

FUNCTIONS AND DELEGATIONS OF COUNCIL'S POLITICAL STRUCTURES

CITY OF CAPE TOWN

As approved at the Council meeting of 29 October 2003

FUNCTIONS AND DELEGATION OF POWERS OF COUNCIL'S POLITICAL STRUCTURES

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1. DEFINITIONS

“Business Plan” means that portion of the Council's Integrated Development Plan, which defines projects and action plans of each directorate of the Council.

“Commercial Activity” means any activity relating to the:

- (a) buying, selling, hiring, or letting of goods or property (both movable and immovable);
- (b) acquiring or providing services; and includes

the advertising of tenders for such goods or property and services, the awarding of such tender, the entering into and signing of contracts, the amendment and cancellation of such contracts. The total contract price shall fall within the delegated limits of the relevant functionary.

For the purposes of this definition:

- (a) Contract includes any legal activity required by or incidental to the powers and functions outlined herein.
- (b) The value of a commercial activity in respect of a lease is the total cost of the lease; and
- (c) Any legal activity by which rights and obligations are created for Council.

“Constitution” means the Constitution of the Republic of South Africa, Act 108 of 1996, as amended.

“Chief Whip” means the person elected as the Chief Whip of Council

“Delegation” In relation to a duty, includes an instruction to perform the duty, and **“delegate”** has a corresponding meaning

“Department” means a functional area accountable to a Director.

“Deputy Executive Mayor” means a person elected in terms of Section 55 of the Structures Act

“Designation” means a power designated to the Executive Mayor to be performed together with the members of the Mayoral Committee as envisaged in section 60(3) of the Structures Act.

“Director” means a manager responsible for a group of functional areas.

“Directorate” means a group of departments accountable to an Executive Director.

“Executive Director” means a manager responsible for a group of directorates.”

“Executive Mayor” means a person elected in terms of section 55 of the Structures Act and in whom the executive leadership of the municipality is vested.

“Finance Management Act” means the Local Government: Municipal Finance Management Act (when passed).

“Generic powers” means:

- (1) in relation to the administration the uniform powers, duties and function applicable to all executive directors and directors and which have been delegated to them by the Municipal Manager with the consent of Council; and
- (2) in relation to the Members of the Mayoral Committee the uniform powers, ~~duties~~ and functions of the members of the Mayoral Committee.

“Heads” means a functional head within a department.

“LUPO” means the Land Use Planning Ordinance 15 of 1985.

“Mayoral Committee” means the Committee appointed by the Executive Mayor in terms of section 60 (1), of the Structures Act and includes the Deputy Executive Mayor as envisaged in section 60 (2) of the Structures Act

“Member of the Mayoral Committee” means a Councillor appointed by the Executive Mayor in terms of section 60 of the Structures Act, and includes, for the purposes of this definition, the Deputy Executive Mayor.

“Municipal Manager” means a person appointed in terms of Section 82 of the Local Government: Municipal Structures Act, 117 of 1998.

“Portfolio of a Mayoral Committee member” means those functions delegated to a member of the Mayoral Committee in terms of section 60 (1) of the Structures Act, or the functions designated by Council as the case may be.

“Tender and Procurement Committee” means the committee established in terms of section 79 of the Structures Act.

“Spatial Planning, Environment and Land Use Management Committee” means the committee established in terms of section 79 of the Structures Act.

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“Speaker” means the person elected in terms of Section 36 of the Structures Act

“Structures Act” means the Local Government: Municipal Structures Act No. 117 of 1998.

“Sub-councils” means a metropolitan sub-council established in terms of section 62 of the Structures Act.

“Sub-council manager” means a manager appointed in terms of the City of Cape Town; Cape Town Sub-council by-law.

“Systems Act” means the Local Government: Municipal Systems Act No. 32 of 2000.

2. FRAMEWORK

- 2.1 Political structure, political office bearer, Councillor or member of staff shall exercise powers, duties or functions delegated by Council, the Executive Mayor, or Municipal Manager in accordance with the provisions of the Promotion of Administrative Justice Act, 2000, and the Constitution.
- 2.2 All delegations are subject to compliance with Council's Integrated Development Plan, By-laws and Budget.
- 2.3 All delegations must be in writing.
- 2.4 The Municipal Manager, Executive Director or Director to whom a power or duty has been delegated by Council is authorized to sub-delegate any of his/her powers.
- 2.5 An official to whom a power, duty or function has been delegated may desist from exercising such power, duty or function and refer it for decision to the next higher level.
- 2.6 Executive Directors and Directors perform the powers, duties and functions herein defined as generic powers.
- 2.7 The chain of authority is hereby established from the Council to its political structures, and the Municipal Manager, and all delegations shall comply herewith.
- 2.8 Any sub-delegation must be reduced to writing and recorded in the delegation register, which must be kept updated at all times by the Municipal Manager.
- 2.9 All decisions affecting the rights of others must be in writing.
- 2.10 All delegates must report delegated decisions at such intervals as the delegator may require.

3. STATUTORY OBJECTIVES, DUTIES AND FUNCTIONS OF THE COUNCIL

The Statutory duties and functions of the Council are prescribed by, inter alia:

- 3.1 The Constitution;
- 3.2 The Local Government : Municipal Structures Act;
- 3.3 The Local Government : Municipal Systems Act; and
- 3.4 The Municipal Finance Management Act (when passed).

4. POWERS RESERVED FOR COUNCIL

4.1 General Powers

- 4.1.1 Passes by-laws
- 4.1.2 Approves the integrated development plan.
- 4.1.3 Elects the Executive Mayor, Deputy Executive Mayor, Speaker and Chief Whip.
- 4.1.4 Delegates executive powers to Council's Executive Mayor.
- 4.1.5 Enters into service delivery agreements, for the provision of a municipal service through an external mechanism in terms of section 76 (b) of the Systems Act.
- 4.1.6.1 Removes the speaker, Executive Mayor and/or Deputy Executive Mayor and Chief Whip.
- 4.1.7 Establishes section 79 and 80 Committees.
- 4.1.8 Appoints members to Council's Committees.
- 4.1.9 Appoints Chairpersons of section 79 Committees.
- 4.1.10 Determines the terms of reference of Council's Committees.
- 4.1.11 Establishes subcouncils by way of a by-law.
- 4.1.12 Appoints additional members to sub-councils subject to applicable legislation.
- 4.1.13 Bestows civic honours, including aldermanship and the naming of public streets, places and municipal buildings after persons.
- 4.1.14 Determines councillor allowances and salaries.
- 4.1.15 Designates Councillors, as determined by the Provincial Minister for Local government, as full-time Councillors.
- 4.1.16 Take decisions to expropriate immovable property or rights in or to immovable property within the policy framework of Council.

