



**REAL ESTATE UNIT : PROPOSED LEASE OF A PORTION  
OF A BUILDING & PIAZZA DESCRIBED AS PROPOSED  
LEASES A AND B BOTH ON ERF 1789 UMHLANGA ROCKS  
22 LAGOON DRIVE  
CONTRACT NO. 31319-7E**



#### REAL ESTATE UNIT

**REQUEST FOR PROPOSAL FOR THE LEASING OF A PORTION OF A BUILDING & PIAZZA DESCRIBED AS PROPOSED LEASES A AND B BOTH ON ERF 1789 UMHLANGA ROCKS SITUATED AT 22 LAGOON DRIVE AS DEPICTED ON PLAN SJ 4811/5 MEASURING 277 m<sup>2</sup> FOR COMMERCIAL PURPOSES FOR A PERIOD OF NINE (9) YEARS AND ELEVEN (11) MONTHS WITH NO RIGHTS OF RENEWAL.**

EThekweni Metropolitan Municipality, hereby invites interested persons to submit proposals for the leasing of a Portion of a Building and Piazza as depicted on Plan SJ 4811/5, situated on Proposed Leases A and B both of Erf 1789 Umhlanga Rocks measuring 277 m<sup>2</sup> for commercial purposes.

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

Name of Bidder \_\_\_\_\_

**THE BIDDER(S) MUST SUBMIT ONE (1) ORIGINAL HARD COPY, ONE (1) COPY PLUS SCANNED VERSION OF THE SUBMISSION INCLUDING ALL ANNEXURES/ RETURNABLES IN A USB CLEARLY MARKED IN BIDDER'S NAME BY 11:00 AM ON THE CLOSING DATE)**

Bidders must submit one original, one hard copy and a scanned version of the submission to the Tender Box located in the ground floor foyer of the Municipal Buildings, 166 KE Masinga Road (Old Fort Rd), Durban and an electronic submission via SSS. Bidders must ensure that the hard copies and electronic submission are the same, failing which the submission will be deemed invalid. Bidders are responsible for resolving all access rights and submission queries before the tender closing date. Tender closing date and time remain unchanged.

**SSS Queries Contact Lindo Dlamini:** Tel: 031-3227133/031-3227153 email: [selfservice@durban.gov.za](mailto:selfservice@durban.gov.za)

**Closing date of the Bid: 27 February 2026**  
**Closing Time: 11:00**

**Issued by: T.E. Mmusinyane**  
**Director: Real Estate Directorate**  
**4<sup>th</sup> Floor, Embassy Building**  
**199 Anton Lembede Street**  
**DURBAN**

31319-7E PROPOSED LEASE OF A PORTION OF BUILDING & PIAZZA DESCRIBED AS PROPOSED LEASES A & B BOTH ON ERF 1789 UMHLANGA ROCKS-22 LAGOON DRIVE

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### TENDER ADVERT

**REQUEST FOR PROPOSAL FOR THE LEASING OF A PORTION OF A BUILDING & PIAZZA DESCRIBED AS PROPOSED LEASES A AND B BOTH ON ERF 1789 UMHLANGA ROCKS SITUATED AT 22 LAGOON DRIVE AS DEPICTED ON SJ PLAN NO. 4811/5 MEASURING 277 m<sup>2</sup> FOR A PERIOD OF NINE (9) YEARS AND ELEVEN (11) MONTHS WITH NO RIGHTS OF RENEWAL**

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

BID NUMBERS	TENDER DESCRIPTIONS	SITE SIZE
31319-7E	REQUEST FOR PROPOSAL FOR THE LEASING OF A BUILDING & PIAZZA DESCRIBED AS PROPOSED LEASES A AND B BOTH ON ERF 1789 UMHLANGA ROCKS SITUATED AT 22 LAGOON DRIVE AS DEPICTED ON SJ PLAN NO. 4811/5 MEASURING 277 m <sup>2</sup> FOR COMMERCIAL PURPOSES FOR A PERIOD OF NINE (9) YEARS AND ELEVEN (11) MONTHS WITH NO RIGHTS OF RENEWAL	277 m <sup>2</sup>
Non – compulsory briefing sessions	There will be a clarification meeting.  The first clarification meeting will be held on 11 <sup>th</sup> November 2025 at 4 <sup>th</sup> Floor Embassy Building from 9:30am to 12:30pm. The second clarification meeting will be held on 29 <sup>th</sup> January 2026 at 4 <sup>th</sup> Floor Embassy Building from 9:30am to 12:30pm. All questions and answers from the clarification meeting will be uploaded onto the eThekweni website by the 12 <sup>th</sup> February 2026	
Document Availability	31 October 2025	
Documents Cost	Document Cost: R0.00	
Objective criteria in terms of Paragraph 2(1)(f) of the Preferential Procurement Policy Framework Act, 5 of 2000 is to give effect to Section 25 (5) of the Constitution of the Republic of South Africa	In line with Section 25 (5) of the Constitution “The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.”  The objective criteria will be applied in the following manner:  1) The demographic profile of property ownership or access to property will be assessed using the Municipality’s lease register in relation to the location of the subject property and the level of participation in the sector. Preference will be given to the most underrepresented groups within that property profile. The graph depicted under Annexure A on page 59 represents the current demographic profile of existing leases that would apply to this bid.  Bidders must score a minimum of 70 points for Functionality Evaluation in order to qualify for further evaluation in Price and Preference Goal and the Objective Criteria.	
Mandatory Requirements in line with the requirements of Regulation 41 (4) of the Asset Transfer Regulations to ensure that the successful bidder has the ability to develop, maintain and safeguard the capital asset.	Bidders are to provide a funding model to incorporate how and where funding will be sourced/raised, and it must include collateral to be pledged against such funding if required. The bidder is to demonstrate proof of availability of 100% of the funding required for the development. This must include written support from verifiable funding institutions or expression of interest to fund. <ul style="list-style-type: none"> <li>• A letter from a registered funder with Financial Sector Conduct Authority (FSCA) confirming availability of a maximum 100% funding of the development cost; or</li> <li>• A letter from a registered funder with Financial Sector Conduct Authority (FSCA) expressing an interest to fund a maximum 100% of the development cost; and</li> <li>• If there is a shortfall, bidder must demonstrate how they will fund the shortfall.</li> </ul>	
Offers Above R10 million	Regulation 21 of the Municipal Supply Chain Management Regulations, 2005 requires bidders for transactions that exceed R10 million to furnish annual financial statements for the past three financial years. This is required to establish liquidity and financial resources of the bidder to execute the project as indicated in the bid documents and proposals. If the bidder was established within the last three years,	

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	the most recent audited financial statements are required to be submitted.
<b>Selection Criteria</b>	<p><b>Failure to meet the following requirements will invalidate the bid:</b></p> <ul style="list-style-type: none"> <li>• Failure to meet mandatory requirements.</li> <li>• Any rental offer below the reserve price.</li> <li>• Any Bid that deviates from the tender specifications.</li> <li>• Any proposal that does not include redevelopment of the property or the proposed usage is not in line with the zoning of the property.</li> <li>• Any bidder or its directors who were previously awarded a development lease and they're yet to fully comply with the suspensive conditions of the lease.</li> <li>• Any development proposal that is outside the scope of this tender.</li> <li>• Non-commissioning of MBD 7 and non-signature of the Municipal Bidding Documents (MBD's)</li> </ul> <p><b>NB: Failure to comply with the above will result in the bid not being evaluated for Stage 1</b></p>
<b>Closing Date</b>	<b>27 February 2026</b>
<b>Conditions of submission of the Request for Proposal</b>	<ul style="list-style-type: none"> <li>• Tax Clearance Certificate, valid on the closing date of the bid, or exemption to pay taxes as issued by the South African Revenue Services (SARS) or valid Tax Compliant Verification PIN number issued by SARS.</li> <li>• Proof of registration of the Entity as follows: <ul style="list-style-type: none"> <li>• Natural persons- certified copy of ID document/ passport</li> <li>• Partnership- copy of Partnership Agreement plus certified copy/copies of IDs of all partners</li> <li>• Company- current CM29/COR 20.1</li> <li>• Close Corporation- current copy of CK1 and/or CK2C and/or COR 20.1</li> <li>• Trust- letter of appointment from the Master of the High Court of SA and deed of trust of JV/Consortium- JV/Consortium Agreement plus CIPC and/or certified copy/copies of ID documents of all JV/Consortium partners</li> <li>• Entity valid BBBEE Certificate issued by agency accredited by SANAS /Valid Sworn affidavit or valid BBBEE certificate JV/Consortium issued by agency accredited by SANAS or BBBEE Certificate from CIPC.</li> </ul> </li> <li>• Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the individual / Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up-to-date municipal account cannot be submitted / valid lease agreement.</li> <li>• Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the Entity / Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up-to-date municipal account cannot be submitted / valid lease agreement.</li> <li>• Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the Director (s) or Member (s) / Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up-to-date municipal account cannot be submitted / valid lease agreement.</li> <li>• In the event the bidder is tendering as a Joint Venture/Consortium, all members of the JV/Consortium must submit all required documentation, a JV / Consortium agreement and a BBBEE certificate.</li> <li>• Central Supplier Database (CSD) registration valid on tender closing date.</li> <li>• Company resolution for bid signing powers.</li> <li>• Completed and signed bid documents including MBD 1 to MBD 23.</li> <li>• If the entity or any of its directors are listed on the National Treasury register of defaulters, the bid will be rejected.</li> </ul>
<b>Delivery Address</b>	Bidders must submit a "hard copy" submission to the Tender Box located in the ground floor foyer of the Municipal Buildings, 166 KE Masinga Road (Old Fort Rd), Durban and an electronic submission via SSS. Bidders must ensure that the hard copy and electronic submission are the same, failing which the submission will be deemed invalid. Bidders are responsible for resolving all access rights and submission queries before the tender closing date. Tender closing date and time remain unchanged.
<b>Evaluation</b>	<p><b>Functionality, Rental Offer and Preference Goal of contributor using 80/20.</b></p> <p>80 for rental value and 20 for Preference Goal status level of contributor</p>

