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PROGRAM IN ALBANIA

MUNICIPAL ASSET MANAGEMENT TOOLKIT



MARCH 2009

This publication was made possible by the United States Agency for International Development.
It was prepared by ARD, Inc.

Acknowledgements

This Municipal Asset Management Toolkit was made possible by USAID. It was developed by a multi-disciplinary team consisting of both Albanian and international experts. The following individuals and institutions contributed to the development of this Toolkit: Sonia Brubaker, Gentian Selmani, Hilary Mclellan, Elvana Gadeshi, and the Institute for Policy and Legal Studies.

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- Law No.9208, dated 18.3.2004 On Some Additions and Changes to Law No. 8652, dated 31.07.2000, On Organization and Functioning of the Local Government
- Law No. 8743, dated 22.2.2001 On Immovable State Property
- Law No. 9558, dated June 6, 2006 On Changes to Law No. 8734, dated 22.2.2001, On Immovable Properties of the State
- Law No. 8744, dated. 22.2.2001 On the Transfer of Immovable State Public Properties to Local Governments
- Law No. 9869, dated 4.02.2008 On Local Government Borrowing
- Law No. 9663, dated 18.12.2006 On Concessions
- Decision No. 27, dated 19.1.2007 On the Approval of the Regulation of Evaluating and Granting of the Concessionaries
- Decision No. 315, dated 24.4.2003 On Renting of the Assets of State Enterprises, Companies and Institutions
- Decision No. 794, dated 21.11.2007 On Evaluation Criteria of State Properties to be Privatized or Transformed and on Procedure of Sale
- Instruction No. 6364, dated 3.7.2008 On Implementation of Council Of Ministers' Decision No. 794, dated 21.11.2007 On Evaluation Criteria of State Properties to be Privatized or Transformed and on Procedure of Sale
- Law No. 7512, dated 10.8.1991 On Sanctioning and Protection of Private Property, Free Initiative, Private and Independent Activity, and Privatization
- Law No. 9874, dated 14.2.2008 On Public Auctions
- Law No.8561, dated 22.12.1999 For the Expropriation and Taking for Temporary use of Private Properties for Public Interest
- Law No. 7850, 29 July 1994 Civil Code as amended by Law No. 8536, Amendments to the Civil Code, 18 October 1999 and Law No. 8751 Amendments to the Civil Code, 3 May 2001

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ACRONYMS

AMV	Actual Monetary Value
DCM	Decision of the Council of Ministers
GIS	Geographic Information System
I PRO	Immoveable Property Registration Office
LGPA	Local Governance Program in Albania
LGUs	Local Government Units
LOS	Level of Service Standards
O&M	Operation and Maintenance
P3	Public Private Partnership

TERMINOLOGY

Asset category	Groups of assets based on their functional purpose (in accordance with the Government of Albania’s financial reporting system).
Asset file	Hardcopy record of all relevant documentation pertaining to an individual immovable asset.
Asset failure	When an asset is no longer providing the service or function for which it is intended.
Asset inventory	The identification and cataloguing of individual assets including various data for each asset.
Asset management	The professional administration of assets based on legal provisions and administrative regulations, aimed at meeting all relevant objectives to the benefit of the community.
Asset (property) portfolio	The collection of tangible property used in the provision of services.
Asset register	A systematic electronic recording of all assets that a municipality owns or for which it has responsibility for.
Asset register ID	Unique identifier given to an asset by the Immovable Property Registration Office at the time of asset registration.
Concession agreement	The right, usually granted by a government entity, to use property for a specified purpose.
Condition assessment	The observations and analysis related to the condition and performance of an asset to determine the necessary maintenance options.
Condition rating	Score assigned to each asset based on the physical condition of the asset and the extent to which repair or major rehabilitation is required.
Criticality classification	A classification system used to determine the importance of an asset to the provision of essential and non-essential services to the community.
Essential (local) services	Services provided by a local government unit that are either mandatory by law or are deemed necessary to the welfare of the community (for example primary health centers, primary education, waste management services).
Immovable asset	Real property assets which cannot be moved or transported such as land and buildings.
Level of Service Standards (LOS)	A measurement of the quantity and quality of services provided through the use of an asset.