- 4.1.17 Decides on the determination or alteration of the remuneration, benefits or other conditions of service of the Municipal Manager or managers directly responsible to the Municipal Manager

4.2 Financial Powers

- 4.2.1 Approves Council's budget and any amendment thereto.
- 4.2.2 Imposes rates, taxes, levies and duties. (Housing rentals for Council housing schemes are included within the definition of "levies").
- 4.2.3 Raises loans.
- 4.2.4 Determines a rating system for levying property rates on immovable property.
- 4.2.5 Determines development levies / contributions other than RSC levies.

5. EXECUTIVE MAYOR

5.1 STATUTORY POWERS OF THE EXECUTIVE MAYOR

- 5.1.1 Presides over the meetings of the Mayoral Committee and signs the minutes of the meetings.
- 5.1.2 Delegates appropriate duties to the Deputy Executive Mayor.
- 5.1.3 Receives input on the Council's integrated development plan from the Municipal Manager, and tables this in the Mayoral Committee.
 - Receives recommendations from the members of the Mayoral Committee, relevant to their portfolio; and
 - Makes final recommendations on the integrated development plan to Council for adoption.
- 5.1.4 Receives the Auditor-General's reports and deals with them in accordance with relevant legislation.
- 5.1.5 Performs all duties in terms of the Municipal Finance Management Act once passed relative to the processing of the draft budget.
- 5.1.6 Certifies the annual budget.

- 5.1.7 Reviews the performance of the municipality in order to improve:
- The economy, efficiency, and effectiveness of the municipality;
 - The efficiency of credit control and revenue and debt collection; and
 - The implementation of the municipality's by-laws.
- 5.1.8 Oversight over the executive functions of the municipality.
- 5.1.9 Oversees the provision of services to communities in the municipality in a sustainable manner.
- 5.1.10 Annually reports on the involvement of communities and community organizations in the affairs of the municipality.
- 5.1.11 Receives reports on the alignment of the IDP and the budget from the relevant Member of the Mayoral Committee.
- 5.1.12 Ensures that regard is given to public views and reports on the effect of consultation on the decisions of the Council.
- 5.1.13 Makes recommendations to Council regarding:
- 5.1.13.1 The adoption of estimates of revenue and expenditure, as well as Capital Budget, and the imposition of rates and other taxes, levies and duties;
 - 5.1.13.2 The passing of by-laws;
 - 5.1.13.3 The raising of loans;
 - 5.1.13.4 The approval of the IDP and any amendment thereto.
- 5.1.14 To recommend to Council the appointment and determination of the conditions of service of the Municipal Manager and managers reporting directly to him/her.
- 5.1.15 Deals with any matter referred to the Executive Mayor by the Council.
- 5.1.16 Attends and deals with all matters delegated to the Executive Mayor in terms of the Structures Act and the Systems Act.
- 5.1.17 Appoints a chairperson from the Members of the Mayoral Committee for any section 80 Committee established by Council to assist the Executive Mayor.

- 5.1.18 Delegates any powers and duties to any section 80 Committee established by Council.
- 5.1.19 Varies or revokes any decision taken by a section 80 Committee, subject to vested rights.
- 5.1.20 Evaluate progress against the key performance indicators.
- 5.1.21 Receives reports from Committees of the Municipal Council and forwards these reports together with a recommendation to the Council when the matter cannot be disposed of by the Executive Mayor in terms of the Executive Mayor's delegated powers
- 5.1.22 When there is an appeal against a decision taken by the Municipal Manager, the Executive Mayor is the appeal authority.
- 5.1.23 Must perform a ceremonial role as the Municipal Council may determine. The following ceremonial duties are hereby determined:
 - (a) Opening projects, civic functions and events, and new buildings;
 - (b) Hosting and welcoming dignitaries;
 - (c) Advocating municipal policy;
 - (d) Representing the Council at civic events;
 - (e) Leading campaigns initiated by the Executive Mayor;
 - (f) Representing the municipality during disasters;
 - (g) Acting as a patron of local organizations,
 - (h) Or any other duties of a ceremonial nature
- 5.1.24 The Executive Mayor:
 - o Must appoint a Mayoral Committee from among the Councillors to assist the Executive Mayor;
 - o May delegate specific responsibilities to each member of the Committee;

- o May delegate any of the Executive Mayor's powers to the respective members; and
 - o May dismiss a member of the Mayoral Committee.
- 5.1.25 Decides to make investments on behalf of the municipality within a policy framework determined by the Minister of Finance, and the investment of surplus funds in terms of Council policy.

5.1 POWERS DELEGATED BY COUNCIL TO THE EXECUTIVE MAYOR

- 5.2.1 Is the political head driving Council's policies, strategies and transformation in whom, the executive authority of Council is vested.
- 5.2.2 Interacts with the public.
- 5.2.3 Receives and interviews representatives and delegations from the public interest groups and makes recommendations to the Mayoral Committee in this regard.
- 5.2.4 Represents the Council at meetings and functions other than nominations by Council of its members to outside bodies.
- 5.2.5 Makes press statements on behalf of the Council.
- 5.2.6 Leads the City Development Strategy process.
- 5.2.7 The public relations and communication function.
- 5.2.8 Takes all decisions in the execution of the functions of the Executive Mayor.
- 5.2.9 Approves leave for the Municipal Manager.
- 5.2.10 Approves international, national and local participation of meetings/conferences/seminars etc by the Municipal Manager.
- 5.2.11 When the Council goes into recess, the Executive Mayor in consultation with the Municipal Manager takes decisions on behalf of the Council or any of its Committees, where the failure to exercise such delegated authority as a matter of urgency would prejudice the Council and/or its services.
- 5.2.12 Appoints an acting municipal Manager for periods from 6-20 working days.
- 5.2.13 Appoints, after consultation with the Municipal Manager, acting managers directly accountable to the Municipal Manager.

