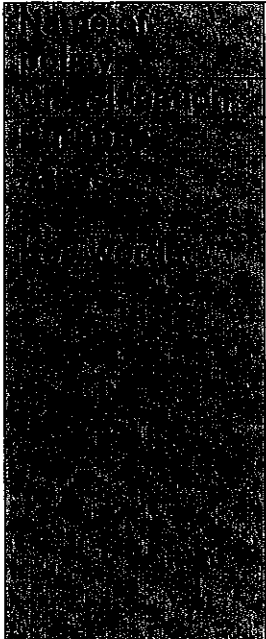
MUNICIPALITY



STAFF PERFORMANCE POLICY

Drafted by:
Abuti Management
Nelis van Zyl

Summary of policy

	Staff Performance
	Human Resources
	To address the importance of staff performance
	To explain the role of management and the employee in performance
	Performance Standards Responsibilities Legislative framework Job description Induction Training Corrective actions Counseling Adequate resources Legal procedures

CONTENT

DEFINING KEY CONCEPTS

1. INTRODUCTION
2. DEFINITION
3. MANAGERIAL RESPONSIBILITY
4. INDIVIDUAL RESPONSIBILITY
5. CO-OPERATION IN SETTING PERFORMANCE GOALS
6. LEGISLATIVE FRAMEWORK
7. LEGAL PROCEDURE IN CASE OF NON-PERFORMANCE
8. IMPLEMENTATION

APPROVAL

DEFINING KEY CONCEPTS

Staff

People in the service of the municipality

Performance

What is achieved in terms of end - results

Levels of achievement

The total output as a result of abilities, competencies, aptitude and attitude

The level of success of an organisation

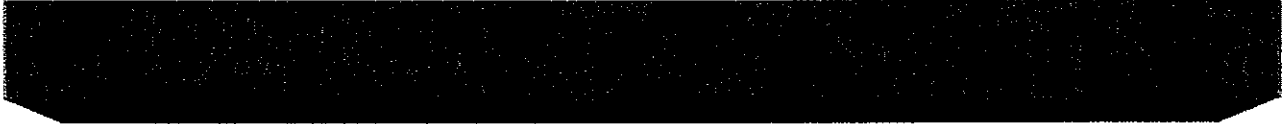
The difference between success and failure

Standards

Level of excellence


Perceived expectation of something or somebody

Standard is high (satisfaction) or low (dissatisfaction)




Research clearly indicates that staff performance is the most critical factor in determining the success or failure of any organisation. Performance of municipal staff are therefore of the utmost importance to achieve strategic and operational plans and satisfy the public.

The focus of the Human Resource Policy on Performance should be a clear directive of the responsibility of management in achieving performance, as well as guidelines for every employee of the support that can be expected to secure performance in the Umsobomvu Municipality.



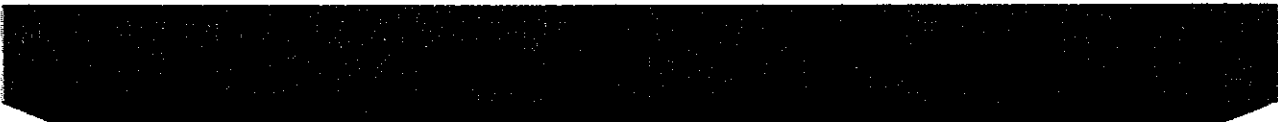
Staff performance is the ability or inability or failure of an employee to meet the required standard(s) or output(s) for the position in which he or she is employed. Poor work performance can refer to the following:

- Less than expected standard(s) of work
- Failure to meet target dates
- Inability to execute management or supervisory decisions
- Need of re-doing important work
- Waste material or resources of municipality due to incapacity
- Non-conformance to reasonable or agreed standards
- Inability to adapt to changes in work procedures
- Inability to adhere to corrective counselling
- Negative attitude that creates non-conformance




It is the responsibility of the management of Umsobomvu Municipality to manage performance and ensure that the following are implemented:


- 3.1 Every employee must possess of a job description (dated and periodically reviewed).
- 3.2 Employees are well-orientated through a formal induction programme and/or on the job instruction.
- 3.3 Be in possession of the conditions of service, code of conduct and relevant internal work procedures.
- 3.4 Regular training on the job be provided.
- 3.5 That a reasonable period is given for employees to learn aspects of their jobs.
- 3.6 That feedback, counselling (if necessary), and where appropriate, retraining are provided to employees to enable them to perform to set standards.



It remains the responsibility of the employee to learn new tasks. If an individual is of the opinion that management does not render support, it is the responsibility of the incumbent to report to higher levels of management or even follow the grievance procedure.




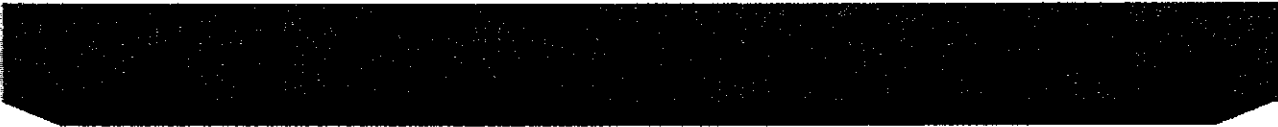
The basic approach and attitude regarding performance should be that the employer and employee must work together to achieve a desirable standard of work. It is the manager's responsibility to evaluate, instruct, provide regular feedback, guide and coach while the employee's responsibility is to subdue to instructions, corrective guidelines and performance standards. Communication skills with aspects such as trust, respect, and openness are critical success factors in achieving acceptable performance standards.



The Labour Relations Act (no 66 of 1995) sets out certain guidelines in handling incapacity. The following is a recommended guideline in dealing with incapacity (distinct from incapacity with ill-health) where an employee has a lack of training, experience and education.

- 6.1 Clear and objective standards should be discussed with the employee. The job related standards should be fair and reasonable in that the employee has sufficient training and knowledge to perform at a particular level. The employer must make sure that the standards are known to the employee.
- 6.2 Performance standards must be set in consultation with the employee.
- 6.3 Any obstacles that have hindered the employee from reaching the set standards must be taken in consideration. What is of special importance is that the resources should be available to execute and perform duties. Examples thereof are computers, communication facilities, stationary etc.
- 6.4 The employee must be addressed in terms of how he/she has not met the standards, as well as given the opportunity to challenge the performance appraisal.
- 6.5 The manager and employee must discuss ways in which performance can be improved.
- 6.6 It is the responsibility of management to assist and support the employee as far as possible. This assistance can take place by regular feedback, on the job training and counselling.
- 6.7 A reasonable time period to improve performance should be given.
- 6.8 All communication between the manager and the subordinate must be confirmed in writing.

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- 7.1 A special attempt to take corrective action regarding an employee's performance should be placed during the probation period.
- 7.2 Corrective measures of performance are not restricted to the probation period, but can be at any point of time in an employee's career with the municipality.
- 7.3 In the event of the employee still not reaching the required standard of performance, the employee's contract of employment may be terminated or the probation period may be extended where appropriate.
- 7.4 Whether a person is in a probation period or not, the correct legal procedure should be followed to dismiss a worker on the basis of incompetence as stated by legislation. The court will ask the following in such a case:
- ▶ Has the employee being exposed to a formal induction course?
 - ▶ Has the employee received proper on-the-job training?
 - ▶ Can the employer provide formal performance appraisal forms?
 - ▶ Have corrective measures being implemented and thoroughly discussed with the employee?
 - ▶ Did a formal counselling session take place with written proof on the personal file of the employee?
 - ▶ Were the resources adequate for the employee to conduct or performs the tasks?
 - ▶ Had the employer done everything to assist the struggling employee to execute its tasks?



	For approval
	For execution
	Administration
	Input, notification and discussion with members
	Notification and clarification

Recommended: Municipal Manager:

Date:

Supported: Union:

Date:

Union:

Date:

Approved: Council

Signature Mayor:

Date:

UMSOBOMVU MUNICIPALITY

STUDY ASSISTANCE POLICY

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Study Assistance Agreement
Study Assistance Application Form

1. Purpose

The purpose of this policy is to provide a support mechanism for Council employees who undertake undergraduate and post graduate courses

that are relevant to their current departmental / divisional work and at the Council as whole.

2. **Scope**

This policy covers all employees both temporarily contracted, and permanent.

This policy applies to all courses that are undertaken at institutions of Higher Learning that are registered with the Department of Education and whose courses are NQF and SAQA aligned.

The policy is not retrospective, that is, unless an agreement to support a study programme is already in place, employees pursuing courses of study at their own expense are not eligible for retrospective support.