Maintenance options	Repair	Restoration beyond normal periodic maintenance; relatively minor in nature with no enhancement of capabilities.
	Rehabilitation	Replacement of a component to return the asset to the level of performance above the minimum acceptable level; may include minor enhancement of capabilities.
	Replace	Substitution of an entire asset with a new asset.
	Decommission	Taking the asset completely away (through removal or demolition).
Mandatory (essential) services	Those services which a government is legally required to provide.	
Movable asset	Real property assets which can be moved, or transported, such as equipment, vehicles, cars, etc.	
Municipal (local) assets	All movable and immovable properties under the direct ownership or control of the local government unit, as well as locally owned shares/stocks of commercial companies and/or public enterprises.	
Non-essential (local) services	Services provided by a local government unit that are not essential and/or mandatory, but are deemed desirable by the local government unit and the public (for example cultural, youth, and/or social services).	
Public asset	Any asset owned by any level of government including national, district, and local.	
Rent/Lease	Contract granting use of real estate, equipment, or other fixed assets for a specified period of time in exchange for payment, usually in the form of rent. The terms rent and lease can be used interchangeably. There are two variations on a lease contract: 1) a lease to own contract which eventually results in the lessee becoming the owner of the asset and 2) a lease contract which grants permission for capital construction to the lessee.	
Surplus municipal property	Properties that are not needed to provide services, either mandatory or otherwise, to the community.	

1.0 INTRODUCTION

In most countries, municipalities own or control a considerable amount of real estate, including but not limited to public buildings, schools, primary health clinics, roads, and public spaces. Although many local governments make an effort to manage their real estate, very few consider their real estate assets as a “portfolio,” the collection of tangible property used in the provision of social services, or as productive assets. Nor does the typical municipality routinely review the current use of individual real properties from the perspective of opportunity cost, mode of management and finance, or consistency with long-term civic needs.¹

This fact is very apparent in Albania, which began to move away from a centralized government system in the 1990s. Legislative reform, particularly changes to the Albanian Constitution in 1998 and the adoption of the Law on the Organization and Functioning of Local Government in 2000, transformed the role of local government from merely being a user of public property to being the owner of real estate assets necessary to exercise local public functions. Despite the legislative reforms in the late 1990s, local government units (LGUs) are only now completing the property transfer process from the central government; LGUs are beginning to utilize opportunities to increase their finances or to improve the quantitative and qualitative services to the community through the use of municipal property.

With the transfer of assets into municipal ownership, Albanian municipalities are recognizing the need to improve their asset management techniques, assign responsibilities for management of municipal property to key staff or new municipal units, and to define methods to ensure the best use of municipal assets.

Efficient use of municipal assets is of vital importance to LGUs for several reasons:

- *First*, assets allow local governments to fulfill their civic functions through the implementation of administrative responsibilities, by means of investments and regulatory functions.
- *Second*, good management of assets constitutes a basic factor in the socio-economic development of the municipality by providing tools to facilitate a more organized, logical approach to decision-making. Asset management provides conditions for good planning, promotes local businesses’ development, and can generate cash income for the community.
- *Third*, municipal assets can be a direct source of revenue. There are various methods to administer the assets in order to generate revenues including sale, lease, concessionary agreements, etc.

This **Municipal Asset Management Toolkit** is designed as a practical manual for LGUs to advance their asset management approaches, to improve service delivery and to maximize revenues while reducing expenditures. The Toolkit includes an overview of the legal framework pertaining to local government units’ rights in the realm of municipal property management and provides templates, models, and detailed guidance, all of which constitute the tools needed by LGUs to efficiently manage their assets. In addition, the Toolkit includes an electronic Asset Inventory to allow LGUs to catalogue their immovable assets. While this Toolkit focuses on immovable assets, many of the

¹ “Municipal Real Property Asset Management: An Overview of World Experience, Issues, Financial Implications, and Housing,” prepared by the Urban Institute for the World Bank, revised November 1999, UI project 06917-000. [agement: An Overview of World Experience, Issues, Financial Implications, and Housing](#),” prepared by the Urban Institute for the World Bank, revised November 1999, UI project 06917-000.

principles and practices can also be applied to the management of movable assets such as vehicles, IT systems, and other equipment.