- 5.2.14 The Executive Mayor or Acting Executive Mayor, can appoint an acting Member of the Mayoral Committee to perform the functions of any Member of the Mayoral Committee who is absent on official business, on leave, or any other reason, with the concurrence of the Member of the Mayoral Committee concerned. The acting MMC must be a member of the Mayoral Committee and once appointed, will have the full powers and authority of that MMC. The acting appointment made by the Executive Mayor must be in writing.
- 5.2.15 Establishes ad-hoc task-teams of the Mayoral Committee and appoints members to such task-teams and chairpersons thereof.
- 5.2.16 Co-ordinates the activities of the Members of the Mayoral Committee.
- 5.2.17 To institute and defend any court action in the High Court or court of equal stature, with the exception of claims relating to recovery of debt owed to the Council, in consultation with the Director: Legal Services and the Municipal Manager (for the purpose of this clause, institute and defend includes the processing of any action to an appeal body).
- 5.2.18 Institute and defend arbitration proceedings in matters where it otherwise would have been dealt with in the High Court or a court of equal or higher stature.
- 5.2.19 Grants leave of absence to the MMC's for the Mayoral Committee meetings.
- 5.2.20 Determine the functional area for each portfolio of the MMC's.
- 5.2.21 Assign portfolios for the Members of the Mayoral Committee.
- 5.2.22 Assign strategic objectives to the MMC's for implementation and oversight.
- 5.2.23 Determine the amount of loss suffered by Council, where the Municipal Manager or any other manager directly accountable to him/her, has been responsible for such loss or damage and recovers the loss or damage from them.
- 5.2.24 Establish and oversee the management of a capital development fund, consolidated capital development and loan fund and/or consolidated loan fund.
- 5.2.25 Considers and deals with external audit reports and replies thereto and receive quarterly internal audit reports.
- 5.2.26 Appoints an acting Executive Mayor in the absence of both the Executive and Deputy Executive Mayor.

FINANCIAL POWERS OF THE EXECUTIVE MAYOR TO BE ADDRESSED

Decides on any commercial activity as it relates to the budget of his/her office.

Approves virement of funds of any amount of his/her operating budget.

5.3 Line of authority

The Executive Mayor reports to the Council.

6. POWERS DESIGNATED IN TERMS OF SECTION 60(3) OF THE STRUCTURES ACT TO THE EXECUTIVE MAYOR TO BE PERFORMED TOGETHER WITH THE MEMBERS OF THE MAYORAL COMMITTEE

- 6.1 Recommend to the Municipal Council strategies, programmes and services to address priority needs through the integrated development plan, and the budget.
- 6.2 Recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.
- 6.3 Identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2)(c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general.
- 6.4 The determination of policy after recommendations from the Executive Mayor.
- 6.5 The determination of which policies will be processed into by-laws.
- 6.6 Determines policy for the use of Council's facilities by members of Council.
- 6.7 Comments on National and Provincial legislation.
- 6.8 Recommends to Council policies where Council has reserved power to make the policies itself.
- 6.9 Makes recommendations to Council on proposed political structures of the Council.

- 6.10 Gives political direction to the City Manager and the Executive Directors.
- 6.11 Determine strategic approaches, guidelines and growth parameters for the draft budget including tariff structures.
- 6.12 Determines a policy framework in respect of the staff establishment, post description, conditions of service and evaluation of the staff establishment of the municipality.
- 6.13 Appoints/authorises Councillors to attend international, national and local meetings/conferences/seminars/study tours, together with associated costs.
- 6.14 The legal services function - including litigation, by-laws and court services, but excluding clauses 5.2.17 and 5.2.18 above.
- 6.15 To settle any action instituted in any competent court or forum recognised by law should it be deemed in the interest of Council.

6A Financial Powers

- 6A.1 Decides on any commercial activity with a value above R 5m.
- 6A.2 Subject to the provisions of the Municipal Finance Management Bill, approves virement of budgeted operational funds of an amount above R 1m, but not exceeding R10m.
- 6A.3 Decides on the choice of commercial bank and the opening of bank accounts.
- 6A.4 Subject to the provisions of the Municipal Finance Management Bill, approves the virement of budgeted capital funds of an amount above R 1m, but not exceeding R10m.

NOTE : In terms of section 60(3) of the Structures Act, the powers and functions listed above are performed by the Executive Mayor together with the members of the Mayoral Committee. The Executive Mayor is accordingly vested with the power to make recommendations in this regard to Council.

6B Line of authority

6B1 The Mayoral Committee reports to the Executive Mayor.

7. THE SPEAKER

7.1 STATUTORY POWERS OF THE SPEAKER

7.1.1 Presides at meetings of the Council and signs the minutes of the Council meeting s.

7.1.2 Ensures that the Council meets at least quarterly.

7.1.3 Maintains order during meetings of the Council and ensures that the meetings are conducted in compliance with the Council's Rules of Order.

7.1.4 Performs all other duties assigned to him/her in the Council's Rules of Order.

7.1.5 Ensures compliance in the Council with the Code of Conduct as set out in Schedule 1 to the Municipal Systems Act.

7.1.6 Initiates any investigation or enquiry into suspected or alleged impropriety by Councillors or any alleged breaches of the Council's Code of Conduct.

7.2 POWERS DELEGATED TO THE SPEAKER

7.2.1 Chairs committees such as the Appeals committee, the Ethics Committee, and Rules Committee, if such committees are established.

7.2.2 Oversees the use of Council facilities by members of the Council in accordance with the policy of the Mayoral Committee.

7.2.3 The performance of any ceremonial functions as Speaker, delegated by the Executive Mayor.

7.2.4 The following functions are the responsibility of the Speaker:

- * Sub-council Co-ordination;
- * Ward Committees administration;
- * Committee Secretariat;

7.2.5 Is the appeal authority in terms of the Promotion of Access to Information Act.

7.3 Line of authority

Reports to Council.

8. CHIEF WHIP

8.1 Line of authority

The Chief Whip will report to Council regarding his or her institutional role and functions.