3. **Guiding principle**

- Study Aid is a discretionary investment on the part of Council. It is not an employee entitlement.
- By assisting an employee who undertakes further study, Council can invest in the further development of their skills and knowledge, so that they are better able to contribute to the goals of the Council.
- This investment supports the Council's broader strategy of upgrading its qualification profile as entrenched in its Skills Development Policy. Council benefits as an employer from improving the qualifications of its employees. For this reason, accredited providers offering courses should seek to minimize their fees to cost recovery level for employees undertaking an approved course.

4. **General Conditions**

The level of study aid is based on the relevance of the course to the applicant's current or future work at Council as whole not to confine applicants to any functional and on a balanced assessment of competing demands to invest available funds in other employees or in other forms of training and development. This assessment is made by the Study Assistance Committee with motivation from the departmental head and the Skills and Equity section with the level of support being for tuition amount including registration and costs of examination fees, being quoted by the applicant.

Only employees who applied to be assisted to study on approved courses on Annexure "A" shall qualify for study assistance by Municipality. Any commitment by Council to assist a study programme is granted on an annual basis only. Each year the annual commitment of support is then renewed or discontinued in the light of the following guidelines:

(a) Relevance

Employees seeking assistance should base their proposals on the relevancy of the study programme to their personal development plan, work program or performance plan, and also by referring to the objectives of their work area and Council strategy.

(b) Authority

The decision to support an employee undertaking a course is made by the Municipal Manager or his appointed / designated person by considering recommendations from the Study Assistance Committee (SAC), the departmental head which funds all or portion of the relevant fees shall submit a motivation as a supporting document accompanying the employee's study assistance application on whether the employee's application should be approved or not.

A Study Assistance Committee shall be established whose responsibility is to assess and evaluate the application forms and recommend to the Municipal Manager, who then makes a final decision. The Committee will consist of an equal number of members from the employer and trade union. The SAC shall be structured as follows:

Municipal Manager or proxy (who will chair the sessions), Director Finance and Corporate Services and/or Manager Corporate Services, Employment Equity and Skills Development official.

One union representative from each recognized union may be requested to attend as observers but is reserved to the Municipal Manager.

(c) Criteria

The Study Assistance Committee considers two main criteria in deciding whether to assist an employee:

- ◆ Whether the course is relevant to the employee's current or future role at the Council (and therefore would benefit the Council as well as the employee as for example in point 4 on page 1)
- ◆ Whether this is a suitable form of investment in employee development considering the funds available, the needs of the other employees in the group, and other available forms of training and education.

(d) **Review**

Once a decision is made to assist an employee, the decision is reviewed annually using the above criteria, and also taking into account satisfactory progress in the course at the end of each year or semester. **Where the first semester is not satisfactorily completed, the commitment to assist may be suspended and the employee shall reimburse Council for the funds granted.**

Each year the decision to continue or discontinue assistance should be made well in advance of the commencement of the course, so that, if the support is discontinued, employees can decide whether to pay their own fees and complete the course.

5. **Guidelines for financial support mechanism**

The study aid grant covers tuition up to 100% including registration and the costs of examination fees by the employee. All other associated costs are for the employee's own costs. The associated study equipment becomes employee's property upon completion of a study programme.

6. **Level of financial aid**

- **Should an employee successfully passed all subjects Council will refund all amount deducted and should an employee fail one or all subjects such employee will payback Council the portion that has been paid to such employee within study year and/or ten payments which ever is the shortest.**
- This amount is deductible from the employee's salary in equal installments up to and including his / her examination date for the current year or semester at no interest charge.
- **Only on producing of an authentic statement of results will UMSOBOMVU MUNICIPALITY re-imburse the employee the full amount or part thereof, depending on the number of courses successfully completed.**
- Where studies or part thereof are not successfully completed, ULM will review its decision to continue assisting the employee or totally withdrawing its financial assistance thereto.

- Failure to produce any form of document showing successful completion of current studies or subjects automatically removes an employee from the programme until he/she produces results with explanation.
- For all internal short-courses, ULM will provide funding through provision in the Workplace Skills Plan.
- ULM may source and apply for employee participation in various structured courses which SALGA (South African Local Government Association) provides through its Official and Councillor capacity building and development programmes.
- ULM may also, in addition, subject or expose employees to programmes (which are academically relevant) sponsored and identified by foreign donors and institutions with which it has entered into partnership.

7. **Employee obligations**

- All employees under the ULM study assistant programme shall abide by all regulations of the study programme.
- Employees on submission and renewal of study assistant applications each year are required to produce proof of admission from an approved institution detailing the courses admitted to, duration, estimated costs, etc.
- Registered and Council approved institutions include but are not limited to local, provincial and national universities, colleges and technical schools.
- Employees on the study assistance programme shall be obliged upon completion of the assistance period, to remain in the employ of ULM for a period of two years depending on the duration of the study assistance (calculated from 1 January following the year in which the assistance period was completed). This will be subject to the nature of the employment agreement/expiry of the term of office of an employee who is on a contract with ULM.
- All contractual employees who require study assistance in their final year of contract would have no obligation to serve ULM for an additional year unless ULM decides to extend their contracts, but would have the amount of the assistance deducted over a calculated period of their contract.

- In cases where a contractual or permanently employed person's services are terminated with immediate effect, monies that are owed by the employee are recovered immediately from the employee's available sources of income.

8. Study Leave

- Study leave approval is subject to the same general principles and conditions as financial support.
- Options to be negotiated above the normal study leave entitlement as per ULM rules and regulations could include leave with pay, leave without pay or a mixture of these.
- There will be no study leave granted for employees writing class tests, failed or supplementary examinations. Employees are encouraged to use their annual or unpaid leave to cover such days.
- Employees who studying on their own will qualify for the same study leave provided to employees who participate in the study assistance program.
- Accordingly study leave applications and proposals should be discussed by staff with their managers as part of their annual work plan or programme
- Leave applications should be submitted on the ULM normal approved application form where the Manager / Supervisor recommends and the Head of Department approves.
- The main aim of the study policy in relation to combining work and study commitments is that managers and employees negotiate clear, workable, and affordable arrangements from which both the Council and its employees will benefit.
- All employees on the study assistance programme are required to complete and have approved Special leave applications for examinations on the ULM application form stipulating the days of examinations, venues and times and attach a proof thereof.
- All Special leave applications for examinations must be accompanied by an authentic examination time table from the relevant institution.
- All employees on the ULM study assistance programme will be entitled to two (2) days Special Study leave of one day prior to examinations and the examination date for each subject.

- No Special leave applications will be approved for employees who are not covered by the study assistance programme, those who failed an examination, writing of supplementary examinations or class tests during the year.

9. PROCEDURE FOR THE MANAGEMENT OF THE STUDY ASSISTANCE PROGRAMME

NO	RESPONSIBILITY	ACTION
1	EMPLOYEE	<ul style="list-style-type: none"> ◆ Employee shows interest in applying for study assistance and approaches Skills and Equity section. ◆ Must produce proof of registration with approved courses or subjects, institution, estimated costs, and duration recommended by Head of Department
2	DELEGATED AUTHORITY	<ul style="list-style-type: none"> ◆ The Study Assistance Committee determines whether study aid will be approved and to what level, based on study assistance rules, regulations and make recommendations to the Municipal Manager who make the final decision based on recommendations of the SAC. ◆ A signed study assistance application is then sent to the Skills and Equity section with all relevant documentation for information processing and verifications. ◆ The Skills and Equity section also advises the employee on alternative and progressive study programme available on the market and effective study methodologies. ◆ The application form then is sent to the Municipal Manager for final approval and processing of payments directly to the institution.
3	MUNICIPAL MANAGER	<ul style="list-style-type: none"> ◆ The Municipal manager thereafter approves the application for study assistance, issues instructions to Finance department to process a cheque for the value of the approved amount in the name of the institution for which approval was granted, and also instructs same to institute deductions for the study period. ◆ This cheque is either given directly to the employee who will undertake to remit the cheque and bring back a payment receipt, or directly deposited into the institution's bank account.