Using this Toolkit, LGUs will be able to:

- Understand the applicable legal basis for asset management, particularly the responsibilities and the rights that various actors have for the administration of local government assets.
- Inspire local officials to become “stewards” of municipal infrastructure through the perspectives of engaging stakeholders and managing an asset portfolio.
- Define the proper job responsibilities and municipal structure to best manage municipal properties in accordance with international best practice.
- Develop an approach to managing assets across multiple infrastructure systems that focus on the managerial and business processes, with the objective of better decision making.
- Develop a local asset inventory, identifying the LGUs’ critical assets and their condition to optimize capital investment strategies.
- Classify local government real assets by presenting the restrictions that the LGUs have while managing assets in accordance with their classification.
- Maximize revenues through the efficient short- and long-term management of municipal assets.
- Ensure transparent and fair procedures are employed in the use and allocation of municipal assets.
- Forecast challenges and local needs for future municipal infrastructure.
- Enter into lease, sales, and concession contracts through fair and transparent procedures.

2.0 LEGAL FRAMEWORK GOVERNING MUNICIPAL PROPERTY ADMINISTRATION

Albanian legislation, including laws and Decisions of the Council of Ministers (DCM), constitutes a comprehensive basis for public asset management and the legislation clearly defines the rights of local government units with respect to local assets. These rights include the acquisition of new assets (by transfer from the central government, purchase, or donation), the authority to use local assets for profit-making purposes through rent, and the right to dispose of local assets through sales, concessions, public-private partnerships, etc. The relevant Albanian legislation is listed in Table 1² and a summary of the most important laws are included below.

Table 1. Albanian Legislation on Public Asset Administration

Law No.	Law Title	Approval Date and Amendments	Summary
Law 8652	On Organization and Functioning of Local Government	31 July, 2000 amended 18 March, 2004 by Law 9208	This is the primary law for the functioning of LGUs which defines the local government's right to use assets, including the right to purchase, sell, rent, etc. This law includes the main provisions for transparency for the local government decision-making process.
Law 8743	On Immovable State Property	22 February, 2001 amended 6 June, 2006 by Law 9558	This Law defines the rules and procedures governing immovable state property, including registration requirements and the determination and administration of state property. This law is also applicable to local government units.
Law 8744	On the Transfer of Immovable State Properties to Local Government Units	22 February, 2001	This Law regulates the process of transferring state public immovable assets from the central government to the local government units; it defines the types of assets to be transferred to the local government, the nature of rights the local government units have to these assets, and the process by which these assets are transferred.
DCM No. 500	On Inventory of State Immovable Assets and the Transfer of Assets to Local Government Units	14 August, 2001	This DCM is a sub-legal act which ensures timely and qualitative implementation of Law No. 8744.

² All legislation listed in Table 1 is included both in the hard copy of the Toolkit as appendices and in the electronic version of the Toolkit.

Law No.	Law Title	Approval Date and Amendments	Summary
Law 7850	Civil Code	29 July 1994 amended 18 October, 1999 by Law 8536 and 3 May, 2001 by Law 8781	This law defines the right of the LGUs to enter into a leasing agreement (including lease with the right for capital construction). It determines the rules according to which a lease (including with capital construction) contract is drafted and the respective obligations of a LGU when finalizing agreements of this type.
Law 9869	On Local Government Borrowing	8 February, 2008	This law defines rules according to which LGUs may borrow funds, in order to ensure transparency in borrowing, macroeconomic stability as well as these bodies' credibility in financial markets.
Law 9663	On Concessions	18 December, 2006	Together with DCM No. 27 of 19 January, 2007, this Law defines the necessary framework for the promotion and facilitation of concession projects financed by the private sector (public-private sector partnership).
DCM 27	On the Approval of Rules for Assessment and Concession Deals	19 January, 2007	This DCM recognizes LGUs as contractual authorities.
DCM 315	On Renting Out Assets of State Enterprises, Companies, and Institutions	24 April, 2003	This DCM provides all procedures which should be followed by public institutions, including LGUs, in order to lease assets they own or use. Special importance is given here to defining competitors' selection criteria and procedures, in order to ensure a fair and transparent process.
DCM 794	On Assessment Criteria for Public Property which is being Privatized or Disposed of and Sales Procedures	21 November, 2007	This DCM provides all the assessment procedures which public institutions, including LGUs, must follow in order to sell, transform, or privatize assets they own or use.
Joint Instruction of Ministry of Economy, Commerce, and Energy and the Ministry of Finance 6364	Instructions on Assessment Criteria for Public Property which is being Privatized or Disposed of and Sales Procedures	3 July, 2008	This Instruction determines how DCM 794 is implemented, including the valuation of property to be privatized or disposed of, the procedure to follow, the responsible parties, the applicable timeline, and the required documentation.
Law 7512	On Sanctioning and Protecting Private Assets, Free Enterprise, Independent Activities, and Privatization	10 August, 1991 amended 14 March, 1998 by Law 8306	This law establishes the necessary legal framework for the market economy, private enterprises, and the privatization process.
Law 8306	On Privatization of Sectors of Particular Importance	14 March, 1998	This law is complementary to Law 7512 and focuses on the privatization process.