8.2 INSTITUTIONAL ROLE AND FUNCTIONS INCLUDE:

- 8.2.1 Informing Councillors of Council Committee, and other meetings (except the meetings of the Mayoral Committee) as determined by the Speaker and Executive Mayor and of important items on the relevant agendas.
- 8.2.2 Advise the Speaker and Executive Mayor in what order important issues should be dealt with if some councillors must leave early or attend the relevant meetings late and how much time should preferably be allocated thereto.
- 8.2.3 Arrange the allocation of times for speakers in the order of such speakers and how long the speakers may be permitted to address the Council on an item after consulting other whips and then supplying a list of scheduled speakers to the Speaker or Executive Mayor. (Liaise with Speaker).
- 8.2.4 Ensuring that Councillor's motions are prepared and timeously given to the Council in terms of the Rules of Order or that the Executive Mayor and the Speaker are advised of urgent motions in writing prior to the commencement of the meeting. (Liaise with the City Manager).
- 8.2.5 Deciding how to deal with important items not disposed of at a meeting pending its resolution or the withdrawal of items that need political clarity or which need to be caucused or even investigated.
- 8.2.6 Liaising with other whips in respect of items to be added to a meeting agenda, debates on motions, what matters should be interrupted to give precedence to others, etc.
- 8.2.7 Allocating official seats to Councillors or parties after consultation with opposition whips.
- 8.2.8 Approval of changes to meeting dates
- 8.2.9 In consultation with the Speaker, the preparation of Council's calendar of

meetings and the approval of any amendment thereto.

- 8.2.10 The granting of leave of absence to Councillors
- 8.2.11 The approval of the use of office space by Councillors, subject to a policy adopted by Council or the Mayoral Committee as the case may be.
- 8.2.12 Assisting the Speaker with counting of votes and other delegated matters.
- 8.2.13 Ensuring that there is constant liaison between the various whips and constant communication channels are kept open amongst themselves and other parties.
- 8.2.14 Liaison with the Chief Whip in the Provincial Legislature and keeping all parties informed on new developments.
- 8.2.15 Contribute to the development of institutional policies, procedures and strategies, insofar as this relates the functions of the office of the Chief Whip.
- 8.2.16 The performance of ceremonial functions as Chief Whip, delegated by the Executive Mayor.

9. SECTION 79 COMMITTEES

9.1 POWERS DELEGATED BY COUNCIL TO THE SPATIAL PLANNING, ENVIRONMENT AND LAND USE MANAGEMENT COMMITTEE

Delegations to the Spatial Planning, Environment and Land Use Management Committee

The following powers are conferred upon the Spatial Planning and Environment and Land Use Management Committee and this shall include the power to sub-delegate any of the powers conferred:

- 9.1.1 Decides on all applications made in terms of the following legislation as amended, where there is no delegated authority to officials in terms of the delegation documents applicable to individual administrations, in cases where objections have been received, or where the official does not wish to exercise the delegated power conferred upon him or her:

- 9.1.1.1 the Land Use Planning Ordinance no 15 of 1985 (C) and the Zoning Scheme Regulations and Town Planning Schemes

promulgated in terms of the Black Communities Development Act No 4 of 1984 applicable in Council's area of jurisdiction, and where applicable, the applications are in accordance with the General Structure Plan, a Section 4(6) Structure Plan, and the Urban Structure Plan for the Cape Metropolitan area of 1988, including, but not limited to rezoning, subdivision, departures (temporary or permanent), consents, conditional uses, the waiving, amendment or Imposition of additional conditions of approval, amendment or cancellation of an approved plan of subdivision or general plan or diagram, determination of zonings, extensions of time for rezoning, subdivision and departure applications; provided that the Committee may depart from a Section 4(10) Structure Plan and approved policies for local area spatial planning, environmental, heritage and land use management which are used to guide decision-making in respect of the above matters if reasons are furnished for such departure.

- 9.1.1.2 The National Building Regulations and Building Standards Act no: 103 of 1977;
- 9.1.2 National Heritage Resources Act no: 25 of 1999;
- 9.1.3 Section 13 of the Legal Succession to South African Transport Services Act;
- 9.1.4 The National Environmental Management Act no: 107 of 1998 and the regulations thereto;
- 9.1.5 The Outdoor Advertising and Signage By-law no 5801 of 5 December 2001
- 9.1.6 Other laws, by-laws, regulations, policies and agreements in respect of spatial planning, environmental, heritage, building and land use management.
- 9.1.7 Comments to the relevant Section 80 Committee on policies and amendments thereto for local area spatial planning and environmental, heritage and land use management, which are used to guide decision-making in respect of these matters.
- 9.1.8 Makes recommendations to National or Provincial spheres of government where Council does not have delegated authority (nor competency conferred upon it) in terms of the following legislation as amended from time to time, and in cases where there is no delegated authority to officials, in cases where objections have been received, or where the official does not wish to exercise the delegated power conferred upon him or her:

- 9.1.8.1 The Land Use Planning Ordinance no 15 of 1985, including, but not limited to land use applications (where the application does not comply with the General Structure Plan, a Section 4(6) Structure Plan and /or the Urban Structure Plan for the Cape Metropolitan area of 1988) and ad hoc amendments to zoning schemes regulations;
 - 9.1.8.2 Removal of Restrictions Act 84 of 1967;
 - 9.1.8.3 The National Building Regulations and Building Standards Act no: 103 of 1977;
 - 9.1.8.4 National Heritage Resources Act no: 25 of 1999;
 - 9.1.8.5 Less Formal Township Establishment Act no: 113 of 1991;
 - 9.1.8.6 The National Environmental Management Act no: 107 of 1998 and Environment Conservation Act no: 73 of 1989 and the regulations thereto.
- 9.1.9 Makes determinations, issues directives, designates areas, confirms the deeming provisions, exercises all other powers conferred upon Council, in terms of the following legislation in cases where there is no delegated authority to officials, in cases where objections have been received, or where the official does not wish to exercise the delegated power conferred upon him or her:
- 9.1.9.1 The Land Use Planning Ordinance no. 15 of 1985;
 - 9.1.9.2 The National Building Regulations and Building Standards Act no: 103 of 1977, including but not limited to Section 10 and 12;
 - 9.1.9.3 National Heritage Resources Act no: 25 of 1999;
 - 9.1.9.4 Less Formal Township Establishment Act no: 113 of 1991;
 - 9.1.9.5 Legal Succession to South African Transport Services Act no: 9 of 1989;
 - 9.1.9.6 The National Environmental Management Act no: 107 of 1998 and Environment Conservation Act no: 73 of 1989
 - 9.1.9.7 The Outdoor Advertising and Signage By-law no 5801 of 5 December 2001
 - 9.1.9.8 Section 27(1)(c) of the Physical Planning Act No 125 of 1991 and
 - 9.1.9.9 Other laws, by-laws, regulations, policies and agreements in respect of spatial planning, environmental, heritage, building and land use management.