4	EMPLOYEE	◆ For administration and accounting reasons, the Employee enrolls like any other student at the Institution and KLM is not involved except in providing and deducting funds until the course is successfully completed, documents provided and reimbursement is effected.
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5	SKILLS AND EQUITY SECTION	<ul style="list-style-type: none"> ◆ The Skills and Equity opens up a file for individual employee where data is collected on study assistance, progress and other information. ◆ The Skills and Equity section liaises with the employee regarding all matters relating to the employee's studies. This does not put any obligation on the section to run the employee's study activities. The employee himself / herself should ensure that all relevant information, quotes and paperwork is completed on time and the institution admission dates are adhered to. ◆ Study leave applications are dealt with at departmental level by the employee and his departmental head and sent to the Personal officer (Benefits) and thereafter to the Salaries section for further processing.
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NO: _____

STUDY ASSISTANCE AGREEMENT

ENTERED INTO BY AND BETWEEN

UMSOBOMVU LOCAL MUNICIPALITY
(hereinafter referred to as the MUNICIPALITY)

AND

1. **EMPLOYEE'S DETAILS**

MR/MRS/MISS: _____

ID NUMBER: _____

RESIDING AT: _____

PERSONNEL NUMBER: _____

DEPARTMENT: _____

DIVISION: _____

(hereinafter referred to as the EMPLOYEE)

2. **BACKGROUND**

2.1 The **EMPLOYEE** is studying part time towards the qualification of

.....("the **QUALIFICATION**")

at..... ("the **INSTITUTION**").

2.2 **UMSOBOMVU MUNICIPALITY** agrees to assist the **EMPLOYEE** financially for the period

.....to (**ASSISTANCE**

PERIOD) to meet associated costs with the **EMPLOYEE** attaining the

QUALIFICATION, on the terms set out in this Agreement, which costs

may be adjusted from time to time with the approval of the Municipal

Manager of Umsobomvu Municipality.

3. **STUDY LOAN**

3.1 **UMSOBOMVU** undertakes at the commencement of the **ASSISTANCE PERIOD**, to pay on behalf of the **EMPLOYEE** the costs associated with the tuition fees and prescribed books, which **UMSOBOMVU** in it's sole discretion considers reasonably necessary for the propose of passing the subjects required for the **QUALIFICATION** during the **ASSISTANCE PERIOD**.

3.2 **UMSOBOMVU** will effect payment direct to the **INSTITUTION**, and to the supplier of the costs referred to in 3.1, and will simultaneously debit the **EMPLOYEE** with such costs.

3.3 The **EMPLOYEE** authorizes **UMSOBOMVU MUNICIPALITY** deduct from the **EMPLOYEE's** remuneration, the costs paid on behalf of the **EMPLOYEE**. In terms of paragraph 3.2, by way of twelve separate monthly (1/12th) or six separate monthly (1/6th) installments. Each installment shall be equivalent to 1/12 of the total estimated costs to be incurred during the **ASSISTANCE PERIOD**. The necessary adjustments to the installments may be made from time to time by **UMSOBOMVU**, upon written notice to the **EMPLOYEE**, to conform to actual costs disbursed.

3.4 **UMSOBOMVU MUNICIPALITY** undertakes, in the event of the **EMPLOYEE** successfully completing the subjects / courses during the subject the **ASSISTANCE PERIOD**, to reimburse the **EMPLOYEE** the full value of the costs deducted by **UMSOBOMVU** from the **EMPLOYEE's** remuneration, and which relate to each subject/course successfully completed.

3.5 Subjects to its discretion referred to in paragraph 2.2 above, **UMSOBOMVU** shall pay the costs referred to in paragraph 3.1 above the **INSTITUTION** or supplier as the case may be, against presentation by the **EMPLOYEE** to **UMSOBOMVU MUNICIPALITY** of the invoice relating to such costs.

4. **ADMINISTRATIVE ARRANGEMNTS**

4.1 The **EMPLOYEE** shall be obliged during the **ASSISTANCE PERIOD** to provide **UMSOBOMVU MUNICIPALITY** with copies of all reports issued by the **INSTITUTION** in respect of examination results or courses undertaken by the **EMPLOYEE** during the **ASSISTANCE PERIOD**.

4.2 The **EMPLOYEE** shall be solely responsible for all administrative arrangements in connection with the payment of tuition fees and or study equipment.

5. **TERMINATION**

5.1 **Termination on notice**

5.1.1 **UMSOBOMVU MUNICIPALITY** shall be entitled at any time during the **ASSISTANCE PERIOD**, to cancel in whole or part, any financial assistance rendered to the **EMPLOYEE** in terms of Agreement upon 60 (**SIXTY**) days written notice.

(a) Should **UMSOBOMVU MUNICIPALITY** in its sole discretion considers that the **EMPLOYEE** has failed to apply himself / herself diligently to his / her studies; or

(b) In the event of the **EMPLOYEE** failing to comply with his/her obligations in terms of this Agreement.

5.2 **Summary Termination**

5.2.1 **UMSOBOMVU MUNICIPALITY** shall be entitled at any during the **ASSISTANCE PERIOD**, to cancel in whole in part, any financial assistance rendered to the **EMPLOYEE** in terms of this Agreement, forthwith and without notice:

- (a) In the event of the **EMPLOYEE's** expulsion from the **QUALIFICATION** course or
- (b) In the event of the **EMPLOYEE** discontinuing his/her studies for the **QUALIFICATION** for any reason whatsoever, or withdrawing from the **QUALIFICATION** course.

5.2.2 The Agreement shall terminate automatically in the event of the **EMPLOYEE** dying during the **ASSISTANCE PERIOD** or his/her services being terminated for operational requirements.

6. **OBLIGATIONS OF THE EMPLOYEE**

- In consideration for the assistance rendered by **UMSOBOMVU MUNICIPALITY** to the **EMPLOYEE** in terms of this Agreement, the **EMPLOYEE** shall be obliged, upon completion of the **ASSISTANCE PERIOD**, to remain in the employ of **UMSOBOMVU MUNICIPALITY** for a period of two years depending on the duration of the study assistance calculated from January following the year in which the **ASSISTANCE PERIOD** was completed, or from such alternative date as may be agreed by parties. This arrangement is applicable to all **UMSOBOMVU MUNICIPALITY** employees including those whose employment contracts exceed twelve months period. All contractual employed people would have their deductions structured in terms based to the end of their contract and thereafter would not bear any obligation towards **ULM** except in cases where **KLM** resolves to extend or renew their contracts.

7. **REPAYMENT OF LOAN ON TERMINATION**

- 7.1 All monies disbursed or paid by **ULM** in terms of the paragraph 3.1 above shall become immediately due and payable by the **EMPLOYEE** to **ULM** where:
- 7.1.1 The financial assistance rendered to the **EMPLOYEE** is cancelled in whole by **ULM** in terms of paragraph 5,
 - 7.1.2 The **EMPLOYEE** fails to remain in the employ of **ULM** as provided for in paragraph 6
 - 7.1.3 The **EMPLOYEE's** employment is terminated for any reason whatsoever during the period referred to in paragraph 6, above and whether at the instance of the **EMPLOYEE** or **ULM**; provided that where the **EMPLOYEE** leaves the employ of **ULM** in terms of paragraph 7.1.2 and 7.1.3 above, the monies repayable in terms of this paragraph shall be reduced by 1/12 (One Twelfth) for each month the **EMPLOYEE** remained in the employ of **ULM** during the period referred to in paragraph 6.

7.2 The **EMPLOYEE** authorises **ULM** to deduct from his/her remuneration, any liability which may arrive in terms of this clause.

8. **GENERAL**

8.1 The **EMPLOYEE** acknowledges that the studies towards the **QUALIFICATION** will be completed after normal office hours as contemplated in the Service Agreement between **ULM** and the **EMPLOYEE**.

8.2 The **EMPLOYEE** shall be entitled to such a leave as provided for in the **ULM** leave regulations and policies to attend examinations. Leave shall be granted in accordance with **ULM** leave regulations and policies on presentation by the **EMPLOYEE** of the examination timetable.

8.3 This Agreement constitutes the entire Contract between the parties and any variations, additions, or alterations to this Agreement shall not be valid or binding unless recorded in writing and signed by the parties.

8.4 Failure by **ULM** to enforce compliance with any of the provisions of this Agreement, or the waiver thereof by **ULM** on any occasion, shall not prevent **ULM** from enforcing such condition on any future occasion and shall not be deemed to be a waiver of **ULM**.

SIGNED ATON THIS.....DAY OF.....
2007

.....
(APPLICANT)

AS WITNESSES:

1.....

2.....