Law No.	Law Title	Approval Date and Amendments	Summary
Law 9874	On Public Auctions	14 February, 2008	This law determines the rules to be applied by the selling authority when realizing a public sale through an auction procedure as well as the safeguarding of rights and interests of the auction participants. The law describes the general principles when a public auction can be used and the standard auction procedures.
Law 8561	On Expropriations and Taking into Temporary Use of Private Assets for Public Interests	22 December, 1999	This law regulates the state's right to expropriate or take over for temporary use for public interest, private properties of both natural and juridical subjects and the protection of the rights of the respective owners. It is also applicable to LGUs.

LAW NO. 8662, ON ORGANIZATION AND FUNCTIONING OF LOCAL GOVERNMENT AMENDED BY LAW NO. 8208, OF 18.3.2004

Law No. 8662, On Organization and Functioning of Local Government is the main determinant of the rights and duties of the LGUs including the rights and authority to use, sell, and lease their assets.

Article 8/II defines the right to ownership as one of the basic rights of the LGUs, including the right to profit, sell, and lease local government owned immovable or movable assets. The LGUs can also use their assets to generate profit (Article 16.6).

Law No. 8662, On Organization and Functioning of Local Government clearly stipulates that the right to ownership is exercised by the relevant local council, and not the head (or executive) of the LGU (Article 8.II.c). Nevertheless, this does not remove the local government mayor, or his executive staff, from the daily administration of the asset; but it is the exclusive right of the relevant councils to lease or sell municipal property (Article 32.e).

LAW NO. 8743, ON IMMOVABLE STATE PROPERTY OF 22.02.2001 AS AMENDED 8.6.2006

This law defines the rules and procedures governing immovable state property as well as assigns responsibility for the management of these assets. This law is applicable to local governments as well. The law defines various types of state property including pastures, forests, and assets necessary for the provision of public services. The law stipulates that all immovable public properties, and any use restrictions, must be registered (Article 6.1). The process for inventorying state assets, a part of which, pursuant to Law No. 8744 shall be transferred under the ownership of LGUs, is also defined. Of particular importance is that a specific organ shall be assigned responsibility for administering each asset.

The principles for the administration of immovable state property are defined in Chapter IV, Article 12 as:

- a) Protection and guarantee of public interest;
- b) Protection of any valuable and unique characteristics of the property;

- c) Protection and improvement of economic value of the property; and
- d) Protection of the ecological condition of the immovable property asset according to the principle of public usefulness.

LAW NO. 8744, ON THE TRANSFER OF IMMOVABLE STATE PROPERTIES TO LOCAL GOVERNMENT UNITS OF 22.2.2001 AND DCM NO. 500, ON INVENTORYING STATE IMMOVABLE ASSETS AND TRANSFER OF ASSETS TO LOCAL GOVERNMENT UNITS OF 14.8.2001

These acts regulate the process of transferring immovable assets, either into ownership or into use, from the central government to the LGUs. The Law on the Transfer of Immovable State Properties to Local Government Units limits the transfer of state assets to LGUs to those assets which LGUs need in order to implement functions assigned to them by law (Article 3). Note, LGUs can object to the receipt of assets (Article 19).

The most important aspect of this law is that it allows limitations to be placed on the transferred assets regardless of whether the asset is transferred into ownership or use. When properties are transferred into use (rather than ownership), the central government can stipulate the purposes for which the asset is used.

When properties are transferred into ownership, restrictions may be put on:

- 1) Changing the use of the property (Article 8);
- 2) Changing the condition of the property (Article 8); and
- 3) The sale of the asset including in cases when the asset is indispensable for the implementation of local government functions (Articles 8.c and 9.a).

The law allows for elimination of the conditions or restrictions on property (Article 11). Local government units are allowed to apply to the Council of Ministers three years after the effective date of the law, i.e. March 2004, to eliminate any restrictions. The Council of Ministers must respond within ninety days, otherwise there is silent consent.

The law also states that when transferring immovable property into municipal ownership, any associated movable assets are also transferred. Pursuant to these acts, the Agency for Asset Inventory and Transfer was established and is currently functioning within the Ministry of Interior.