9.1.10 Appeals

In cases where there is no delegated authority to officials in terms of the delegation documents applicable to individual administrations or where the official does not wish to exercise the delegated power conferred upon him/her the Committee may:

- 9.1.10.1 Comment on appeals lodged in terms of section 44 of the Land Use Planning Ordinance no. 15 of 1985 as well as the regulations promulgated in terms thereof
- 9.1.10.2 Comment on appeals lodged in terms of section 9 of the National Building Regulations and Building Standards Act no. 103 of 1977 as read with the regulations thereto and authorizing officials to appear at the Review Board Hearing of the appeal

Note: Reference to legislation includes amendments to the legislation, which take place from time to time as well as regulations promulgated in terms of such legislation.

Note: Reference to the Land Use Planning Ordinance no 15 of 1985 (C) and the Removal of Restrictions Act no 84 of 1967 includes the reference to legislation which may supersede and repeal the Land Use Planning Ordinance and which provides for the same applications.

9.2 Powers and Functions of the Tender & Procurement Committee

- 9.2.1 Promoting the use of a public, fair, open and competitive system in the procurement of supplies and services within the framework of the Council's Preferential Procurement Policy;
- 9.2.2 Promoting efficiency and effectiveness in the procurement of supplies and services while having regard to the aims and objectives of the Preferential Procurement Policy;
- 9.2.3 Encouraging the widest range of participants by ensuring equal opportunities to everyone;
- 9.2.4 Promoting fair and transparent dealing with all parties to the City's contracts

9.2.5 Delegations to the Tender and Procurement Committee

Authorised to accept or reject any of the following where the value of the goods, services, moveable or immovable property, exceeds R350 000 and up to R5 million in value:

- 9.2.5.1 tender, proposal or offer for the procurement of goods, services and consultants;
 - 9.2.5.2 hiring, letting or alienating of municipal property,
 - 9.2.5.3 purchase of immovable property
 - 9.2.5.4 tender, proposal or offer for moveable municipal property.
- 9.2.6 Authorised to decide on any commercial activity where an official who has final authority does not recommend the acceptance of the most beneficial offer in terms of the procurement policy or declines to exercise his/her delegation.
- 9.2.7 Authorised to dispense with calling of tenders where the value exceeds R350 000 and up to R5 million in value –
- 9.2.7.1 in cases of emergency;
 - 9.2.7.2 where there is a sole supplier;
 - 9.2.7.3 where the contract is for the supply of goods or material by a contractor of the national or provincial sphere of government at the price and on the terms and condition applicable to such a sphere of government.
- 9.2.8 Any power which is incidental or necessary to the effective performance of the above delegated powers.
- 9.2.9 The Committee must make a recommendation regarding any decision with a value in excess of R5 million to the Mayoral Committee.

CONDITION FOR EXERCISING DELEGATIONS

A decision will only be taken once the City Manager or his nominee has signed off the decision of the Committee, which must be done within 10 (ten) days of the Committee taking a decision.

Note: Level one and Level two managers' authority to take decisions in respect of commercial activity has been reduced to R350 000 and **below**.

9.3 RULES COMMITTEE

9.3.1 FUNCTIONS OF THE RULES PORTFOLIO COMMITTEE

9.3.1.1 Recommends on rules of order.

9.3.2 DELEGATIONS TO RULES COMMITTEE

9.3.2.1 Summonses members of Council and officials to appear before the committee to give evidence or to enable the committee to perform its functions.

9.4 DISCIPLINARY COMMITTEE

9.4.1 STATUTORY FUNCTIONS OF THE DISCIPLINARY COMMITTEE

To conduct disciplinary enquiries into Councillor transgressions and make a finding in respect thereof

9.4.2 DELEGATED POWERS OF DISCIPLINARY COMMITTEE

9.4.2.1 Summonses members of Council and officials to appear before the Committee to give evidence.

9.4.2.2 To impose sanctions in terms of sections 14(2) (a) and (b) of Schedule 1 of the Systems Act.

9.4.2.3 To recommend to Council sanctions in terms of section 14(2)(c), (d) and (e) of Schedule 1 of the Systems Act.

10. MEMBERS OF THE MAYORAL COMMITTEE

Members of the Mayoral Committee are responsible for the following portfolios and portfolio committees:

Health, Amenities and Sport,
Corporate Services,
Economic, Social Development and Tourism,
Finance,
Human Resources
Housing,
Planning and Environment,
Trading Services

Transport, Roads and Stormwater,
Safety and Security.

- 10.1 In terms of Section 80, subsection (1), these committees are established to assist the Executive Mayor.
- 10.2 The members of the Mayoral Committee make recommendations to the Executive Mayor and may be advised by his/her respective committee herein.
- 10.3 Generic powers of the members of the mayoral committee to make recommendations to the executive mayor**
 - 10.3.1 Develops and recommends policy within the functional area of their respective portfolio.
 - 10.3.2 Develops and recommends on the content and drafting of by-laws within the functional area of their respective portfolio.
 - 10.3.3 Comments on and recommends the business plans within the functional area of their respective portfolio.
 - 10.3.4 Makes recommendations in regard to the draft IDP and budget within the functional area of their respective portfolio.
 - 10.3.5 Makes recommendations in regard to the setting or revision of tariffs, levies, taxes and duties within the functional area of their respective portfolio.
 - 10.3.6 Ensures public participation in the development of policy, legislation, IDP's and budget within the functional area of their respective portfolio.
 - 10.3.7 Monitors the implementation of Council's IDP, budget, business plans, strategic objectives, policies and programmes within the functional area of their respective portfolio.
 - 10.3.8 Assesses the performance of service delivery generally within the functional area of their respective portfolio.
 - 10.3.9 To receive recommendations from the Section 80 Committees of which he/she is the Chairperson and make recommendations on any matter to the Executive Mayor.

- 10.3.10 Recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

10.4 Powers delegated to the Members of the Mayoral Committee

- 10.4.1 Perform ceremonial functions which relate to his/her portfolio.
- 10.4.2 The oversight over the activities of the administration in his/her portfolio based on the PMS and IDP of the Municipality.