MBD 1:

**INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (ETHEKWINI METROPOLITAN MUNICIPALITY)</b>					
BID NUMBER	31319-7E	CLOSING DATE	27 February 2026	CLOSING TIME:	11:00
DESCRIPTION	REQUEST FOR PROPOSAL FOR THE LEASING OF A PORTION OF A BUILDING & PIAZZA DESCRIBED AS PROPOSED LEASES A AND B BOTH ON ERF 1789 UMHLANGA ROCKS SITUATED AT 22 LAGOON DRIVE AS DEPICTED ON SJ PLAN NO. 4811/5 MEASURING 277 m <sup>2</sup> FOR COMMERCIAL PURPOSES FOR A PERIOD OF NINE YEARS AND ELEVEN MONTHS (9 YEARS AND 11 MONTHS) WITH NO RIGHTS OF RENEWAL.				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO ENTER INTO A LEASE AGREEMENT WITH ETHEKWINI METROPOLITAN MUNICIPALITY.</b>					

Bidders must submit a "hard copy" submission to the Tender Box located in the ground floor foyer of the Municipal Buildings, 166 KE Masinga Road (Old Fort Rd), Durban and an electronic submission via SSS. Bidders must ensure that the hard copy and electronic submission are the same, failing which the submission will be deemed invalid. Bidders are responsible for resolving all access rights and submission queries before the tender closing date. Tender closing date and time remain unchanged.

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

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**TERMS AND CONDITIONS FOR BIDDING****1. BID SUBMISSION:**

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

**INFORMATION REGARDING THE ETHEKWINI JDE SYSTEM****1) General**

eThekwini Municipality Bids, Tenders and Quotations (hereafter referred to as Tenders) are going to be submitted using the JDE System.

This JDE System will be used for:

- Viewing of available (open) Tenders,
- Downloading procurement documentation for Tenders,
- Uploading completed and signed Tender documentation,
- Completion and submission of Tenders electronically,
- Viewing the Tender opening schedule.

**2) Registrations**

To be granted access to the **JDE System** prospective service providers must be registered on the **National Treasury's Central Supplier Database (CSD)**, the **eThekwini Municipality Supplier Portal**, and the **eThekwini Municipality JDE System**.

**National Treasury: Central Supplier Database**

- Registration can be made on <https://secure.csd.gov.za> .
- Service Providers will be issued a "MAAA" number when registered.

**eThekwini Municipality Supplier Portal**

- Registration can be made on <https://www.durban.gov.za> by following these links:  
>Business >Supply Chain Management (SCM) >Accredited Supplier & Contractor Database.

**eThekwini Municipality JDE System**

- Service providers requiring access must send an email to [supplier.selfservice@durban.gov.za](mailto:supplier.selfservice@durban.gov.za)  
A copy of the **Director's ID** is required:
- On receipt of this email, the Procurement and Supply Chain Management (P&SCM) Directorate will respond with the login credentials and a link to the **JDE System**.

**3) Assistance with using the JDE System**

The following P&SCM Official(s) can be contacted in connection with any queries regarding the use of the **JDE System**:

- Lindo Dlamini Tel: 031 322 7153 or 031 322 7133  
Email: [supplier.selfservice@durban.gov.za](mailto:supplier.selfservice@durban.gov.za)

**4) Viewing of available tenders**

By following link <https://rfq.durban.gov.za/jde/E1Menu.maf> prospective Service Providers will be able to view available (open) Tender opportunities without signing into the system. However, Service Providers will not be able to respond to a Tender without being signed into the system using

a JDE User ID and Password.

5) **Tender documentation**

By accessing the **JDE System** (using <https://rfq.durban.gov.za/>) and viewing any available Tenders, prospective Service Providers will be able to download the relevant Tender documentation.

6) **Submission of tender offers**

**Tender Offers** are to be delivered, in "hard copy" format, to the Delivery Location as stated in the **Tender Conditions**.

In addition to the above, **Tender Offers are also to be SUBMITTED ELECTRONICALLY** (uploaded) on the eThekweni Municipality JDE System (Supplier Self Service (JDE-SSS) Module). **Notwithstanding the electronic submission**, a tender offer will only be deemed valid if the "hard copy" submission has been made. The "hard copy" submission will be deemed to be the ruling version.

Bidders are responsible for resolving all access rights and submission queries on the JDE System before the tender closing date/ time.

7) **Viewing the Tender opening schedule**

Users on the **JDE System** will be able to view the **Tender Opening Schedule** for each closed Tender. The tender opening schedule will also be made available on the eThekweni Municipal website at URL:

<https://www.durban.gov.za/pages/business/publication-of-received-bids>

Commented [A1]: Revised in v.12/05/2025.

Commented [A2]: Added in v.12/05/2025.

**2. TAX COMPLIANCE REQUIREMENTS**

2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.

2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFITABLE AND TAX STATUS.

2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.

2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART 3 BELOW.

2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.

2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.

2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

**3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS**

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

YES  NO

3.2 DOES THE ENTITY HAVE A BRANCH IN THE RSA?

YES  NO

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

YES  NO

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

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YES  NO

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

YES  NO

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

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

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: .....

**MBD 2**

**TAX CLEARANCE CERTIFICATE REQUIREMENTS**

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

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

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

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

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

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

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

REU MBD 3.1

**PRICING SCHEDULE: FINANCIAL OFFER**

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

<b>A minimum / reserve amount of R78 720.00 as per month excluding VAT.</b>	
Any offer below the RESERVED/ MINIMUM RENTAL will not be considered and such bids would accordingly be disqualified.	
<b>Rental Offer Per Month</b>	<b>R</b>
<b>Rental Offer in words</b>	<b>R</b>
<b>Escalation per annum</b>	7%
<b>Bidder / Entity Name</b>	
<b>Represented By</b>	
<b>Capacity</b>	
<b>Signature</b>	
<b>Date</b>	

**OFFER TO BE VALID FOR 150 DAYS FROM THE CLOSING DATE OF BID.**

eThekwini Vendor Portal Registration Number: PR

C.S.D Registration Number: MAAA

S.A.R.S Pin Number: \_\_\_\_\_

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

**Declaration of Interest**

Are any of the entity's directors, managers, principle shareholder or stakeholders currently in the service of the state or have been in the service of the state in the past twelve (12) months? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Is any spouse, child or parent of the entity's directors, managers, principle shareholder or stakeholder currently in the service of the state or have been in the service of the state in the past twelve (12) months? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Name of entity's member	Position in Entity	Name of Relative (if applicable)	Name of State Institution	Nature of Relationship
Do you or any other directors, managers, principle shareholder or stakeholder of your entity have any relationship (spouse, family, friend, associate) with persons in the service of the state and/or who may be involved with the evaluation of this quotation? If yes please furnish particulars below <input type="checkbox"/> Yes <input type="checkbox"/> No				
Name of entity's member	Position in Entity	Name of Relative (if applicable)	Name of State Institution	Nature of Relationship

**OFFER TO BE VALID FOR 150 DAYS FROM THE CLOSING DATE OF BID**

**4. PAYMENT FOR RATES, TAXES AND SERVICES**

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

**5. POSSESSION OF THE SITE**

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

**MBD4: DECLARATION OF INTEREST**

**NOTES**  
 MSCM Regulations: "in the service of the state" means to be:  
 (a) a member of:  
     (i) any municipal council.  
     (ii) any provincial legislature.  
     (iii) the national Assembly or the national Council of provinces.  
 (b) a member of the board of directors of any municipal enterprise.  
 (c) an official of any municipality or municipal enterprise.  
 (d) an employee of any national or provincial department, national or provincial public enterprise 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 enterprise.  
 (f) an employee of Parliament or a provincial legislature.  
 "Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

1 No bid will be accepted from persons **in the service of the state**.

2 Any person, having a kinship with persons **in the service of the state**, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to **persons in service of the state**, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

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

3.1 Name of enterprise	
Name of enterprise's representative	
3.2 ID Number of enterprise's representative	
3.3 Position enterprise's representative occupies in the enterprise	
3.4 Company Registration number	
3.5 Tax Reference number	
3.6 VAT registration number	

3.7 The names of all directors / trustees / shareholders / members / sole proprietors / partners in partnerships, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below. In the case of a joint venture, information in respect of each partnering enterprise must be completed and submitted.