CASE STUDY: MOVABLE ASSETS ASSOCIATED WITH AN IMMOVABLE ASSET

An Albanian city received from the central government an old, derelict factory as part of the asset transfer. Located within the factory are a number of movable assets including nails, screws, and other small tools that are in reasonable condition and can likely be sold on the commercial market. Law 8744 On the Transfer of Immovable State Properties to Local Government Units of 22.2.2001 stipulates that this movable property, through its association with the immovable asset transferred to the local government, also becomes the property of the local government.

The local government has determined that the movable assets are surplus and can be sold. The next step is to determine an approximate value for the movable assets through an expert assessment. Thereafter, the local government should competitively sell the nails, screws, and other small tools through a competitive sale.

LAW NO. 9869, ON LOCAL GOVERNMENT BORROWING OF 4.2.2008

This law explicitly allows LGUs to use municipal assets as collateral in obtaining loans. Article 15 stipulates that general obligation loans may be held against non-public, physical assets of the LGUs as collateral. Article 16 gives LGU Councils the right to guarantee a loan by agreeing to certain terms and conditions in the operation of a municipal asset or municipally subordinated enterprise.

LAW NO. 9663, ON CONCESSIONS OF 18.12.2006 AND DCM NO. 27, ON THE APPROVAL OF RULES FOR CONCESSION AGREEMENTS OF 19.01.2007

These acts constitute the legal framework necessary for the promotion and implementation of concession projects financed by the private sector (public-private partnership). Usually concession contracts are entered into for a particular public asset, such as a road, building, bridge, forest, etc.

Under Article 5/1.2 the LGUs are also identified as contractual authorities. This article explicitly stipulates that a contractual authority is any ministry or LGU which in compliance with applicable legal acts is responsible for the economic activity for which the concession is given and that the contractual authority for local concessions is LGUs.

Article 4/1 identifies the areas where concession agreements can be used. Some of the activities where concessions can be exercised are within the authority of LGUs including roads, public transportation, parking, etc.

The law provides a comprehensive framework of applicable procedures in regard to concessionaires' selection criteria and further, the negotiation and signing of the concession agreements including solicited or unsolicited proposals.

DCM NO. 315, ON RENTING OUT ASSETS OF STATE ENTERPRISES, COMPANIES, AND INSTITUTIONS OF 24.04.2003

This Decision provides a comprehensive definition of the public properties where renting agreements may apply. In addition, it determines the authorities that have the right to enter into rental agreements including LGUs and their subordinate enterprises or organization and their obligations and limitations.

The DCM provides for a competitive process, the duration of rental agreements, the procedures to follow, the documentation required, the review process, the monitoring of rental agreements, and the minimum prices for different types of properties or usage purpose.

Under Article V, the DCM also determines how the revenues from the rental agreements are distributed among the central government, the local government, and the subordinate enterprise or organization whose asset is given for rent taking into consideration different scenarios of location, size, and type of properties.

DCM NO. 794, ON ASSESSMENT CRITERIA FOR PUBLIC PROPERTY WHICH IS BEING PRIVATIZED OR DISPOSED OF AND SALES PROCEDURES OF 24.11. 2007³

This Decision sets forth the procedures that should be followed by state public organizations when assessing a public property prior to disposing of it through privatization or sales procedures (note, Instruction 6364 on the Implementation of DCM 794 mandates that local government units also apply DCM 794 when privatizing municipal property including related assessment procedures).

The Decision details the types of properties and/or assets for which this decision applies. Further, the Decision determines how the assessment committee is established and managed and how the assessment itself is carried out for different types of assets including consideration of debts or credits carried forward by the asset/property.

In addition, the Decision, under Article IV, provides for a comprehensive description of the sales procedure. including the obligation to go through an auction procedure; the role of the Restitution and Compensation Commission; how the minimal starting prices of the auction procedure are established; the publication and transparency requirements; the reporting requirements; the documents required from the participants of the auction and the selection criteria of the successful participant; payment procedures and methods; how the revenues collected from the sales are distributed among central and local organizations/institutions; and the responsibilities and rights of the parties involved in a sales process.

³ This DCM is not expressly applicable to LGUs, however, it needs to be considered in combination with Instruction 6364 particularly in regard to the procedures that should be applied by the LGUs when assessing an immovable property.