10.5 Powers sub-delegated to the Members of the Mayoral Committee

To make press statements in respect of his/her portfolio after consultation with the Executive Mayor, if available.

10.6 PERFORMANCE OF FUNCTIONS AND MAKING RECOMMENDATIONS

In terms of the Statutory powers vested in the Executive Mayor, the Members of the Mayoral Committee perform the following functions in their respective portfolios, and makes recommendations to him/her on:

- 10.6.1 The identification of the needs of the Municipality.
- 10.6.2 The review and evaluation of those needs in order of priority.
- 10.6.3 The recommendation of the best way including partnerships and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.
- 10.6.4 The preparation of reports as required by the Executive Mayor, on the involvement of communities and community organizations in the affairs of the Municipality.
- 10.6.5 To ensure that regard is given to public views and report on the effect of consultation on the decisions of the Council.
- 10.6.6 To recommend comments on National and Provincial legislation that affects their portfolios.

11. THE FOLLOWING ARE THE SECTION 80 (PORTFOLIO) COMMITTEES ESTABLISHED BY COUNCIL:

- 11.1 Health, Amenities and Sport

- 11.2 Corporate Services
- 11.3 Economic, Social Development and Tourism
- 11.4 Finance
- 11.5 Human Resources
- 11.6 Housing
- 11.7 Planning and Environment
- 11.8 Trading Services
- 11.9 Transport, Roads and Stormwater
- 11.10 Safety & Security Services

TERMS OF REFERENCE SPECIFIC TO PORTFOLIOS AND PORTFOLIO COMMITTEES

- 11.1 Health, Amenities & Sport

11.1.1 Specific terms of reference

The Health, Amenities and Sport functions include but are not limited to:

- The Health function – including District Health Services and specialized health services and environmental health
- Community facilities – including halls, beaches, nodal points and resorts, public bath houses, toilets, museums, monuments and tidal pools
- Nursery School and Retirement Centres
- Libraries
- Sports and Recreation including such facilities
- City Parks and Nature Conservation
- Cemeteries
- Crematoria

11.2 Corporate Services

11.2.1 Specific terms of reference

The Corporate Services functions include but are not limited to:

- Information Technology function – including WAN, PC Co-ordination, Architecture and Software
- Corporate Administration
- Shared Services
- Business Improvement
- ERP

- Strategic Information
- Councillor Support

11.3 Economic and Social Development and Tourism

11.3.1 Specific terms of reference

The Economic and Social Development and Tourism functions include but are not limited to:

- The Economic Development function – including SMME, empowerment support and job creation, the support and regulation of informal trading, sector support, investment and export, trade promotion and facilitation, the facilitation of partnerships between the City and public, private and community groups, economic co-ordination and facilitation, business area management and community skills development
- Municipal Property Management function
- Tourism function
- Major Events
- Social Development including Arts and Culture

11.4 Finance

11.4.1 Specific terms of reference

The Finance functional areas include but are not limited to:

- Revenue and Debt Management,
- Procurement and Stock Management,
- Expenditure,
- Budgets and Budgetary Control, Accounting,
- Finance, Financial Administration,
- Insurance;
- Housing Finance;
- General and Interim Valuations function

11.5 Human Resources

11.5.1 Specific terms of reference

The Human Resources functions include but are not limited to:

- Human Resources function

- Metropolitan Labour Forum in respect of labour disputes (other than that related to salary and wage disputes)
- Labour Relations
- Employment Equity
- Collective Bargaining Strategy
- Corporate Restructuring

11.6 Housing

11.6.1 Specific terms of reference

The Housing functional areas include but are not limited to:

- The housing services function – including housing services co-ordination
- Existing housing
- New housing and management of informal settlement (design of houses and management of informal settlements)
- The provision of the housing information service
- Facilitate the provision of housing for the homeless, and
- The Housing planning function

11.7 Planning and Environment

11.7.1 Specific terms of reference

The Planning and Environment functional areas include but are not limited to:

- The Planning function – including Spatial Planning and growth management, design services, land use management, building development management, development projects, land information and planning legislation and enforcement
- The Spatial Data Management (including geographic information systems)
- The Environment Planning function – including environmental planning, environmental planning policy, environmental impact assessment, coastal planning, outdoor advertising and signage (environmental controls), heritage resource management and nature reserve planning
- The Housing Planning function

11.8 Trading Services

11.8.1 Specific terms of reference.

The Trading Services functions include but are not limited to the following:

- The Electricity and Energy function – including network operations, generation, distribution and sales and customer services and street lighting
- The Water and Sanitation function – including bulk water, wastewater treatment, water and wastewater reticulation, water and sanitation technical services
- The Solid Waste Management function – including refuse removal, refuse disposal, illegal dumping and street sweeping
- The Abattoir function
- The Markets function

11.9 Transport, Roads and Stormwater

11.9.1 Specific terms of reference

The Transport, Roads and Stormwater functional areas include but are not limited to:

- Transport Planning – project identification, transportation planning, traffic assessments and integrated transport plans
- Systems monitoring and information management
- Demand and access management
- Infrastructure Budgeting
- Infrastructure construction and project and asset management
- Public transport service design, contracts and regulations
- Public transport and management
- Customer information and marketing
- Traffic infrastructure management
- Traffic signalization and robot management
- Transportation fund management
- Regulatory and direction signage
- Receiving and considering reports from outside bodies such as Modalink and MTAB
- Catchment, Stormwater and river management

11.10 Safety & Security Services

11.10.1 Specific terms of reference

The Safety functions include but are not limited to:

- the Emergency Services and Disaster Management function – including disaster management, fire services, ambulance services and the 107 call centre
- the City Police Traffic Control, Law Enforcement and Security Services function – including traffic law enforcement, passenger security, traffic licensing, security services and law enforcement and crime prevention
- Fire Brigade Services

11A SUB-COUNCILS

11A.1 STATUTORY FUNCTIONS OF SUB-COUNCILS

11A.1.1 Makes recommendations to Council on any matter affecting its area.

11A.1.2 Advises Council on what duties and powers should be delegated to it.

Other Functions of Sub-councils (to be determined)

11A.2 DELEGATIONS TO SUB-COUNCILS

11A.2.1 Grants leave of absence to members for meetings of sub-councils.