SIGNED ATON THIS.....DAY
OF..... 2007

.....
**FOR AND ON BEHALF OF MUNICIPAL
MANAGER REPRESENTING
KOUGA LOCAL MUNICIPALITY**

STUDY ASSISTANCE SCHEME APPLICATION FORM

INSTRUCTIONS

1. Complete in triplicate and send to Skills and Equity section
 2. Attach official copy of previous academic year's exam results
 3. Please attach all other supporting documentation
 - A: Undertaking in terms of the Municipality's Study Assistance Scheme
-

1. Name of applicant.....
 2. ID No.....
 3. Resident.....
.....
 4. Designation.....
 5. Department.....
-

B. Course information

1. Name of institution where intending to register
.....
2. Name of Degree/Diploma/Certificate.....
.....
3. Academic year.....
4. Number of years for which study assistance for this course has been Received.

3. SUBJECTS/VAKKE

Subjects	Codes	Cost
5.1.....
5.2.....
5.3.....
5.4.....

UMSOBOMVU MUNICIPALITY

SUBSTANCE ABUSE POLICY

It is the policy of Umsobomvu Municipality to make every effort to prevent the abuse of any habit forming substance amongst its employees and to assist in the rehabilitation of those employees who have developed a dependency on any drug or alcohol. Umsobomvu Municipality further acknowledges that dependency on drugs or alcohol is an illness which requires special treatment.

1. Prevention

Prevention of alcohol/drug abuse at work is a management responsibility.

2. Rules

2.1.1 The Umsobomvu Municipality cannot be prescriptive regarding private drinking or use on condition that:

- [i] an employee's job performance, attendance, or interpersonal relationships at work are not affected;
- [ii] an employee's conduct does not cause a safety risk to themselves, fellow workers, Municipal property, clients or members of the public;
- [iii] an employee's conduct within an official capacity does not cause an injury to the Municipality's reputation and good standing;
- [iv] an employee does not commit an alcohol or drug related offence in terms of the Umsobomvu Municipality's Disciplinary Code.

2.1.2 If any of the above are contravened the Umsobomvu Municipality reserves the right to evoke disciplinary measures which may include mandatory referral for rehabilitation. The employee may follow the voluntary referral route.

2.1.3 Any offer of assistance does not exempt the employee from standard disciplinary measures.

2.1.4 If an offer of assistance is accepted by the employee he/she must:

- [i] render full support towards assessment;
- [ii] co-operate with recommendations of assessment;
- [iii] take full responsibility for the following up of appointments and treatment as prescribed or deemed necessary.

- 2.1.5 The employer will undertake to fund the cost of rehabilitation for alcohol abuse. This is only applicable when a reasonable quote is submitted for the duration of consultations. The employee and the Council could enter into negotiations regarding the sharing of the cost for the rehabilitation period. Any incidence of further abuse of alcohol/drug after the rehabilitation period may result in dismissal.
- 2.1.6 Should an employee refuse assessment or fail to co-operate with treatment/counselling, a report shall be submitted to the Head of Department. The employer reserves the right to implement the disciplinary code in this instance.
- 2.1.7 The Council reserves the right to obtain an independent assessment on the employees dependency prior to agreeing to assist the employee in terms of the abovementioned. Such assessment must be conducted by a registered recognised body/authority on the treatment of substance abuse.
- 2.1.8 Treatment
- The principles of treatment are:
- * referral – voluntary/mandatory;
 - * assessment on premises and with outside bodies of the Municipality's choice;
 - * counselling on and off Municipal premises;
 - * education;
 - * rehabilitation back into normal work duties.
- 2.1.9 Ongoing monitoring which should last for a period mutually agreed upon by the Umsobomvu Municipality and the employee concerned.

Note : that subject to any superior law or other instrument, this policy repeals all or any policy on the same subject matter existing on the date of its coming into operation.

UMSOBOMVU

MUNISIPALITEIT

MUNICIPALITY



DRAFT SUPPLY CHAIN MANAGEMENT POLICY

MUNICIPAL SUPPLY CHAIN MANAGEMENT MODEL POLICY

Model policy for adoption by municipalities and municipal entities in terms of section 111 of the Municipal Finance Management Act, No 56 of 2003, and the Municipal Supply Chain Management Regulations.

Instructions:

1. Review this model policy to ensure it meets the needs and requirements of the municipality amend where required.
2. Insert the name of municipality or entity and other variable information where required throughout the policy. Delete all notes and instructions contained in boxes.
3. Municipal entities must substitute the term "board of directors" wherever "council" appears in the policy.
4. The accounting officer is responsible for implementing the policy and must ensure it is promptly prepared and submitted to council or the board of directors for adoption (regulation 3).
5. Municipal entities must ensure their policy is consistent with the parent municipality, to the extent determined by the parent municipality (regulation 2(2)).
6. If the accounting officer submits a draft policy to the council or board of directors that differs from the model policy, the accounting officer must ensure that such draft policy complies with the regulations. The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury (regulation 3).
7. The accounting officer must at least annually review the policy and where necessary submit proposals for amendment to the council or board or directors (regulation 3).

MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003
Date of adoption: October 2005

The Council of Umsobomvu Municipality resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Umsobomvu Municipality.

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CHAPTER 2

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Definitions

1. In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

“competitive bidding process” means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

“competitive bid” means a bid in terms of a competitive bidding process;

“final award”, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

“formal written price quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

“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;

“long term contract” means a contract with a duration period exceeding one year;

“list of accredited prospective providers” means the list of accredited prospective providers which the **Umsobomvu Municipality** must keep in terms of paragraph 14 of this policy;

“other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and

(c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

“Treasury guidelines” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

“the Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“the Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

“written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

CHAPTER 1 IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the **Umsobomvu Municipality**

must implement this Policy in a way that –

- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
- (d) is consistent with other applicable legislation;
- (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) This Policy applies when the **Umsobomvu Municipality** –

- (a) procures goods or services;
- (b) disposes goods no longer needed;
- (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

Amendment of the supply chain management policy

3. (1) The accounting officer must –

- (a) at least annually review the implementation of this Policy; and
- (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the **council**.

(2) If the accounting officer submits proposed amendments to the **council** that differs from the model policy issued by the National Treasury, the accounting officer must –

- (a) ensure that such proposed amendments comply with the Regulations; and
- (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

(3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

Delegation of supply chain management powers and duties

4. (1) The **council** hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
- (b) to maximise administrative and operational efficiency in the implementation of this Policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

(3) The accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of **the municipality** or to a committee which is not exclusively composed of officials of **the municipality**.

(4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

Sub delegations

5. (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub

delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be sub delegated by the accounting officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

insert the name and rank of the officials mentioned in subparagraph (2) (b) (i)–

(ii)

- (c) not exceeding R2 million (VAT included) may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager;
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
 - (iv) a bid adjudication committee.

insert the name and rank of the officials mentioned in subparagraph (2) (c) (i)–

(iv)

(3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

- (a) the amount of the award;
- (b) the name of the person to whom the award was made; and
- (c) the reason why the award was made to that person.

- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
 - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - (i) a manager referred to in subparagraph (2)(c)(iii); or
 - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of council

6. (1) The council reserves its right to maintain oversight over the implementation of this Policy.

- (2) For the purposes of such oversight the accounting officer must –
- (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
- (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report **to the council, who must then submit the report to the accounting officer of the parent municipality for submission to the council.**
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the **mayor.**
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

Supply chain management unit

7. (1) A supply chain management unit is hereby established to implement this Policy.

Note:

A parent municipality and a municipal entity under its sole or shared control may establish a joint supply chain management unit to implement their respective supply chain management policies.

(2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

Training of supply chain management officials

8. The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.

CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides systems for –
- (i) demand management;
 - (ii) acquisition management;
 - (iii) logistics management;
 - (iv) disposal management;
 - (v) risk management; and
 - (vi) performance management.

Part 1: Demand management

System of demand management

10. (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by **the municipality** support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

- (2) The demand management system must –
- (a) include timely planning and management processes to ensure that all goods and services required by **the municipality** are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) provide for the compilation of the required specifications to ensure that its needs are met.

- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

System of acquisition management

11. (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
- (a) that goods and services are procured by **the municipality** in accordance with authorised processes only;
 - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the **municipality's** supply chain management system, including -

- (a) the kind of goods or services; and
- (b) the name of the supplier.

Range of procurement processes

12. (1) Goods and services may only be procured by way of –
- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
 - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);

- (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- (d) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts.

(2) The accounting officer may, in writing-

- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
- (b) direct that –
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

General preconditions for consideration of written quotations or bids

13. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the **municipality** to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

Lists of accredited prospective providers

- 14.** (1) The accounting officer must –
- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and

- (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

- (3) The list must be compiled per commodity and per type of service.