3.8 Are you presently in the service of the state?

Circle  
Applicable

YES	NO
-----	----

If yes, furnish particulars:  
 .....  
 .....

3.9 Have you been in the service of the state for the past twelve months?  
 If yes, furnish particulars:

YES	NO
-----	----

.....  
.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?

YES	NO
-----	----

If yes, furnish particulars:

.....  
.....

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

YES	NO
-----	----

If yes, furnish particulars:

.....  
.....

3.12 Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state?

YES	NO
-----	----

If yes, furnish particulars:

.....  
.....

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

YES	NO
-----	----

If yes, furnish particulars:

.....  
.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?

YES	NO
-----	----

If yes, furnish particulars:

.....  
.....

4. The names of all directors / trustees / shareholders / members / sole proprietors / partners in partnerships, their individual identity numbers and state employee numbers must be indicated below. In the case of a joint venture, information in respect of each partnering enterprise must be completed and submitted.

Full Name	Identity No.	State Employee No.	Personal income tax No.
Use additional pages if necessary			

*I, the undersigned, who warrants that I am authorised to sign on behalf of the Tenderer, confirms that the information contained in this form is within my personal knowledge and is to the best of my belief both true and correct.*

**NAME (Block Capitals):** .....

**Date**

**SIGNATURE:** .....

.....

**MBD 5: DECLARATION FOR PROCUREMENT ABOVE R10 MILLION**  
**(ALL APPLICABLE TAXES INCLUDED)**

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

Commented [DB3]: "Unpacked" from the consolidated MBDs.

		Circle Applicable	
1.0	Are you by law required to prepare annual financial statements for auditing?	YES	NO
1.1	If YES, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.		
2.0	Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?	YES	NO
2.1	If NO, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.		
2.2	If YES, provide particulars. ..... .....		
3.0	Has any contract been awarded to you 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?	YES	NO
3.1	If YES, provide particulars. ..... .....		
4.0	Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?	YES	NO
4.1	If YES, provide particulars. ..... .....		

**If required by 1.1 above, tenderers are to include, at the back of their tender submission document, a printout of their audited annual financial statements.**

Commented [DB4]: Added in Feb'23 version.

*I, the undersigned, who warrants that I am authorised to sign on behalf of the Tenderer, confirms that the information contained in this form is within my personal knowledge and is to the best of my belief both true and correct, and, if required, that the requested documentation has been included in the tender submission.*

NAME (Block Capitals): \_\_\_\_\_ Date \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_

**MBD 6.1**

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

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

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

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

---

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids: - the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included);
- 1.2 a) The value of this bid could not be determined, therefore the lowest acceptable tender will be used to determine the applicable preference point system; or
- b) The 80/20 preference point system will be applicable to this tender.
- 1.3 Points for this bid shall be awarded for:
- (a) Price; and
- (b) Preference goals
- 1.4 The maximum points for this bid are allocated as follows:

	<b>POINTS</b>
Rental Offer	<b>80</b>
Preference goals	<b>20</b>
Total points for Price and Preference goals must not exceed	<b>100</b>

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

**2. DEFINITIONS**

- (a) **highest acceptable tender** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

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

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

(a)

**PRICE POINTS:** A maximum of 80 or 90 points is allocated for price on the following basis:

<u><b>80 / 20 Points System</b></u>	<b>OR</b>	<u><b>90 / 10 Points System</b></u>
$P_s = 80 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right)$		$P_s = 90 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right)$

Where:

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration

$P_{max}$  = Price of highest acceptable tender

- (b) A maximum of 10 or 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (d) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

### 4. POINTS AWARDED FOR SPECIFIC GOALS

4.1 In terms of Regulation 6 and 7 of the Preferential Procurement Regulations 2022 read together with Section 4 (4) and 4 (5) of the Ethekwini Municipality: SCM Policy 2023,

preference points must be awarded for specific goals stated in the tender.

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

4.2 In cases where the municipality intends to use Regulation 3(2) of the Regulations, which states that if it is unclear whether the 80/20 or 90/10 preference point system applies, the municipality must, in the tender documents, stipulate in the case of:

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system:

4.3 then the municipality must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

Ownership Goal

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

Table 1

Goal Weighting 50%			
Ownership Categories	Criteria		90/10
Race: Black (w1)	0%		0
	>0% and <51%		2
	≥51% and <100%		3.5
	100%		5
<b>Proof of claim as declared on MBD 6.1</b> (1 or more of the following will be used in verifying the tenderer's status) <ul style="list-style-type: none"> <li>• Companies and Intellectual Property Commission registration document (CIPC)</li> <li>• CSD report.</li> <li>• B-BBEE Certificate of the tendering entity.</li> <li>• Consolidated B-BBEE Certificate if the tendering entity is a Consortium, Joint Venture, or Trust (Issued by verification agency accredited by the South African Accreditation System).</li> <li>• Agreement for a Consortium, Joint Venture, or Trust.</li> </ul>			
The <b>Category Weightings</b> of the Ownership Categories will be: w1 = 50%			

**RDP Goal: The promotion of South African owned enterprises**

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

**Table 2**

Goal Weighting 50% (w2)	
<b>Location</b>	<b>90/10</b>
Not in South Africa	0
South Africa	2
KZN	3.5
ETM	5
<b>Proof of claim as declared on MBD 6.1</b> (1 or more of the following will be used in verifying the tenderer's status)	
<ul style="list-style-type: none"> <li>• CSD report</li> </ul>	

Tenderers are to indicate their points claim for each of the Specific Goals.

The Specific Goals to be allocated points in terms of this tender	Number of points ALLOCATED (80/20 system)	Number of points ALLOCATED (90/10 system)	Number of points CLAIMED (80/20 system)	Number of points CLAIMED (90/10 system)
<b>Ownership Goal:</b> Black (w1)	n/a	5	n/a	
<b>RDP Goal:</b> The promotion of South African owned enterprises. (w2)	n/a	5	n/a	
<b>TOTAL POINTS CLAIMED</b>		10	n/a	
w1 = 50%, w2=50% (where: w1 + w2 = 100%)				

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

- 4.11 A Qualifying Small Enterprise (QSE) with at least 51% black ownership qualifies as a Level 2 contributor.
- 4.12 A QSE with 100% black ownership qualifies as a Level 1 contributor.
- 4.13 A QSE that is regarded as a specialized enterprise with at least 51% black beneficiaries qualifies as a Level 2 contributor with BBBEE level of 125% in terms of the Codes of Good Practice.
- 4.14 A QSE with less than 51% black ownership is required to submit a BBBEE level verification certificate issued by BBBEE verification professional.
- 4.15 A Trust, consortium or joint venture:
- (a) must submit a B-BBEE status level certificate in order to qualify for points;
  - (b) will qualify for points as an unincorporated entity provided, that they submit their consolidated scorecard is prepared for separate tender; and
  - (c) where no consolidated scorecard exists, the weighted average (in accordance with participation percentages) will be used and rounded off to the nearest status level.
- 4.16 If a service is provided by only tertiary institutions, such services must be procured from the tertiary institutions identified by means of bidding process. Tertiary institutions must submit their B-BBEE status in terms of the B-BBEE Codes of Good Practice Specialized Scorecard.
- 4.17 This tender is subject to an Objective Criteria in terms of Section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) as follows:

<p><b>Objective criteria in terms of Paragraph 2(1)(f) of the Preferential Procurement Policy Framework Act 5 of 2000 is to give effect to Section 25 (5) of the Constitution of the Republic of South Africa</b></p>	<p>In line with Section 25 (5) of the Constitution "The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."</p> <p>The objective criteria will be applied in the following manner:</p> <ol style="list-style-type: none"> <li>2) The demographic profile of property ownership or access to property will be assessed using the Municipality's lease register in relation to the location of the subject property and the level of participation in the sector. Preference will be given to the most underrepresented groups within that property profile. The graph depicted under Annexure A on page 58 represents the current demographic profile of existing leases that would apply to this bid.</li> </ol> <ul style="list-style-type: none"> <li>• Bidders must score a minimum of 70 points for Functionality Evaluation in order to qualify for further evaluation in Price and Preference Goal and the Objective Criteria.</li> </ul>
<p>Tender(s) received need to be evaluated in terms of the preference point system first. Once the highest points scorer has been ascertained only then the objective criteria will be applied.</p>	

- 4.18 Award of where Bidders have Scored Equal Points Overall
1. In the event that two or more bids have scored equal total points, the successful bid will be the one scoring highest points for specific goals.
  2. However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal points for special goals, the successful bid will be the one scoring the highest score for functionality.