11A.2.2 Performs such duties and powers as Council may delegate to it.

11B WARD COMMITTEES (WHEN ESTABLISHED)

11B.1 STATUTORY FUNCTIONS

To make recommendations on any matter affecting the Ward to:

- (i) the Ward Councillor; or

- (ii) the Sub-council, Executive Mayor or Council.

To perform the duties and powers delegated to it by the Council or Sub-council.

MUNICIPAL MANAGER

STATUTORY FUNCTIONS OF THE MUNICIPAL MANAGER

12. THE MUNICIPAL MANAGER

12.1 Statutory Functions of the Municipal Manager

12.1.1 The Municipal Manager has the following functions in terms of the Municipal Structures Act:

12.1.1.1 Calls the first meeting of the Municipality in terms of section 29(2) of the Municipal Structures Act;

12.1.1.2 Presides over the election of the Speaker.

12.1.1.3 The Municipal Manager, as head of administration of the Municipality, has the following functions in terms of the Municipal Systems Act:

12.1.1.4 The formation and development of an economical, effective, efficient, accountable and performance driven administration;

12.1.1.5 The management of the Municipality's administration in accordance with this Act and other legislation applicable to the Municipality;

12.1.1.6 The implementation of the Municipality's integrated development plan, and the monitoring of progress with implementation of the plan;

12.1.1.7 The management of the provision of services to communities, residents and ratepayers in a sustainable manner;

12.1.1.8 The control, management, effective utilisation and training of staff;

12.1.1.9 The maintenance of discipline of staff;

- 12.1.1.10 The promotion of sound labour relations and compliance by the Municipality with applicable labour legislation;
- 12.1.1.11 Advising the structures and functionaries of the Municipality;
- 12.1.1.12 Managing communications between the Municipality's administration and its structures and functionary
- 12.1.1.13 Carrying out the decisions of the structures and functionaries of the Municipality;
- 12.1.1.14 The administration and implementation of the Municipality's by-laws and other legislation;
- 12.1.1.15 The exercise of any powers and performance of any duties delegated by the Municipal Council, or sub-delegated by other delegating authorities of the Municipality, to the Municipal Manager in terms of section 54;
- 12.1.1.16 The implementation of national and provincial legislation applicable to the Municipality;
- 12.1.1.17 Facilitating participation by communities, residents and ratepayers in the affairs of the Municipality; and
- 12.1.1.18 The performance of any other function that may be assigned by the Municipal Council;
- 12.1.1.19 In terms of the Finance Management Bill, the Municipal Manager must, as a financial year progresses, submit regular reports in the prescribed format on the state of the Municipality's budget to the :
- 12.1.1.19.1 National Treasury and the relevant Provincial Treasury, in the case of a metropolitan or a district municipality; and
 - 12.1.1.19.2 The Municipal Manager must in writing inform the National Treasury and the relevant provincial treasury of:
 - 12.1.1.19.3 Any unauthorised expenditure that has occurred in the municipality; and
 - 12.1.1.19.4 The steps taken to recover or rectify the unauthorised expenditure and to prevent a recurrence of such expenditures.

12.2 Powers Delegated to the Municipal Manager

12.2.1 General Powers

- 12.2.1.1 Determines policy on any matter falling within his/her delegated authority and the delegated authority of the executive below himself.
- 12.2.1.2 Decides on sub-delegation of any of his/her powers.
- 12.2.1.3 Decides on appeals in respect of decisions taken by other officials.
- 12.2.1.4 Decides on the instituting or defending of any action in the Lower Court or court of similar stature or any arbitration and mediation which would otherwise have been heard in a Lower Court.
- 12.2.1.5 Decides on the instituting of legal action in the High Court or court of similar status for the recovering of debt owed to Council provided that the institution of such proceedings is in accordance with an approved debt collection policy.
- 12.2.1.6 Instituting or defending of any action in a High Court in respect of the recovery of debt, if not the delegatee lower down cannot recover in terms of the credit control and debt collection policy.
- 12.2.1.7 Appoints officials to attend international and national meetings, conferences and seminars etc.
- 12.2.1.8 Appoints officials to attend local meetings, conferences and seminars etc, where such officials are requested to represent the municipality.
- 12.2.1.9 Appoints or nominates officials to represent Council on outside bodies.
- 12.2.1.10 Appoints Secretary and/or Acting Secretary of Valuation Courts, as and when necessary.
- 12.2.1.11 Exercises all powers provided for in the Property Valuation Ordinance 148 of 1993 and its Regulations.
- 12.2.1.12 Administers scholarship and bursaries awarded by the Council.
- 12.2.1.13 Concludes or renewal of lease agreements without inviting tenders for periods not exceeding 12 months.

12.2.2 Human Resources Powers

- 12.2.2.1 To appoint and determine employment offers in respect of staff.
- 12.2.2.2 Determines, subject to policy, the staff establishment, post descriptions, conditions of service, and the evaluation of the staff of the establishment of the Council, excluding the Municipal Manager and officials reporting directly to him/her.
- 12.2.2.3 The approval of job evaluations.
- 12.2.2.4 Considers ex gratia categories of leave.
- 12.2.2.5 Organisational Rights: Considers requests for additional time off beyond that provided in the Organisational Rights Policy
- 12.2.2.6 Appoints staff to the municipality, excluding those managers reporting directly to him/her.
- 12.2.2.7 Creation and filling of all vacant posts.
- 12.2.2.8 Makes statutory appointments of a Chief of Civil Defence, Deputy/s of Civil Defence, a Chief Fire Officer, a Medical Officer of Health and any acting appointments to these positions.
- 12.2.2.9 Considers in terms of Council policy any grants or donations to staff including ex gratia pension benefits.
- 12.2.2.10 Suspensions of staff pending the finalisation of disciplinary action of any staff member.
- 12.2.2.11 Appoints the Chairpersons for Disciplinary and Grievances proceedings
- 12.2.2.12 Settles disputes under Labour Legislation in concurrence with the Director : Labour Relations.
- 12.2.2.13 Appoints an Acting Municipal/City Manager for periods up to 5 working days in consultation with the Executive Mayor.

12.2.3 Financial Powers

12.2.3.1 Decides on any commercial activity with a value of up to R350 000 and to consider any commercial activity falling within the delegated authority of a Level 1 Manager (Executive Director) where such official does not recommend the acceptance of the most financially beneficial offer to Council.