Petty cash purchases

15. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows –

- (a) council the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) council the maximum number of petty cash purchases or the maximum amounts per month for each manager;
- (c) council to insert any types of expenditure from petty cash purchases that are excluded, where this is considered necessary; and
- (d) a monthly reconciliation report from each manager must be provided to the chief financial officer, including –
- (i) the total amount of petty cash purchases for that month; and
- (ii) receipts and appropriate documents for each purchase.
- (e) insert any other conditions determined by the council / board of directors.

Written or verbal quotations

16. The conditions for the procurement of goods or services through written or verbal quotations are as follows:

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality provided that if

- quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
 - (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
 - (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
 - (f) *insert any other conditions determined by council.*

Formal written price quotations

17. (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:

- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the **municipality**;
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
- (d) the accounting officer must record the names of the potential providers and their written quotations.
- (e) *insert any other conditions determined by council.*

(2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

18. The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the **municipality**;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- (e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (g) council requirements for proper record keeping.

Competitive bids

19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive

bidding process, subject to paragraph 11(2) of this Policy.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Process for competitive bidding

20. The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
 - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

Bid documentation for competitive bids

21. The criteria to which bid documentation for a competitive bidding process must comply, must –

- (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;

- (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish--
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) insert any other criteria determined by the council / board of directors

Public invitation for competitive bids

22. (1) The procedure for the invitation of competitive bids, is as follows:

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the **municipality** or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

(b) the information contained in a public advertisement, must include –

- (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
- (ii) a statement that bids may only be submitted on the bid documentation provided by the **municipality**; and
- (iii) date, time and venue of any proposed site meetings or briefing sessions.;

(2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

Procedure for handling, opening and recording of bids

23. The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids–
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must –
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

Negotiations with preferred bidders

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

- (2) Minutes of such negotiations must be kept for record purposes.

Two-stage bidding process

25. (1) A two-stage bidding process is allowed for –
- (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids

26. (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;

(2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

- (a) paragraph 27, 28 and 29 of this Policy; and
- (b) any other applicable legislation.

(5) The accounting officer may apply the committee system to formal written price quotations.

Bid specification committees

27. (1) A bid specification committee must compile the specifications for each procurement of goods or services by the **municipality**.

(2) Specifications –

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

(3) A bid specification committee must be composed of one or more officials of the **municipality** preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

Bid evaluation committees

28. (1) A bid evaluation committee must –

- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2) (f).
- (b) evaluate each bidder's ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A bid evaluation committee must as far as possible be composed of-

- (a) officials from departments requiring the goods or services; and
- (b) at least one supply chain management practitioner of the **municipality**.

Bid adjudication committees

29. (1) A bid adjudication committee must –

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

(2) A bid adjudication committee must consist of at least four senior managers of the **municipality** which must include –

- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
- (b) at least one senior supply chain management practitioner who is an official of the **municipality**; and
- (c) a technical expert in the relevant field who is an official, if such an expert exists.

(3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

(4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

(ii) notify the accounting officer.

(b) The accounting officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and

(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

(7) The accounting officer must comply with section 114 of the Act within 10 working days

Procurement of banking services

30. (1) A contract for banking services –

(a) must be procured through competitive bids;

(b) must be consistent with section 7 or 85 of the Act; and

(c) may not be for a period of more than five years at a time.

(2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

31. (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

(2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

(3) The accounting officer must notify SITA together with a motivation of the IT needs if –

- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

(4) If a SITA comment on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

Procurement of goods and services under contracts secured by other organs of state

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subparagraphs (1) (c) and (d) do not apply if –

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

Procurement of goods necessitating special safety arrangements

33. (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

Proudly SA Campaign

34. The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

Appointment of consultants

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

- (2) Consultancy services must be procured through competitive bids if
- (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.

- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the **municipality**.

Deviation from, and ratification of minor breaches of, procurement processes

- 36.** (1) The accounting officer may –
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;

- (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) 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.

(2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1) (a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

(3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

Unsolicited bids

37. (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

(2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- (c) the person who made the bid is the sole provider of the product or service; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, 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 or other potential suppliers to submit their comments within 30 days of the notice.

(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

(6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the adjudication committee must take into account –

- (a) any comments submitted by the public; and
- (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

(9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the **municipality** to the bid may be entered into or signed within 30 days of the submission.

Combating of abuse of supply chain management system

38. (1) The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the **municipality**, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the **municipality** or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has 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).

(2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

Logistics management

39. The accounting officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

Disposal management

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows: council to insert criteria

-
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.

- (3) The accounting officer must ensure that –
- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
 - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

Risk management

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

- (a) council to insert criteria

(2) Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Performance management

42. The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters

Prohibition on awards to persons whose tax matters are not in order

43. (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

(3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

Prohibition on awards to persons in the service of the state

44. Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

- (a) who is in the service of the state;
 - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state;
- or

- (c) a person who is an advisor or consultant contracted with the **municipality**.

Awards to close family members of persons in the service of the state

45. The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

Ethical standards

46. (1) A code of ethical standards as set out in [subparagraph (2) / the ***“National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management”***] select which is applicable is hereby established for officials and other role players in the supply chain management system of the **municipality** in order to promote

-
- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

Note:

It is recommended that the municipality or municipal entity adopt the ‘National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management’. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under “legislation”. This code of conduct must be adopted by council or board of directors to become binding.

Important:

*If the council or board of directors adopts the National Treasury code of conduct, subparagraphs (2), (3) and (4) below **are to be deleted** from the policy and renumber subparagraph (5) to subparagraph (2). Alternatively, should the National Treasury code not be adopted, subparagraphs (2), (3) and (4) must be retained as the minimum code of ethics.*

- (2) An official or other role player involved in the implementation of this Policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the **municipality**;
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to **municipality**;

- (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.

(3) Declarations in terms of subparagraphs (2) (d) and (e) -

- (a) must be recorded in a register which the accounting officer must keep for this purpose;
- (b) by the accounting officer must be made to **the mayor of the municipality** who must ensure that such declarations are recorded in the register.

(4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

(5) A breach of the code of ethics must be dealt with as follows -

- (a) in the case of an employee, in terms of the disciplinary procedures of the **municipality** envisaged in section 67(1)(h) of the Municipal Systems Act;
- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

Inducements, rewards, gifts and favours to municipalities, officials and other role players

47. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

- (a) any inducement or reward to the **municipality** for or in connection with the award of a contract; or
- (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subparagraph (1) does not apply to gifts less than R350 in value.

Sponsorships

48. The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

Objections and complaints

49. Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

Resolution of disputes, objections, complaints and queries

50. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- (a) to assist in the resolution of disputes between the **municipality** and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

Note:

A parent municipality and a municipal entity under its sole or shared control may for purposes of subparagraph (1) appoint the same person.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

- (3) The person appointed must –
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

- (a) the dispute, objection, complaint or query is not resolved within 60 days;
or
- (b) no response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

Contracts providing for compensation based on turnover

51. If a service provider acts on behalf of a **municipality** to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the **municipality** must stipulate –

- (a) a cap on the compensation payable to the service provider; and
- (d) that such compensation must be performance based.

Commencement

52. This Policy takes effect on 1 November 2005.



UMSOBOMVU MUNICIPALITY

CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

The **purpose** of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

1 General Principles

- 1.1 The Umsobomvu municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- 1.2 Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- 1.3 Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

2 Conflict of interest

2.1 An official or other role player involved with supply chain management –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the Umsobomvu municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

3 Accountability

3.1 Practitioners are accountable for their decisions and actions to the public.

3.2 Practitioners should use public property scrupulously.

3.3 Only accounting officers or their delegates have the authority to commit the Umsobomvu municipality to any transaction for the procurement of goods and / or services.

3.4 All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

3.5 Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

3.6 Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

3.7 Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

4 Openness

4.1 Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

5 Confidentiality

5.1 Any information that is the property of the Umsobomvu municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

5.2 Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

6 Bid Specification / Evaluation / Adjudication Committees

6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the Umsobomvu municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

6.2 Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

6.3 the entire members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

6.4 No person should-

6.4.1 interfere with the supply chain management system of the Umsobomvu municipality;
or

6.4.2 amend or tamper with any price quotation / bid after its submission.

7 Combative Practices

7.1 Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

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STANDING RULES OF ORDER

STANDING RULES

SUPPLEMENTING AND SUSPENSION OF RULES

1. Framing of rules

- (i) The Mayor may give a ruling, or frame a rule, in respect of any eventuality for which these Rules do not provide, but such a ruling or framed Rule may not be in conflict with the relevant legislation of the Constitution.
- (ii) A rule framed by the Mayor remains in force until a meeting of the Rules Committee has decided thereon.
- (iii) If a rule is framed by the Mayor, the Rules Committee must decide on such a rule within 14 working days of the date on which the rule was framed.