3. Should two or more bids be equal in all respects; the award will be decided by the drawing of lots.

**5. DECLARATION WITH REGARD TO COMPANY/FIRM**

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

5.2. VAT registration number:.....

5.3. Company registration number:.....

**5.4. TYPE OF COMPANY/ FIRM**

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

**5.5. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

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

**5.6. COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.
- Property Development /Management .

[TICK APPLICABLE BOX]

**5.7. MUNICIPAL INFORMATION**

Municipality where business is situated: .....

Registered Account Number: .....

Stand Number: .....

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

I, the undersigned, who warrants that they are authorised to sign on behalf of the Tenderer, certify that

the points claimed, based on the specific goals as specified in the tender, qualifies the tendering entity for the preference(s) shown.

I acknowledge that:

- 1) The information furnished is true and correct.
- 2) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- 3) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct.
- 4) If the specific goals have been claimed or obtained on a fraudulent basis, or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have:
  - (a) disqualify the person from the tendering process.
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

<p>WITNESSES</p> <p>1.....</p> <p>2.....</p>	<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p>
--	--

**CONSTITUTIONAL COURT JUDGEMENT**

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

**MDB 7: BIDDERS INFORMATION**

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

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

in my capacity as

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

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

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

\_\_\_\_\_  
 Bidder (s)

Signed before me

\_\_\_\_\_  
 COMMISSIONER OF OATHS

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

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

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

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

**CERTIFICATION**

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of Bidder**

## MBD 9: CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

---

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

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

**MBD 9: CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_  
(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Municipality / Municipal Entity)

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

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

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

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

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

## **MBD 10: STANDARD CONDITIONS OF SUBMISSION**

The following conditions apply to all bids submitted:

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

### **SELECTION CRITERIA**

**Failure to meet the following requirements will invalidate the bid:**

- Failure to meet mandatory requirement;
- Any rental offer below the reserve price;
- Bids that deviate from the tender specification.
- Any proposal that does not include redevelopment of the property or the proposed usage is not in line with the zoning of the property;
- Any bidder or its directors who were previously awarded a development lease and they're yet to fully comply with the suspensive conditions of the lease.
- Non-commissioning of MBD 7 and non-signature of the Municipal Bidding Documents (MBD's).
- Any development proposal that is outside the scope of this tender.

NB: Failure to comply with the above will result in the bid not being evaluated for stage 1

### **CONDITIONS OF SUBMISSION FOR REQUEST FOR PROPOSAL**

The following conditions apply to all bids submitted:

- All bids must be submitted in compliance with the Bid Specifications specified in MBD 12.
- The property is made available in accordance with the information and stipulations contained in REU MDB 13.
- The bidder(s) will be deemed to be familiar with the state, real rights registered against the property, the zoning and locality of the property.
- Tax Clearance Certificate, valid on the closing date of the bid, or exemption to pay taxes as issued by the South African Revenue Services (SARS) or Valid Tax Compliant Verification PIN number issued by SARS.
- Proof of registration of the Entity as follows:
  - Natural persons- certified copy of ID document/ passport
  - Partnership- copy of Partnership Agreement plus certified copy/copies of IDs of all partners
  - Company- current CM29/COR 20.1
  - Close Corporation- current copy of CK1 and/or CK2C and/or COR 20.1
  - Trust- letter of appointment from the Master of the High Court of SA and deed of trust of JV/Consortium- JV/Consortium Agreement plus CIPC and/or certified copy/copies of ID documents of all JV/Consortium partners
  - Entity valid BBBEE Certificate issued by agency accredited by SANAS /Valid Sworn

affidavit or valid BBBEE certificate JV/Consortium issued by agency accredited by SANAS or BBBEE Certificate from CIPC.

- Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the individual / Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up-to-date municipal account cannot be submitted / valid lease agreement.
- Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the Entity / Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up-to-date municipal account cannot be submitted / valid lease agreement.
- Up to date Municipal Account not older than three (3) months and not over three (3) months in arrears for the Director (s) or Member (s) / Proof that acknowledgements or arrangements have been made to settle arrears / Affidavit stating why an up-to-date municipal account cannot be submitted / valid lease agreement.
- In the event the bidder is tendering as a Joint Venture/Consortium, all members of the JV/Consortium must submit all required documentation, a JV / Consortium agreement and a BBBEE certificate.
- Central Supplier Database (CSD) registration valid on tender closing date.
- Company resolution for bid signing powers.
- Completed and signed bid documents including MBD 1 to MBD 22.
- If the entity or any of its directors are listed on the National Treasury register of defaulters, the bid will be rejected.

#### **SUBMISSION OF PROPOSALS**

- Bidder(s) are invited to submit their Proposals by completing the returnable Municipal Bidding Documents (MBDs) and MBDs contained in this document.
- In this regard:
  - No other form of Proposal will be accepted. The MBDs must not be construed as an offer.
  - The Bidder(s) must submit one (1) original hard copy, one (1) copy plus scanned version of the submission including all annexures/ returnables in a USB clearly marked in bidder's name.
  - All Proposal documentation received shall be deemed EThekwini Municipality property and shall not be returned or thus requested back by any Bidder.
- Proposals must be sealed, clearly marked with RFP name and number, and addressed to Head: Real Estate.
- Bidder's return address must be clearly indicated at the back of the envelope.
- The fully completed document with annexures must be submitted before the closing date specified on the front cover and be deposited in the tender box.
- **PROPOSALS WHICH ARE NOT SUBMITTED IN A PROPERLY SEALED AND MARKED ENVELOPE AND DEPOSITED IN THE BOX BEFORE THE CLOSING DATE, WILL NOT BE OPENED.**
- **PROPOSALS WHICH ARE NOT SUBMITTED IN THE CORRECT FORMAT WITH**

**ANNEXURES ATTACHED, DULY COMPLETED, INITIALLED, COMMISSIONED AND SIGNED, WILL NOT BE CONSIDERED.**

- The information required in the MBDs must be provided accurately and honestly. All details provided by the Bidder(s) will be regarded as material representations, which the Municipality base the evaluation of the Proposal on. Any misrepresentation will be treated as material and will result in the disqualification of the Proposal by the Municipality. Bidders, who fail to provide such information to the satisfaction of the Municipality, will be disqualified.

**OPENING OF PROPOSALS**

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

**EVALUATION OF PROPOSALS**

- The Municipality reserves the right to seek clarification or further information from Bidder(s) and to appoint professionals to advise and verify information on aspects of the Proposals submitted in a manner that the Municipality deems appropriate.
- The preferred Bidder(s) may be required to make presentations to the Municipality.
- The Bidder(s) shall be deemed to know and understand the content of the Request for Proposal document and a submission of the MBDs will indicate the Bidder(s) unconditional acceptance of all the terms and conditions contained in the Request for Proposal.
- The Bidder(s) shall be deemed to have satisfied itself as to all of the conditions, procedures and performance and discharge of the obligations required in terms of the Request for Proposal.
- The non-acceptance or variation of any of the conditions, or the inclusion of any other conditions in the Proposal Call document by the Bidder(s) will be treated as a qualified bid.
- The Proposal(s) will be evaluated by the Municipality. The Municipality may accept any Proposal in whole or in part and is not bound to accept any Proposal.
- Proposals will be evaluated using the evaluation criteria stated in MBD 1.1.
- The Proposal(s) will be adjudicated by the Municipality's Bid Adjudication Committee and awarded in terms of the City's Supply Chain Management Policy and the Land Disposal Policy.
- The Municipality will not be held responsible or liable for any costs whatsoever and /or losses incurred or suffered by the Bidder(s) or any other party or parties for whatsoever reason as a result of the Proposal.
- Any Proposal in the name of a partnership or joint venture or consortium will, on acceptance, be deemed as joint and several agreements with all parties.
- All proposals shall remain valid for a period of 120 days after the closing date, provided that bidders may extend the validity of the proposal on request of the Municipality.