12.2.3.2 Writes off bad debts or other assets, subject to the Council policy in this regard.

12.2.3.3 Subject to the provisions of the Municipal Finance Management Bill, Authorises the virement of funds of any capital amount up to R1m on the budget.

12.2.3.4 Subject to the provisions of the municipal Finance Management Bill, Authorises the virement of funds of any operational amount up to R1m on the budget.

12.2.3.5 Authorises officials to sign cheques on behalf of the Council.

12.2.4 Emergency Powers

12.2.4.1 Decides on and acts in cases requiring an immediate decision in consultation with the Executive Mayor or Acting Executive Mayor. If the Executive Mayor or Acting Executive Mayor is not available, then the Municipal Manager may act on his/her own initiative.

12.2.4.2 The above delegation is subject to the following conditions:

- Council should be able legally to cope with any emergency without detracting from the principle of accountability.
- Whenever this power is executed, a comprehensive report must be tabled with the Executive Mayor.

12.2.5 Line of Authority

12.2.5.1 The Municipal Manager is responsible to the Executive Mayor.

13. DELEGATIONS TO ALL EXECUTIVE DIRECTORS

13.1 General Powers

- 13.1.1 To decide on any matter falling within the functional areas of the directorate concerned, subject to the constraints of its budget, its business plan and relevant policies.
- 13.1.2 To determine the operational procedures and formulate policy in respect of all matters falling within the functional areas of the directorate concerned and within his/her delegated authority, where such authority is not delegated to any other level.

13.2 Human Resource Powers

- 13.2.1 To decide on any human resource and related matter in respect of staff reporting directly to him/her and which matter is not reserved for decision at any other level, including but not limited to the following:
- 13.2.2 To grant merit awards and advancements to staff that report directly to him/her.
- 13.2.3 To approve vacation, sick and special leave of all staff reporting directly to him/her.
- 13.2.4 To grant authority to defer the compulsory leave to the following leave cycle in respect of staff reporting directly to him.
- 13.2.5 To approve payment of overtime and/or time off in lieu of overtime for staff reporting directly to him/her.
- 13.2.6 To accept notices of resignation, which are less than the period, prescribed in respect of staff reporting directly to him/her.
- 13.2.7 To authorise the commutation of accumulated leave in respect of staff reporting directly to him/her in terms of Council's policy.
- 13.2.8 To authorise a director in his/her directorate to act during his/her absence for a period not exceeding 30 working days.
- 13.2.9 To authorise the appointment of staff in acting capacities in respect of staff reporting to him/her.
- 13.2.10 To authorise the transfer of staff from one department to another within the directorate.
- 13.2.11 To authorise the provision of official telephones and PC modems at staff

residences, subject to Council's policy.

- 13.2.12 To authorise the training of members of staff reporting directly to him/her.
- 13.2.13 To approve participation in motor vehicle allowance schemes or essential user schemes for staff reporting directly to him, subject to Council's policy.
- 13.2.14 To approve study loans for staff reporting directly to him/her, in consultation with the Municipal Manager.
- 13.2.15 To provide a member of staff reporting directly to him/her with legal representation in accordance with Council's policy.

13.3 Financial Powers

- 13.3.1 To decide on any commercial activity as determined by the Municipal Manager in respect of his/her office and which does not fall within the functional area of any of the directorates within his/her department, subject to compliance with Council's Procurement Policy.
- 13.3.2 To decide on any commercial activity falling within the delegated authority of the director where such director does not accept the most financially beneficial offer to the Council.
- 13.3.3 To authorise the virement of funds as determined by the Municipal Manager, within the operational budget allocated to his/her office.
- 13.3.4 To authorise the virement of funds as determined by the Municipal Manager, within the operational budget of his/her department.
- 13.3.5 To authorise the virement of capital funds within the budget of the department from one directorate to another irrespective of the cost element involved, as determined by the Municipal Manager per financial year, provided that:
 - 13.3.5.1 The capital expenditure is for capital items only;
 - 13.3.5.2 The receiving directorate is funded from the same source as the donor directorate; and
 - 13.3.5.3 Such transfer does not prejudice any existing Council approved project.
- 13.3.6 To manage and certify the annual stocktaking of Council's assets within his/her

office.

14 DIRECTOR : INTERNAL AUDIT

14.1 To exercise all powers, functions and duties which relate to :

- Financial Based Auditing
- Performance/Operational/ Compliance based Auditing
- Information Systems Auditing
- Forensic Auditing
- Environmental Auditing
- Risk Management Auditing
- Governance and Quality Assurance Auditing

14.2 To perform ad hoc audits upon request by the Executive Mayor, Acting Executive Mayor and the Municipal Manager.

14.3 To institute special investigations, risk assessment and to provide assistance to external auditors.

14.4 To provide administrative support for the Audit Committee.

14.5 To implement the resolutions of the Audit Committee.

14.6 To examine witnesses or potential witnesses and to commission oaths and take statements.

14.7 To identify material weaknesses in systems and internal controls, to recommend remedial action, to eradicate malpractices and to create a professional ethos.

14.8 To conduct any audit investigation into the administrative structures of Council.

14.9 To give an executive instruction to any member of staff in order to conduct investigation.

14.10 To have access to all premises owned by, under the control of or managed by the Council for the purposes of internal audit.

14.11 To have access to any employee and question such an employee as to his official activities; as well as to examine any Council property or any Council vehicle.

- 14.12 To have access to any file, document, record, agenda, minutes, register, certificate or object, subject to governing legislation.
- 14.13 To authorise the payment of rewards not exceeding R5 000 to any person who furnishes information leading to the detection and successful prosecution of any other person who has stolen or wrongfully damaged any property of the Council.
- 14.14 To investigate any alleged improper, negligent, dishonest, fraudulent or criminal activity by any employee, agent or contractor of the Council and to report thereon to the Municipal Manager, unless the Municipal Manager is the subject of the investigation, in which case the authority to investigate must be obtained from the Executive Mayor or Acting Executive Mayor.
- 14.15 To liaise with the chairperson of the Audit Committee in respect of the following:
- agenda matters;
 - non-conformance to the audit recommendations;
 - concerns about the independence and objectivity of the audit function;
 - the functions requirements in terms of resources.