2. Suspension

- (i) A provision of these Rules relating to the proceedings or business at a meeting of the Council, or a committee thereof, may be suspended by resolution of the Council.
- (ii) The suspension of any provision of these Rules may not be in conflict with the Constitution, or relevant legislation and its operation must be limited to the particular purpose for which it has been approved.

TIMES OF SITTING, SUSPENSION AND ADJOURNMENT

3. Sitting days and hours of sitting

- (i) Council shall meet quarterly based on the calendar roster to be approved at a Council meeting. Special meetings and change of dates shall take place on a need basis depending on the circumstances.
- (ii) The business of the Council may be considered by it on these days.

4. Interruption, suspension or adjournment of proceedings

The proceedings of the Council, or of a Committee of the Council, may be interrupted, suspended or adjournment only by Mayor, or the Councillor presiding at the time.

PROCEEDINGS IN CONNECTION WITH COMMENCEMENT OF SESSION

5. Official Opening

- (i) The official openings of the Council in a calendar year is after the State of Nation, State of Province and state of District Address.

- (ii) The Mayor of delivers and address, called the Mayor's Opening Address at the official opening of the Council.
- (iii) The Municipal Manager must place the Mayor's Opening Address on the Agenda of the Council for discussion.

6. Notice convening first meeting

The Municipal Manager must, within 14 days after the council has been declared elected, inform the elected councilors in writing of the venue, date and time of the first meeting of the council

7. Convening notice read and oath or affirmation

- (i) at the commencement of proceedings of the council at the first meeting after it has been elected, the Municipal Manager must read the notice convening in council.
- (ii) after the notice convening the council has been read, the councilors must swear or affirm faithfulness to the Republic and obedience to the Constitution.

8. Election of Speaker/Mayor

- (i) At its first meeting after its election the council must elect its Speaker from among its councilors.
- (ii) The Municipal Manager presides over the election of the Speaker.
- (iii) The procedure set out in Schedule 3 of the Municipal Structures Act applies to the election of the Speaker.
- (iv) The elected Speaker presides over the remainder of the first meeting of the council and may express a sense of honour conferred upon him or her.

PRECINCTS OF THE COUNCIL

9. Sittings

The Council ordinarily sits at its declared precincts, which based in Colesberg town in the Council Chamber of Umsobomvu Municipality. This is presently the only declared precincts for the duration of the present Council. The new Council may resolve to sit beyond the declared precincts.

PRAYER AND MEDITATION

10. Prayer and meditation

A moment of silence for payer and mediation must be observed at the commandment of business on every sitting day.

PUBLIC ACCESS

11. Admittance of public

- (i) The Council must conduct its business in an open manner, and hold its sittings and those of its committees in public
- (ii) The Mayor has the power to take reasonable measures to regular public access including access of the media, to the Council and to provide for the search of any person and where appropriate, the refusal of entry or the removal of any person in terms of the relevant legislation.
- (iii) The Councillor presiding of a committee has the power to take reasonable measures to regulate public access, including access of the media, to a meeting of a committee, and to provide for the search of any person and where appropriate, the refusal of entry or the removal of any person in terms of section of the Constitution.
- (iv) Persons attending sittings of the Council or its committees must observe such directions and conform to such rules that may be laid down by the Councillor presiding.
- (v) No firearms are allowed or any other dangerous weapons by any person attending a Council meeting.

ABSENCE OF COUNCILLORS AND QUORUM

ABSENCE OF COUNCILORS

12. Attendance of sittings and meetings

- (I) Unless an apology has been made in writing and accepted in terms of sub-rule (2). A Councillor must attend the following:
 - a) meetings of the Council
 - b) committee meetings of the Council
 - c) official seminars, training sessions, and workshops approved by the Mayor.
 - d) Meetings of other structures or bodies as determined by the Mayor.
- (II) A Councillor who wishes to be absent from sittings or meetings mentioned in sub-rule (1) must submit a written apology to the Chief Whip to whom the Councillor reports at least 24 hours before the commencement of the meeting, and the relevant Chief Whip must advise the chairperson of the meeting of such apology. This will be the norm but if conditions do not allow, a verbal apology may be accepted.

QUORUM

13. Quorum requirements

- (I) Unless the Constitution provides otherwise –
- a) the presence of at least one third of the Councillors constitutes a meeting of the Council.
 - b) subject to section 30(2) of the Local Government: Municipal Structures Act, at least a majority of the Councillors must be present before a vote may be taken.
 - c) all questions are decided by a majority of the votes cast except a question mentioned in section 160(2) of the Constitution, which must be decided by a supporting vote of a majority of the Councillors.
- (II) The Mayor has to deliberative vote, but –
- a) must cast a deciding vote when there is an equal number of votes on each side of a question: and
 - b) may cast a deliberate vote when a question must be decided with the support of a vote of at least two thirds of the Councillors.

14. Absence of quorum

- (i) if there is no quorum at the appointed for the meeting of the Council, the meeting does not commence until a quorum is present, in which case the Mayor takes the chair
- (ii) if a quorum is still not present at the expiration of half an hour after the time appointed for the meeting the Mayor takes the chair and adjourns the Council
- (iii) if the attention of the Mayor is called to the absence of a quorum and if after an interval of 10 minutes, there is still no quorum, the Mayor may suspend the proceedings, adjourn the Council or postpone the decision of the question.

15. Adjournment owing to absence of quorum

Whenever the Council is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the Councillors present, must be recorded in the Minutes of Proceedings.

OTHER COUNCILLORS PRESIDING

16. Relief of Mayor

A Councillor, elected by the council meeting under the chairpersonship of the Municipal Manager, takes the chair when the Mayor is unable to do so.

**ORDER IN PUBLIC MEETINGS
AND
RULES OF DEBATE**

ORDER IN PUBLIC MEETINGS

17. Conduct of Councillors

- (i) when the Mayor enters the Council Chamber everybody rise until she/he instruct them to sit down;
- (ii) Every Councillor must be appropriately dressed and when entering or leaving the Chamber, or moves to any other part of the Chambers during a debate, must bow the Chair in passing to or from his or her seat. Unless a member moves toward the Podium to address Council, he or she may not bow.
- (iii) No Councillor may pass between the Chair and the Councillor who is speaking the Chair and the Table, nor stand in any of the passages or gangways.
- (iv) No Councillor will be allowed in the Council Chambers if he/she is drunk or under the influence of alcohol or under the influence of any drug substance.

18. Councillors not to converse aloud

No Councillor may converse aloud during debate.

19. Councillors not to be interrupted

No Councillor may interrupt another Councillor whilst speaking, except to call attention –

- a) to a point of order
- b) a question of privilege; or
- c) the presence of strangers

20. Order at adjournment

When the Council adjourns, Councillors must rise and remain in their places until Mayor had left the Chamber.

21. Order in Council meeting

Order is to maintained by the Mayor

22. Invitation to address the Council

A person who is not a Councillor of the Council may address the Council on invitation by the mayor.

23. Precedence of Mayor

When the Mayor speaks during a debate, any Councillor then speaking or offering to speak must sit, and the Mayor must be heard without interruption.

24. Irrelevance or repetition

The Mayor, after having called attention to the conduct of a Councillor who persists in irrelevance or repetition of arguments, may be heard without interruption.

25. Councillor ordered to withdraw

If the Mayor is of the opinion that a Councillor is deliberately contravening a provision of these Rules or the Constitution, or that a Councillor is in contempt of, or is disregarding the authority of the Chair, or that a Councillor's conduct is grossly disorderly, the Mayor may order the Councillor to withdraw immediately from the Chamber for the remainder of the day's sitting.

26. Grave disorder

In the event of grave disorder at a meeting, the Mayor may adjourn the meeting, or may suspend the proceedings for a stated period.

27. Councillor to be heard

Whenever a charge or an allegation is made against a Councillor, such Councillor must be heard.

28. Councillor to address Chair

Every Councillor desiring to speak must rise, unless there has been prior agreement to sit and address the Chair from the seat, of such Councillor. But the Mayor, after consultation with the Rules Committee, may indicate the instances when Councillors must speak from the podium in the Chamber.

29. Right of Councillors to speak

A Councillor may speak, to –

- a) the question before the Council
- b) any amendments proposed to a question
- c) a question or an amendment proposed or to be proposed by himself, or
- d) a point of order or a question privilege

30. Councillor called to speak

- (i) A Councillor is called by the Mayor to speak in the debate for not more than ten (10) minutes which time shall be monitored by the Chief Whip on the Council meetings.