## **RESOLUTIONS OF DISPUTES**

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

## **PROHIBITIONS**

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

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

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

#### **GENERAL ENQUIRIES**

Only email enquiries will be accepted, such enquiries must be directed to [Zandile.Ndimeni@durban.gov.za](mailto:Zandile.Ndimeni@durban.gov.za)

## REU MBD 11: EVALUATION CRITERIA

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

### Stage 1: Functionality Evaluation

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

FUNCTIONAL CRITERIA	Max Points	Returnable documents to be used in evaluation
<b>PROPOSED CONCEPT</b>	<b>20</b>	
<p><b>Conformity of the Proposal to the vision for the property and the</b></p> <p><b>Business Concept (20)</b></p> <p>Detailed High level conceptual design outlining the intended uses = <b>Points 10</b></p> <p>Submission of concept design layout and 3D. = <b>10 Points</b></p> <p>No submission = <b>0 Point</b></p>	20	A detailed concept plan-the bidder must submit a detailed concept plan that include all the information as outlined on this page. The Business concept should include a list and description of services to be offered, must submit drawings showing the proposed layout and appearance of the facility and the site to be leased. All final designs must be approved by Council and before construction can commence on the site.
<b>Company Profile, experience and/or expertise of tenderer</b>	<b>30</b>	
<p>Current /past portfolio of atleast 1 similar businesses being successfully operated in the last 3 years:</p> <p>2 or above similar businesses successfully operated in the last 3 years: <b>15 Points</b></p> <p>1 similar business successfully operated in the last 3 years: <b>10 Points</b></p> <p>1 similar business successfully operated for less than 3 years: <b>5 Points</b></p> <p>No submission or no past portfolio of similar business being successfully operated = <b>0 Point</b></p>	15	List of similar business being operated currently or previously, profile, brochures and including website where available. MBD 21
<p>Demonstrate experience and/or expertise of key operator(s) to run operations related to the proposed business:</p> <p>Between two to ten years: <b>15 Points</b></p> <p>Less than two years: <b>10 Points</b></p> <p>No submission or no past portfolio of similar business being successfully operated = <b>0 Point</b></p>	15	Resumes C/V- and Company profiles. MBD 21
<b>GENERAL MAINTENANCE PLAN OF THE FACILITY</b>	<b>15</b>	
<p>(Bidders are to submit a detailed Maintenance Plan document for the duration of the lease covering the following aspects.</p> <p>1. Soft services (cleaning, security etc)</p> <p>2. Maintenance schedule (Planned and emergency)</p> <p>3. Annual maintenance</p> <p>A maintenance plan is covering all 3 items = <b>15 Points</b></p>	15	A Comprehensive Maintenance plan covering all aspects mentioned.

A maintenance plan is covering 2 of items = <b>10 Points</b> A maintenance plan is covering 1 of item = <b>5 Points</b> No submission of the maintenance plan = <b>0 Point</b>		
<b>TRANSFORMATION AND EMPOWERMENT PLAN</b>	<b>15</b>	
a) Job Creation Plan including the plan to absorb the current low level employees. = <b>5 Points</b> b) Training = <b>5 Points</b> d) Local SMME Supported = <b>5 Points</b>	5 5 5	Local Employment Plan including training and skills development. The bidder is expected to provide a detailed plan outlining how it would empower SMME's and individuals through the fitment of the facility to make it operational.
<b>FINANCIAL CAPABILITY</b>	<b>20</b>	
<b>a) Investment Value</b>  The reserved price indicated on the offer page should be used as a benchmark for the market value of the property  Total realistic monetary investment value into the project based on the similar projects backed by the QS report/ estimated development cost and a financial feasibility. = <b>10 Points</b>  Total investment not specified = <b>0 Points</b>	10	REU MDB 22
<b>Funding Model</b>  Bidders are to provide a funding model to incorporate how and where funding will be sourced/raised, and it must include collateral to be pledged against such funding if required. The bidder is to demonstrate proof of availability or expression of interest to fund a maximum 100% of the redevelopment cost. This must include written support from verifiable funding institutions or expression of interest to fund.  <ul style="list-style-type: none"> <li>• A letter from a registered funder with Financial Sector Conduct Authority (FSCA) confirming availability of a maximum 100% funding of the development cost; or</li> <li>• A letter from a registered funder with Financial Sector Conduct Authority (FSCA) expressing an interest to fund a maximum 100% of the development cost; and</li> <li>• If there is a shortfall, bidder must demonstrate how they will fund the shortfall =<b>10 Points</b></li> </ul> Non-Submission of any of the above or lack of demonstration of funding of any shortfall = <b>0 Points</b>	10	REU MDB 22
<b>Total</b>	<b>100</b>	

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

**STAGE 2: EVALUATION FINANCIAL OFFER & PREFERENCE POINT SYSTEM**

- Tender(s) received need to be evaluated in terms of the preference point system first. Once the highest points scorer has been ascertained only then the objective criteria will be applied.
- Preference points shall be calculated after financial offers have been brought to a comparative basis.
- Points scored will be rounded off to 2 decimal places.
- In the event of equal points scored, the bid will be awarded to the bidder scoring the highest number of points for specified goals.
- A maximum of 80 points is allocated for financial offer on the following basis:

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

- Ps = Points scored for financial offer of bid under consideration
- Pt = Rand value of bid under consideration (Net Present Value of the rental amount over the lease period discounted at 10%)
- Pmax = Financial Offer of highest acceptable bid

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

EVALUATION CRITERIA	POINTS WEIGHT 80/20
RENTAL OFFER	80
PREFERENCE GOALS	20
Total	100

## REU MBD 12: BID SPECIFICATIONS

The following Specifications apply to this bid:

### 1. Property Information

PROPERTY DESCRIPTION	LOCATION	SIZE M
Proposed Leases A and B on Erf 1789 Umhlanga Rocks	22 Lagoon Drive	277 m <sup>2</sup>

### 2. Overview

The Ethekwini Municipality is the owner of property described as Proposed Leases A and B on Erf 1789 Umhlanga Rocks situated on the Umhlanga Beachfront at 22 Lagoon Drive measuring 277 m<sup>2</sup>. The portion of the building on the property consists of a restaurant and take-away facility.

The locality is an upmarket node of high end shopping malls/offices with numerous prestigious hotels situated in sea fronting positions along the promenade on Umhlanga Main Beach, a popular destination for both local and international holiday makers. There are public transport and taxi's service in the area and most amenities are within walking distance.

### 3. Vision for the property

The proposals should align the facility to the City's vision for the area in line with the strategies, legislative requirements and regulatory frameworks. The property is zoned Umhlanga District – Beach Amenity Reserve 1 in terms of the EThekweni Municipality Land Use Scheme: North Sub-Scheme.

## CONDITIONS OF THE COMMERCIAL LEASE.

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

This transaction is subject to the following suspensive conditions:

#### 1. Funding

This Agreement is subject to the suspensive condition that within 180 (One Hundred and Eighty) days after the Signature Date, a bank guarantee granted to the Lessee by a funder registered with Financial Sector Conduct Authority (FSCA) inter alia, the following conditions –

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

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

- 1.2 If the suspensive condition in clause 1. 1 is not fulfilled within the time period contemplated above (“**the Specified Date**”), then this Agreement shall automatically lapse and be of no further force and effect, but any Party may, on written notice prior to the expiry of the specified date (“**the Notice**”) to the other Party, require that the suspensive condition be fulfilled within 30 (thirty) days after the Specified date of the Notice and, failing fulfilment (to the extent legally permissible) of the suspensive condition within the aforesaid 30 (thirty) day period, then this Agreement shall cease to be of any force and effect and no Party shall have any claim against the other of them as a result of the failure to fulfil of the suspensive condition.

### **Property Tenure**

After the award of the tender, the successful Tenderer (hereinafter referred to as the “Lessee”) will be required to sign a Lease Agreement within 21 days of being requested to do so by the City (hereinafter referred to as the “Lessor”), which may include inter alia the following conditions as well as additional property-specific and development conditions as may be determined by the Head: Real Estate

1. The rental shall be paid by the Lessee to the Lessor monthly in advance.
2. The rental shall escalate annually at 7% per annum on the anniversary of the lease commencement date.
3. The cost of water and electricity consumption is excluded from the rental amount and is to be apportioned and paid by the prospective Lessee.
4. The Lessee will be required to pay a deposit equal to one (1) month's rental (excluding VAT) when requested to do so.
5. The lease will be for a period of nine (9) years and eleven (11) months.
6. The Lessee will not be entitled to cede and /or assign all or any of its rights and /or obligations relating to the construction of the Development under this agreement to any third party, without the prior written consent of eThekweni.
7. The Lessee shall not be entitled to cede and/ assign all or any rights and obligation under this agreement to any other party without a prior written consent of the Lessor, which consent shall not be unreasonably withheld or delayed unless the cession / assignment will result in a reduction of BBBEE Level and Priority Population Groups (PPG) % ownership upon which the awarding of the lease was based upon by the Lessor, the BBBEE Level and Priority Population Groups % must be the same or better as those imposed at the time of award.
8. Any change of directorship of the company or transfer of the Lessee 'shares, capital or any transaction which results in a change in the effective control of the Lessee shall constitute an assignment of lease. A change in control of the Lessee without the written consent of the Lessor shall deemed to be a breach of the Lease in terms
9. The Lessor shall not be liable for any latent or patent defects in the Property.
10. The Lessee shall maintain the Property and the responsibility area throughout the lease.
11. All Improvements effected to the Property will become the property of the Lessor once constructed.