- (ii) A Councillor who wants to speak shall do so by raising a hand and must be called by the Mayor, and if two or more Councillors raise a hand at the same time, the Councillor who is so called by the Mayor is entitled to speak.

31. **Number of times Councillor may speak to a question**

- (i) Unless otherwise provided in these Rules, no Councillor may speak twice to a question when the Mayor is in the Chair. Provided, that this restriction does not apply to the Mayor or the Councillor in charge of the business before the Council.
- (ii) If any amendments are moved to a question before the Council after a Councillor has spoken, such Councillor may again address the Council on such amendments, but a Councillor who speaks to such question for the first time after amendments have been proposed is allowed only one speech, which may cover the main question and the amendments.
- (iii) When the Council is in Committee, a Councillor may not speak more than 30 times to the same question, including amendments. Provided, that this restriction does not apply to the Mayor or Councillor in charge of the business before the Committee.

32. **Reference to Councillor by Name**

No Councillor may refer to any Councillor by his or her first name or names only.

33. **Offensive Language**

No Councillor may use offensive or unbecoming language

34. **Rule of anticipation**

- (i) No Councillor may anticipate the discussion of a matter –
- a) that appeared on the Agenda of the same meeting of the Council
 - b) that appears on the Agenda at the time of anticipation; or
 - c) is the subject of consideration of a Standing Committee at the time of anticipations.
- (ii) A Councillor anticipates the discussion if a Councillor -
- a) criticizes, debates or discusses it before a debate or other proceedings of the Council; or
 - b) moves a motion, requests a matter of public importance, or places an interpellation or question for oral reply on the Agenda which is substantially the same as the matter anticipated.
- (iii) in determining whether a discussion is out of order on the ground of anticipation, the Mayor must have regard to the probability that the matter anticipated will be discussed in the Council before the end of the meeting.

- (iv) If the Mayor determines that the anticipation is reasonable on the grounds that the matter will not be discussed before the end of the meeting, the Councillor in charge of the matter that is anticipated must be afforded the opportunity to reply in the debate.

35. Explanations

- (i) An explanation during debates is allowed only when a material part of a Councillor's speech has been misquoted or misunderstood, but such Councillor may not be permitted to introduce any new matter, and no debate may be allowed upon such explanation.
- (ii) A Councillor may, with the prior consent of the Mayor, also explain matters of a personal nature, but such matters may not be debated; the Councillor is strictly confined to the vindication of the Councillor's own conduct and may not speak for longer than 3 minutes.

36. Point of order

When a point of order is raised, the Councillor called to order must sit down, and after the point of order has been stated to the Mayor by the Councillor raising it, the Mayor gives a ruling thereon.

37. Acting for absent Councillor

A Councillor may take charge of a motion or an order of the day in the absence of the Councillor in charge, if it has been authorized by such absent Councillor.

38. When reply allowed

A reply is allowed to the Councillor introducing a subject for discussion to the Councillor in charge of an order of the day.

39. Seconders

No motion or amendment requires a seconder, except on such occasion as the Mayor may decide.

40. Debate closed

A reply to a debate closes the debate.

41. Committee of the Council

When the Council has agreed to a motion setting up a Committee of Council, or whenever it appears on the agenda for the council to go into, or resume in committee the whole Council constitutes a committee of the Council.

42. **Acting for absent Councillor**

A Councillor may give notice of a motion on behalf of an absent Councillor, provided it has been authorized by the absent Councillor.

43. **Discussion of motions**

The mayor, after consultation with the Chief Whip of the majority party, determines the date for discussion of a motion.

44. **Lapsing of motions**

(i) If a Councillor does not move a motion standing in his names on the Agenda, such a motion lapses unless moved by another Councillor, provided that it has been authorized by such Councillor

(ii) Such a motion may again be moved during the same session

45. **Mayor may amend notices**

Any notice of a motion which offends against the constitution, the practice, or these Rules may be amended or otherwise dealt with as the Mayor may decide

46. **Question of privilege**

An urgent motion directly concerning the privileges of the Council takes precedence of other motions and of orders of the day.

47. **Withdrawal of motion**

A Councillor who has moved a motion may move without notice that it be withdrawn

DECISION OF QUESTION

48. **Decision of question postponed**

If the debate on a question has been concluded in the Council, the Mayor may postpone the decision of the question.

49. **Decision of postponed question**

Whenever it is expedient to do so, a day may be determined for the decision of question by the Council.

50. **Postponed question put without further debate**

A question to be decided, and on which the debate has been concluded, must be put without further debate.

51. Question put again

If the Mayor puts the question and it is not heard or understood, the question must be put again.

52. Question fully put

No Councillor may speak to any question after it has been fully put by the Mayor.

53. Recording of opposition

- (i) When the Mayor puts the question, any Councillor may instead of demanding a vote, request the Mayor to formally record the opposition of the Councillor, or the Councillor's party, in the Minutes of Proceedings.
- (ii) The Mayor may order that a vote take place if 4 or more Councillors wish to record their individual opposition.

54. Councillors present shall vote

Every Councillor present in the Chamber when the question is put with the doors locked must vote or note an abstention.

55. Point of order during voting

While a division is in progress, Councillors may speak to a point of order arising out of, or during the vote.

56. Voting

Voting takes place by the show of hands, unless otherwise decided by the Mayor.

57. Result to be declared

The Mayor must declare the result of the voting

58. Confusion or error concerning vote

In the event of confusion or error concerning a vote, another vote must take place, unless the numbers can be corrected otherwise.

COMMITTEE**GENERAL****59. Publication of evidence and documentation**

Documentation and evidence taken by a committee of the Council, or a summary of such evidence must be accessible to the public, subject to the constraints provided for in an Act of Parliament.

RULES COMMITTEE

60. Constitution of Rules Committee

- (i) The Council must appoint a Rules Committee consisting of not fewer than 5 and not more than 20 Councillors, inclusive of the Mayor for the duration of each Council.
- (ii) The Mayor is Chairperson of the Rules Committee, and if the Mayor is unable to be present a meeting of the Committee, the Deputy Mayor acts as chairperson at the meeting.
- (iii) The Rules Committee considers amendment to the Rules of the Council, performs the functions entrusted by these Rules or by these Rules or by Resolutions of the Council.

AD HOC AND STANDING COMMITTEES

61. Ad Hoc Committee

- (i) The Council may, by way of resolution, appoint a committee to carry out a particular assignment specified in the resolution.
- (ii) A committee so appointed, continues until it has completed, or has been discharged from its assignment.
- (iii) A committee so appointed has all the powers and privileges of a Steering Committee of the Council.

62. Establishment of Standing Committees

- (i) There are Standing Committees as determined by the Council, each respect of matters referred to it by Council
- (ii) Each Standing Committees is known by the name determined for it by the Mayor
- (iii) Standing Committees must in accordance with these Rules or its other terms of reference deal with matters referred to it and have the power to hear oral evidence and call for papers, which oral evidence may be resolution of the committee, be recommended to the full Council.

63. Duration of Standing Committees

A Standing Committee continues for the duration of the Elected Council

64. Number of Councillors of Standing Committee

A Standing Committee consists of the number of Councillors determined by the Council, but which may not be fewer than 2 and not more than 20, unless these Rules provided otherwise, or the Council directs otherwise in any particular case.

65. Appointment of Councillor of Standing Committee

- (i) The Councillors of a Standing Committee are appointed by Council, for the duration of the Council
- (ii) Appointment of Councillors must provide for the participation of all minority parties represented in the Council in a manner consistent with democracy.
- (iii) An alternate Councillor may be appointed for one or more Councillors of a Standing Committee
- (iv) The leader of a minority party must state on which committees such party wished to be represented

66. Chairperson of Standing Committees

- (i) the chairperson of a Standing Committee must be a Councillor in that particular Council
- (ii) In the absence of the chairperson, the committee must elect one of its Councillors to act as chairperson at that meeting.

67. Quorum

- (i) Save when a question is being decided, business at a meeting of a Standing Committee may be proceeded with, if a third of the Councillors is available or present
- (ii) A Standing committee may decide a question only if a quorum of Councillors is present
- (iii) A majority of the Councillors of a Standing Committee constitutes a quorum
- (iv) If a Standing Committee has to decide a question when a quorum is not present, the chairperson may either suspend business until a quorum is present or adjourn the committee.

68. First meeting of Standing Committees

- (i) first meeting of Standing Committee not rules committee but Standing Committee
- (ii) the first meeting of other Standing Committee must, unless it is convened otherwise, be convened by the Municipal Manager as soon as it is necessary after the appointment of Councillors to serve on the committee.

69. Meeting of Standing Committee

- (i) A Standing Committee may meet when necessary to consider a matter referred to it.

- (ii) Subject to sub-rule (3), a meeting of a Standing Committee may not be held unless Councillor of the Committee have received at least 4 working days notice
- (iii) A special meeting of a Standing Committee may be held on shorter notice, if an urgent matter must be considered by the Standing Committee –
 - a) before a specified time
 - b) only that matter is considered by the Standing Committee; and
 - c) Councillors receives prior notice of the matter to be consider.

70. Venue of meetings of Standing Committee

Subject to the Mayor's approval, a Standing Committee may meet at a venue beyond the seat of the Council

71. Charge against Councillor

If any information charging any Councillor of the Council comes before a Standing Committee, the committee may not proceed upon such information, but must report it to the Mayor without delay.

72. Report of Standing Committee presented

The report of a standing Committee must be presented to the Council by the chairperson of another Councillor of the committee.

73. Minority report

A Standing Committee may not present a minority report, but minority views must be recorded in the committee's report.

BY-LAWS

BY-LAWS OTHER THAN BUDGET

Executive Measures

74. Publication of the draft by-laws

- (i) A by-law may not be introduced in the Council unless it has been published in the Provincial Gazette, and published in the electronic and printed media widely used in the Municipality, in English and isiXhosa or Afrikaans
- (ii) If the by-laws is amended after publication, it may be introduced without further publication in the Provincial Gazette if a copy of the amended by-laws has been delivered to each Councillor not later than the day before introduction.

75. Introduction of by-laws

- (i) A Councillor or the Chairperson of a Committee may introduce a by-law by-
 - a) delivering an introductory speech and thereafter submitting it to the Mayor, or
 - b) a letter, submitting it to the Mayor
- (ii) The By-laws must be introduced together with a memorandum setting out the following information -
 - a) the objects of the by-law;
 - b) the reasons for and effect of the by-law;
 - c) the policy context of the by-law and how the by-law relates to its policy objectives;
 - d) the names, address and telephone numbers of all persons and institutions which were consulted or made representations on the proposed by-law;
 - e) an evaluation of the comments solicited, received and discounted in the drafting process;
 - f) a clause-by-clause explanation of the content of the by-laws;
 - g) such information deemed necessary by the Councillor in charge of a by-law, and
 - h) a statement that the by-law falls within the legislative authority of the Council.

76. Referral of Committee

- (i) The Mayor must refer a by-law that has been introduced to the Standing Committee under which the subject of the by-law falls or, in the Mayor's discretion, to a joint committee consisting of more than one Standing Committee or, at the request of the Councillor in charge of the by-laws, to another committee, for enquiry and report the committee to have leave to present an amended by-law.
- (ii) The by-law, together with the memorandum thereon and the notice convening the meeting must be forwarded to the Councillors of the committee at least 4 days before the date appointed for a meeting of the committee which is to consider the by-law.

77. Report by Committee

The committee to which a by-law has been referred must, together with its report, present to the Council a by-law that has been agreed to by it, or if it has not agreed to a by-law, the by-law as referred to it, and the appropriate memorandum on its objects.

78. By-law place on Agenda for consideration

- (i) A by-law which has been presented to the Council together with the report of a committee is place on the Agenda for consideration.

- (ii) The by-law must be accompanied by the memorandum on its objects that was submitted together therewith or as altered or extended by the committee or as drafted by the committee, as the circumstances may require.

79. Consideration of by-law

- (i) The Council debates the objects and principles, and details of the by-law;
- (ii) At the closure or the debate the Councillor in charge of the by-law moves for the adoption of the by-law
- (iii) The Council adopts or rejects the by-law

80. Referral to Council in Committees (Shall apply when there are committees in place)

- (i) After consideration of the by-law, and before the adoption or rejection of the by-law a motion to refer the by-law to the Council in Committee may be moved in the Council without notice.
- (ii) The debate on such a motion is to be confined strictly to the matter such referral.

81. Consideration of by-law by Council in Committees

- (i) The principle of a by-law may not be discussed in Committee of the whole House, but only its details
- (ii) Amendments agreed to in Committee of the whole House are deemed to be agreed to by the House.
- (iii) The Council in Committee must report the Bill to the Council for adoption or rejection.

82. Withdrawal of By-law

- (i) The Councillor in charge of a by-law may withdraw the by-law at any time before adoption or rejection.

83. By-law appropriating money or imposes taxes levies or duties

- (i) A by-law that may appropriate money or impose taxes, levies, or duties, must be introduced by the Councillor responsible for financial affairs of the Council
- (ii) The by-law must be considered in terms of the Rules applicable to by-law, but must be referred to the Council in committee before its adoption or rejection.

84. Budgets

- (i) The annual budget of the Council must be contained in a by-law,

- (ii) The budget must promote developmental local government as envisaged in section 152 of the Constitution, transparency, accountability and effective financial management.
- (iii) An introduced budget must contain –
 - a) estimates of revenue and expenditure, differentiating between capital and current expenditure
 - b) proposals for financing any anticipated deficit for the period to which it apply, and
 - c) an indication of intentions regarding borrowing and other and other forms of public liability that will increase public debt during the ensuring year.

85. Passing of By-law

- (i) the Council passes a by-law by agreeing to the adoption thereof
- (ii) when a by-law has been passed by the Council, two fair copies thereof must be certified by the Municipal Manager and forwarded to the Mayor for assent.

86. Assent of by-laws

The Mayor must assent to and sign a by-law passed by the Council in terms of this Rules within 21 days of the date that it has been forwarded to the Mayor.

87. Publication of By-laws

A by-law assented to and signed by the Mayor becomes a municipal by-law and must be published promptly by the Municipal Manager, and takes effect when published, or on a later date determined in terms of the by-law.

88. Safekeeping of By-law

The signed copy of a by-law passed by the Council is conclusive evidence of the provisions that by-law and, after publication, must be entrusted by the Municipal Manager for safekeeping. A copy be kept in a strong room of the Municipality.

QUESTIONS

GENERAL

89. Placing and arrangement

- (i) A Councillor wishing to pose a question to the Mayor or members of he Standing Committee must submit the question in writing to the Municipal Manager at least 21 days before the date of a meeting of the Council.
- (ii) Subject to these Rules, the Municipal Manager must place the question on a question paper in the order in which they were submitted
- (iii) Questions for oral reply must be dealt with in the following order-

- a) questions to the mayor standing over from previous meeting;
- b) new questions to the Mayor;
- c) questions to members of the Standing Committee standing over from previous question days; and
- d) new questions to member of the Standing Committee

90. **Form of questions**

- (i)
 - a) A Councillor who desires an oral reply to a question must distinguish it by an asterisk;
 - b) if the Mayor is of the opinion that a question deals with matters of a statistical nature, the Mayor may direct such question be placed on the Question paper for written reply.
- (ii) A question for oral reply are limited to 2 questions per Councillor per question day;
- (iii) A question for oral reply are may not contain more than 5 subdivisions;
- (iv) Not more than 4 questions for oral reply may be put to a Councillor of the Standing Committee in respect of any one Department of the Municipality on any particular question day;
- (v) The restriction imposed by Sub-rules (1)(b), (2), (3) and (4) do not apply to questions for written reply place on the Question paper for oral reply in terms of Rule 201.

91. **Times allocated**

- (i) Questions for oral reply are taken as the first item on the Agenda;
- (ii) The time allocated for questions on a specific question day is at the discretion of the Mayor;
- (iii) Replies to questions for oral reply which have not been reached on the expiration of the time allotted, must be handed to the Municipal Manager for inclusion in the Official Report of the Debates of the Council.

QUESTIONS FOR WRITTEN REPLY

92. **Form of questions**

- (i) (a) Questions for written reply may be placed on the Question Paper for reply, on any working day of he Council;
- (ii) (b) Questions for written reply may be directed to a member of the Standing Committee, but the question must be delivered to the Municipal Manager for submission to the responsible member of the Standing Committee.
- (iii) A question for written reply are limited to 3 questions per Councillor in respect of nay one calendar month.

Written question not replied to

If the responsible member of the Standing Committee has not furnished a reply to the question within 21 working days of the Council of the day for which a question has been set down for written reply, the Municipal Manager must, if the Councillor in whose name the question stands so request, place the question on the Question Paper for oral reply at the next meeting of the Council.