12. The Lessee will be required to install any fixtures and fittings and equipment in the interior of the Property which are required for the Lessee to carry on its business and activities in terms of this Lease, but only after it first obtains the written consent of the Lessor.
13. The installation of any such fixtures, fittings and equipment must be paid for by the Lessee. The Lessee is not entitled to claim compensation for such installation from the Lessor.
14. The Lessee may not improve or renovate the property without first obtaining the Lessors written consent.
15. Possession of the property shall be taken on signature of the Lease Agreement, unless agreed otherwise between the Parties in writing.
16. Where activities require registration with relevant statutory bodies the bidder is required to ensure that this is done prior to commencing operation on the property.
17. The successful bidder shall at his own cost maintain, secure and keep the property in a safe, clean and tidy condition in compliance with all relevant legislation i.e. Safety Act, bylaws, Environment (OHASA). Repairs of any damage caused by negligent or wilful action of any person within the property shall be for the lessee's account.
18. The lessee shall provide security for the facility and shall undertake all repairs of the property, maintain the sewerage and drain pipes in good order and free from obstruction, effect repairs or make good any damage made necessary or caused by any of the lessee's employees, members, guests or other persons whom it permitted to use the facility or any portion thereof or caused by the unlawful or forcible entry of any person whatsoever.
19. Successful bidders are required to submit a financial proposal which is not limited to but should include:
  - o A detailed cost estimate, together with supporting documentation of the costs of refurbishing, upgrading, extension and/or alterations and;
  - o A time schedule for the refurbishing/alteration of the building.
20. The successful bidder is required to submit to Municipality a comprehensive operational and maintenance plan for the duration of the lease.
21. The lessee shall take out public liability insurance in the amount of R5 000 000.00 (Five Million Rand) to cover any possible claims. The public liability insurance of the Property may be reviewed on every anniversary of the Commencement Date and in circumstances where a review takes place, the Lessor and Lessee will agree on the level of public liability insurance required. If the Parties cannot agree on the level of insurance required within 14 (fourteen) Days of the review date in question, an appropriate level of insurance will be determined by an expert appointed by the Lessor or by the Lessor's insurance brokers, with the consent of the Lessee, which consent must not be unreasonably refused. The expert will determine an appropriate level of public liability cover in the light of prevailing market conditions and their findings will be final and binding on the Parties, who will bear the costs of the appointment and functioning of the expert in equal shares.
22. That, all environmental, Health and related legislation and By-laws applicable to the Property shall be complied with and that all building plans to be submitted to the Local Authority for approval prior to any construction.

23. That, there shall be no increase in the development footprint and any increase footprint will require Head: Environmental Planning and Protection Unit's authorisation and other necessary approvals.
24. That, should the proposed lease of the property for the intended use impacts negatively to the surroundings, communities or to the natural environment, Environmental Health Unit may call for mitigation measures to be implanted.
25. That the Municipality shall have the right of entry to the property at all times for inspection purposes, to construct services and to maintain services without the lessee having the right to claim for any damages which may occur.
26. That, the ground levels within the lease property shall not be altered in any way without the prior approval of the Municipality and the lessee shall be held responsible for any damages caused to the services within the leased area.
27. That, the Municipality shall not be held liable for any form of compensation whatsoever to the lessee in the event that the lease is cancelled.
28. That, the lessee must bear all costs in connection with any required survey to define the boundaries of the property or location of any beacons, services, etc. which may be necessary through the granting of this lease.
29. That, the property must be maintained in a clean and tidy state at all times and lessee must leave the property in a state which is acceptable to the Municipality when the lease is terminated.
30. That, the lessee must ensure that no plants with extensive root systems which can damage the services are planted within the property.
31. That, should any nuisance whatsoever arise through the lease and use of the property, the successful bidder shall take such immediate action as required by the Municipality to overcome the nuisance or the lease shall be terminated.
32. The bidder is expected to submit a detailed empowerment plan demonstrating how the following will be achieved:
  - a. Job Creation Plan including the plan to absorb the current low level employees.
  - b) Training
  - c) Local SMME Supported

## REU MBD 13: PROPERTY INFORMATION

### 1.Site Information

<b>Property Description</b>	Proposed Leases A and B on Erf 1789 Umhlanga Rocks
<b>Size (Lease area)</b>	277 m <sup>2</sup>
<b>Zoning</b>	Umhlanga District-Beach Amenity Reserve 1
<b>Structures and Physical features</b>	The property forms part of a Building and Piazza measuring 277 m <sup>2</sup> is in a good condition.
<b>Current Use</b>	Restaurant and take away
<b>Minimum Acceptable Rental Offer</b>	R78 720.00
<b>Highest and Best Use</b>	The highest and best use for commercial purposes

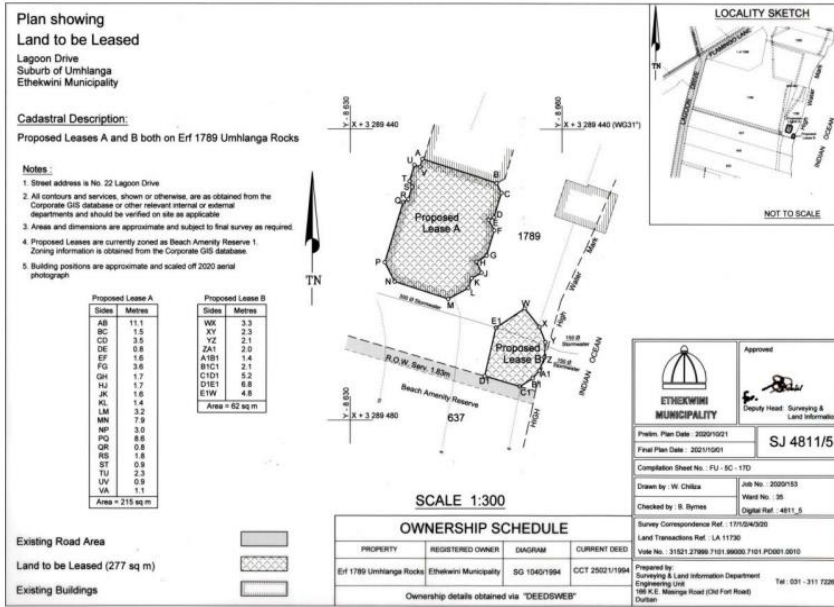
2. Ariel Photo





3. SJ No. 4811/5

Hand Plan



## 9. TOWN PLANNING DEVELOPMENT CONTROLS

### 6.1 (e) Umhlanga District - Beach Amenity Reserve 1:

- (i) The Grantor shall give, grant and create in favour of the Municipality in perpetuity for the use and access to the said area by the public for beach amenity purposes a servitude conferring upon the Municipality the right to allow the public use and access for beach amenity purposes over: - (describe the property and give its extent)

Such servitude however to be conferred subject to the following terms and conditions:

- (a) **Definition:** In this Deed, the word "Grantor" shall mean the owner of the Remainder of .....or its successors in title.
- (b) In the event of the said property ceasing to be used for beach amenities then and in such event this servitude may be cancelled at the instance of the Grantor.
- (c) Save and except for such vehicular traffic as may be required Circumstances of emergency, and save for such vehicular traffic as may be required by the Municipality to carry out necessary Municipal Services, no vehicular traffic of any kind shall be allowed upon the property concerned.
- (d) Save for the construction and maintenance of a boulevard for pedestrians, no road shall be built upon the property concerned.
- (e) No trading of any kind shall be carried on upon the property concerned save and except with the consent of the Municipality, for the hire of beach umbrellas, deck chairs, beach beds and surf-o-planes, the sale at suitable kiosks approved by the Municipality, of refreshments for off- consumption, tobacco in any form and matches and the carrying on of a cafeteria business from premises approved by the Municipality.  
(29.06.1992)
- (f) No building of any kind shall be erected on the property concerned with the exception of buildings for use by Lifesavers in the exercise of their lifesaving functions, including a Lifesavers' Clubhouse complex, a supervisor's office, storerooms, garaging for vehicles and boats, a cafeteria, kiosks for the purpose set out in Condition (e) above, public change rooms and toilets, public shelters, public seats, steps, and retaining walls provided however, that any such building as may be erected upon the said property shall not exceed 2 storeys in height provided that architectural features may exceed such height restriction and that each storey shall not exceed (3) metres in height. Any such building as may be erected upon the said property shall be sited in such place as may be approved by the Municipality provided however that before constructing any such building the Municipality shall first obtain the consent of the Grantor to the siting of the said building and provided further that the Grantor may, if the siting of the said building causes undue hardship to the grantor, refuse to agree to the proposed siting of the building and provided further that in the event of the Municipality and the Grantor being unable to come to agreement as to the siting of any such building shall be submitted to arbitration, such arbitration to be governed by the Arbitration Laws of South Africa then in force. (29.06.1992)
- (g) The property shall at no time be used as a Mobile Home Park nor shall tent dwellers be allowed to dwell on the property.
- (ii) "Grantor" means the owner of any portion of any Lot which falls in the Beach Amenity Reserve at the time that the Municipality makes written request for the grant of the said servitude.
- (iii) The cost of the servitude shall be borne by the Municipality.

#### **MBD 14: REGISTRATION DOCUMENTS**

**The following documents must be submitted at the time of tender closing if the tendering entity is a:**

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

**MBD 15: AUTHORITY TO SUBMIT BID**

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

Is a company resolution attached?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Is the bidder a natural person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is a certified ID copy attached?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Is a copy of the bidder's power of attorney attached?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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**REU MBD 17: PROPOSAL FOR THE PROPOSED LEASES A AND B BOTH ON ERF 1789 UMHLANGA ROCKS**

The information supplied in this section will be used to assess compliance with the “Functional Criteria”.

**1.1 Maintenance Proposal:**

Bidders are required to submit a concise sustainable maintenance plan/ and a funding plan for the duration of the lease period.

Concept of activities proposed at the facility	Description
<b>Totals</b>	

**1.2 Proposed improvements summary (if any)**

Use	Total Floor area (m <sup>2</sup> )
<b>Totals</b>	

**1.3 Estimated costs of maintenance and management.**

A Breakdown of all costs to be incurred by the bidder in the preparation of the facility must be provided. The cost provided in this section will form a critical part of the evaluation of proposals and will be a contractual condition of the agreement awarded.	
<b>Totals</b>	

The lease agreement will be concluded with the successful tenderer.

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

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

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

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

## REU MBD 20: PROPOSED EMPOWERMENT PLAN

### FRAMEWORK FOR ACCELERATING ECONOMIC EMPOWERMENT AND TRANSFORMATION

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

DESCRIPTION	TARGET	Bidders Commitment in numbers of persons
<b>Job Creation &amp; Job intensive plan</b>		
Total number of jobs to be created during construction	Total jobs created	
Total number of jobs to be created after construction	Total jobs created	
<b>Training &amp; Development programme</b>		
Training and Development Programmes (throughout the lifecycle of the project)	60% of workforce	
Rand value of spend to local SMMEs that have black ownership	50% of project value	
Full use of locally sourced or locally assembled material and/or products	70% of project value.	
Procurement of Material from Local Suppliers	30% of project value	
<b>Enterprise Development Enterprise (during and after construction)</b>		
Number of Local SMMEs to be supported in terms of the enterprise and supplier development plan for this project, including Demonstration graduation of suppliers in this project	30 % of the project value.	
Partnership with Women, Youth, and People with disabilities owned Companies	Total jobs number of Companies	
Demonstrate how the development will benefit the local community and/or community-based organisations		

**REU MBD 21: EXPERIENCE AND CAPABILITIES OF KEY STAFF**

- a) Indication of experience, knowledge, qualifications and skills Please provide information on Tenderers' key members and personnel who will manage and/or operate the proposed business on a day to day basis.
- b) The team must be appropriately qualified.
- c) Provide CVs

<b>Details of experience of Key staff.</b>				
(PLEASE EXPAND TABLE IF REQUIRED) NB: DO NOT ATTACH A SEPARATE TABLE				
<b>Name</b>	<b>Surname</b>	<b>Role &amp; Job Description</b>	<b>Highest Qualification and year achieved</b>	<b>Years of experience in related business</b>

**Relevant Company Experience**

List of similar businesses being operated currently or previously.

No	Description	1	2	3
1	Name of the main entity who is submitting this tender			
2	Tenderer's business name / Restaurant name			
3	Location of business / address			
4	From year to what year?			
5	Duration of the business			
6	Average monthly turnover			

**REU MBD 22: ACCESS TO FUNDING**

**The bidder must submit proof of availability of 100% of the funding required for the development as per MDB 17.**

**Please note that the following definitions will be used in assessing the proof of availability of finance:**

Proof of available funds qualifies as a letter/ expression of interest from a registered funder with Financial Sector Conduct Authority (FSCA) on an official letter head confirming the bidder's ability to access the funding required for the proposed development.

Provide funding model to incorporate how and where the funding will be sourced/raised, and it must include collateral to be pledged against such funding if required.

Total Operational Cost	<b>R</b>
Debt Finance	<b>R</b>
Equity Investments (if any)	<b>R</b>
Source of Debt Finance <ul style="list-style-type: none"> <li>• Letter confirming access to debt funding</li> </ul>	
Source of Equity Finance <ul style="list-style-type: none"> <li>• Written confirmation of equity funding</li> </ul> (Note: this source may not be a bank loan).	

**REU MBD 23: CONDITIONS OF LIMITATION ON AWARDING MULTIPLE PROPERTIES TO A SINGLE BIDDER.**

**1. Objective:**

- To promote equitable distribution of leasing opportunities and encourage broader participation in bidding processes.

**2. Eligibility Restriction:**

- Each bidder is eligible to be awarded a maximum of one property per tender cycle, irrespective of the number of bids submitted or the responsiveness of the bids.

**3. Bid Submission:**

- Bidders may submit proposals for multiple properties within a single tender cycle. However, they must prioritize their bids in order of preference at the time of submission.

**4. Award Criteria:**

- In the event that a bidder is identified as the most responsive bidder for multiple properties, the award will be limited to the highest priority property as indicated in their bid submission.
- Subsequent properties for which the bidder is also the most responsive will be awarded to the next most responsive bidder who has not yet been awarded a property in the same tender cycle.

**5. Disclosure:**

- Bidders must fully acknowledge and agree to this condition by signing a declaration form as part of their bid submission. Failure to comply with this declaration may result in disqualification from the tender process.

**Properties Bid For**

Please list the properties you are bidding on, prioritized in order of your preference (1 being the highest priority). Use additional sheets if necessary.

<b>Contract Number</b>	<b>Property Description</b>	<b>Priority (1,2,3)</b>


**Bidder Declaration**

**Objective Acknowledgment:**

I/We acknowledge the objective of this tender to promote equitable distribution of leasing opportunities and encourage broader participation in the bidding process.

**Eligibility Restriction Compliance:**

I/We understand that each bidder is eligible to be awarded a maximum of one property per tender cycle, irrespective of the number of bids submitted or the responsiveness of the bids.

**Bid Submission and Award Criteria Acknowledgment:**

I/We understand that although I/we may submit proposals for multiple properties, the award will be limited to the highest priority property as indicated in this submission. Any subsequent properties for which I/we are the most responsive bidder will be awarded to the next most responsive bidder who has not yet been awarded a property in this cycle.

**Disclosure and Agreement:**

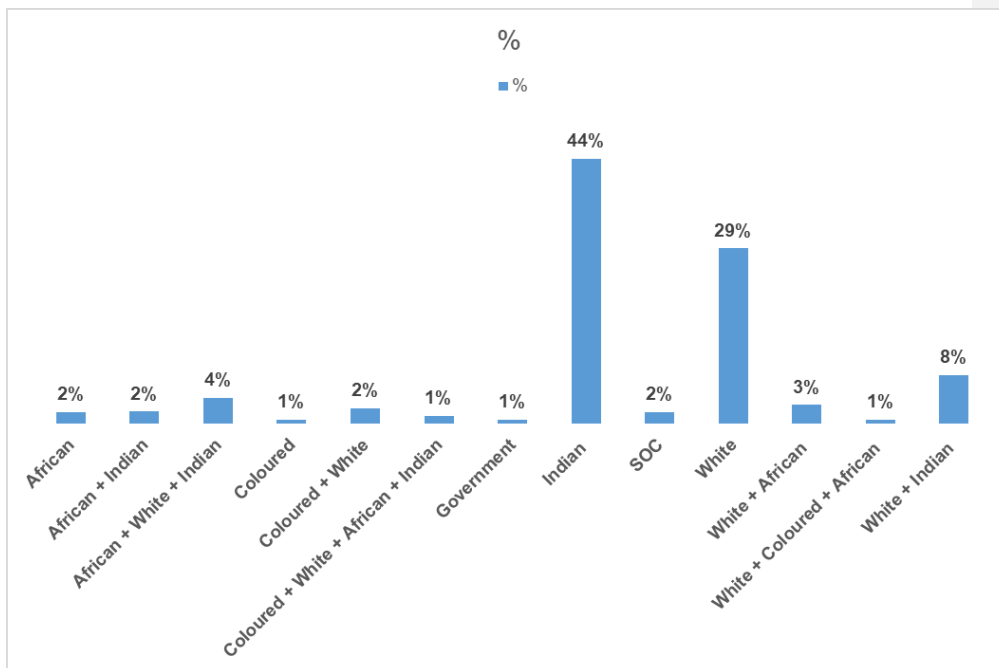
I/We hereby declare that the information provided is accurate and complete. I/We fully understand and agree to comply with the condition of limitation on awarding multiple properties as outlined in the tender documentation. Failure to comply with this declaration may result in disqualification from the tender process.

<b>Bidder / Entity Name</b>	
<b>Represented By</b>	
<b>Capacity</b>	
<b>Signature</b>	
<b>Date</b>	

**ANNEXURE A: DEMOGRAPHIC PROFILE**

**DEMOGRAPHIC PROFILE APPLICABLE TO OBJECTIVE CRITERIA**

Current demographic profile of 160 existing leases- Metro Wide



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

ETHEKWINI MUNICIPALITY COUNCIL'S DECISION DATED 31/5/2018

- 84 - (eThekweni Municipality  
Council Decisions - 2022-12-13)

- 2.13 Proposed Lease of a Portion of a Building and Piazza Described as Proposed Leases A and B, Both on Erf 1789 Umhlanga Rocks, Situated at 22 Lagoon Drive, as Depicted on Plan No.: SJ 4811/5, Measuring 277m<sup>2</sup> for Commercial Purposes, for a Period of Nine (9) Years and Eleven (11) Months With no Rights of Renewal (17/2/12/3):  
(Page 297: Human Settlements and Infrastructure Committee - Agenda 2022-11-24)

The DA Members abstained on this matter and with other Political Parties being in support,

COMMITTEE RECOMMENDS:

- 2.13.1 That the Municipal Council approves in principle that the right be granted to use, control or manage the capital asset described as proposed leases A and B of Erf 1789 Umhlanga Rocks in the Durban Entity, Province of KwaZulu-Natal, in extent approximately 277m<sup>2</sup> as depicted on Plan SJ 4811/5 for commercial purposes in terms of regulation 34(1)(b) read with regulations 36 and 41 of the MATR that the property is not required to provide the minimum level of Municipal services for a period of 9 years and 11 months.
- 2.13.2 That the current market value of the land is assessed at a value of R78 720.00 (Seventy-Eight Thousand Seven Hundred and Twenty Rand), per month and excluding VAT, and will be reviewed from time to time.
- 2.13.3 That the property will be leased by a public tender process in accordance with the provisions of the Preferential Procurement Policy Framework which supports Radical Economic Transformation and the Supply Chain Management Policy.
- 2.13.4 That all costs incidental to the transaction shall be at the cost of the lessee to whom the right to use, control or manage the capital asset is to be granted.
- 2.13.5 That the property is zoned Umhlanga District Beach Amenity Reserve 1 in terms of the Town Planning Scheme and the Lessee may apply to the local authority for a special consent or an amendment to the zoning of the property in respect of the proposed use.
- 2.13.6 That subject to the adoption of 1 to 5 above, and the approval by the Bid Adjudication Committee, authority be granted to the Head: Real Estate to sign all the documents necessary to give effect to this transaction in terms of the Supply Chain Management Policy, and any other applicable legislation, and subject to such further conditions as the Head: Real Estate considers necessary to protect the Municipal interest.

**ADOPTED.**

## **CONFIDENTIALITY DECLARATION POPIA**

### **CONFIDENTIALITY**

The parties acknowledge that for the purposes of this Tender, the parties may come into contact with or have access to PI and other information that may be classified or deemed as private or confidential and for which other party is responsible. Such PI may also be deemed or considered as private and confidential as it relates to any third party who may be directly or indirectly associated with this Tender.

The Parties agree that they will at all times comply with POPIA and its Regulations and Codes of Conduct and that it shall only collect, use and process PI it comes into contact with pursuant to this Tender in a lawful manner, and only to the extent required to execute the services, or to provide the goods and to perform their respective obligations in terms of this Tender.

The Parties agree that it shall put in place, and at all times maintain, appropriate security measures to ensure the protection and confidentiality of PI that it, or its employees, its contractors or other authorized individuals comes into contact with pursuant to this Tender, whether or not they are still in the employ of the parties.

Unless so required by law, the Parties agree that it shall not disclose any PI as defined in POPIA to any third party without the prior written consent of the other party, notwithstanding anything to the contrary contained herein.

## Consent Clause

I \_\_\_\_\_ ID number \_\_\_\_\_ hereby declare and confirm that I have given EThekwini Municipality consent to process my personal information, in accordance with the provisions of the Protection of Personal Information Act, 2013 for all purposes related to the carrying out of its mandate, in relation to Real Estate Unit. Such consent shall extend to the sharing of my personal information with third parties, where EThekwini Municipality is legally required to do so.

I understand that, should I refuse to provide EThekwini Municipality with the required consent and/ or information, EThekwini Municipality will be unable to provide services to me.

I also understand that I have the right to request that my personal information be corrected or deleted, if it is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or obtained unlawfully or that the personal information or record be destroyed or deleted if Ethekwini Municipality is no longer authorised to retain it.

I further declare that all my personal information supplied to EThekwini Municipality is accurate, up to date, not misleading, and complete in all respects.

Signed at.....this.....day of.....20.....

.....  
Name and Surname

.....  
Signature



**ETHEKWINI MUNICIPALITY**  
**Occupational Health & Safety Unit**

**37.2 Agreement in terms of Occupational Health and Safety**  
**Act No. 85 of 1993**

Document Title	37.2 Agreement in terms of OHS Act of 1993
Client	eThekweni Municipality – Real Estate Unit
Project Name	Request for proposal for leasing of a building and Piazza described as proposed leases for ERF 1789 for 9 years
Contract Number	31319-7E
Revision	01
Date	15/10/2025
Internal Reference No.	37.2 AGM/111 /10/2025
Compiled by (Safety officer)	Name and surname: Siya Nkosi Signature:  Date: 15 October 2025
Reviewed by (Manager: Safety & Risk)	Name and surname: Arty Zondi Signature:  Date: 15 October 2025



# **ETHEKWINI MUNICIPALITY**

## **OCCUPATIONAL HEALTH AND SAFETY**

### **OCCUPATIONAL HEALTH AND SAFETY ACT 1993, (ACT NO. 85 OF 1993) MANDATORY AGREEMENT – 37.2**

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#### **Lessee Acknowledgement of Responsibility in terms of the Occupational Health and Safety Act**

Written agreement between ETHEKWINI Municipality (the “employer”)  
And  
(the “Lessee”)

as provided for in terms of Section 37 (2) of the Occupational Health and Safety Act No.85 of 1993 as amended by Act 181 of 1993.

I hereby declare that I, ....., am authorised to represent the “Lessee” and acknowledge that the “Lessee” is an employer with all duties and responsibilities as prescribed in the Occupational Health and Safety Act no. 85 of 1993.

I agree to ensure that all work performed, or machinery and plant used by the “Lessee” on any ETHEKWINI Municipality premises shall be by the provisions of the said Act.

Furthermore, I agree the “Lessee” shall comply with all ETHEKWINI Municipality site rules and safety, health, and environmental requirements as may be communicated or stipulated by ETHEKWINI Municipality before and during any Contract awarded to the “Lessee” by ETHEKWINI Municipality.

Furthermore, I undertake to ensure that ETHEKWINI Municipality is timeously informed should the “Lessee”, for whatever reason, be unable to perform in terms of this agreement.

The Lessee’s driver must obey the traffic signs and speed limit within eThekwini Municipality premises.

The Lessee shall ensure his/her vehicle is in good working condition and safe for use.

The Lessee must ensure that all his or her employees have a valid medical certificate of fitness.

The Lessee shall ensure that all employees under his control are always wearing the appropriate Personal Protective Equipment.

The Lessee employees must be familiar with the facility's emergency evacuation plan and comply in the event of any emergency.

The Lessee must be registered and in good standing with the Compensation for Occupational Injuries and Diseases Commissioner or Personal Accident Cover or public Liability Cover.

The Lessee must comply with SANS 10400 – Building Regulation Standards and other related legislations.

Signed this .....day of .....20.....

On behalf of the “Lessee” (print) .....

(sign) .....

On behalf of the “employer” (print) .....

(sign) .....