3.0 TRANSFER OF ASSETS TO LOCAL GOVERNMENT UNITS AND OWNERSHIP/USE RESTRICTIONS

Beginning in 2001, the Central Government of Albania began the transfer of state assets into use or ownership to local government units. Law 8744 on the Transfer of Immovable State Properties to Local Government Units details a three stage transfer process.

First Stage: *The approval of the inventory list of immovable public properties under the territorial and administrative jurisdiction of a local government unit.* Within this stage, the local government unit prepares an inventory list of all the properties which are under its territorial and administrative jurisdiction. Once approved by the local government council, this inventory list is submitted to the Ministry of Internal Affairs, which prepares the necessary procedure asking for the opinion of the interested central agencies and then submits the draft transfer list for approval to the Council of Ministers.

Second Stage: *The approval of the draft list of immovable public properties to be transferred into ownership or use to a local government unit.* Upon the approval of the draft inventory list, the local government unit council approves the list of properties requested to be transferred into ownership or use and submits it to the Ministry of Internal Affairs, which follows the same procedure as in Stage 1.

Third Stage: *The approval of the final list of immovable public properties to be transferred into ownership or use to a local government unit.* Upon the approval of the draft-list, the local government unit starts the public display of the property list in visible places and it also informs the community and the other interested bodies about these properties. During this stage the list may be amended or changed according to any problems identified during the public display process (properties missing from the inventory list, boundary issues, etc.). The list is publicly displayed for at least one month. Any changes are reflected in the list which is finally approved by the local council and then submitted to the Ministry of Internal Affairs, which follows the same procedure as in Stages 1 and 2.

The Law on the Transfer of Immovable State Properties to Local Government Units enables central government to transfer assets to local governments with restrictions as stipulated in the transfer act. There are essentially two layers of possible limitations. Firstly, the asset can be transferred into ownership or **only into use** of the local government. If assets are transferred into use, the central government can mandate how the asset is used. The Central Government is responsible for providing the financial resources to operate and maintain any assets transferred into use.

Even if the asset is transferred into ownership, the central government can place restrictions on changing the use of the property, changing the condition of the property, or restricting the sale of the property. If the central government places restrictions on individual assets transferred either into

ownership or use, the central government monitors compliance of the local government with the terms and conditions defined in the transfer act. The central government has the right to intervene when it notices discrepancies in meeting the terms and limitations determined in the transfer act.

3.1 TYPES OF OWNERSHIP RESTRICTIONS

Changing the Use: The transfer act, i.e. a Decision of the Council of Ministers, may include limitations on changing the use of the asset. This limitation is in effect as long as the act is in power. This type of limitation is usually instated on assets of vital public services and necessary to the community such as: educational assets, assets of health emergency units, and social services assets such as retirement homes, rehabilitation centers, etc.

Changing the Property Condition: This limitation is targeted at protecting unique characteristics of certain assets. This limitation is normally applied to special historical and cultural characteristics that need to be carefully preserved during maintenance, rehabilitation, reconstruction, or capital construction. If this limitation is placed on an asset, it is stipulated in the asset transfer act.⁴

Right to Sell: According to the Law on the Transfer of Immovable State Properties to Local Government Units, limitations may be put on a local government's right to dispose of a municipal asset or to give it into use by a third party. This limitation is normally applied on land plots in order to allow the central government to first complete the process of restitution and compensation of ex-owners.

3.2 ELIMINATION OF OWNERSHIP RESTRICTIONS

In accordance with Law 8744 On the Transfer of Immovable State Properties to LGUs, local government units may submit an official request to the Council of Ministers to remove a restriction placed on assets transferred into ownership of the LGU. Any request must contain a thorough justification as to why the removal of the limitation is justified, why the municipality is asking for the removal of the limitation, and what the LGU plans to do with the asset. The request shall be signed by the mayor or head of commune and addressed to the Council of Ministers.

Upon receipt, the Council of Ministers has 90 calendar days to approve or disapprove of the request. Because the 90 day response period begins the moment the request is received by the Council of Ministers, a LGU should send the request registered mail service or deliver it in person (obtaining the signature of the person receiving the mail at the Council of Ministers). If the Council of Ministers fails to respond in 90 days, the request is automatically approved through silent consent. In the event the Council of Ministers does not approve the request to remove the limitation, the local government unit has the right to return the asset to central government ownership. The central government is obliged to accept the asset.

Once the Ownership Restrictions are eliminated, the management of these assets follows the same procedure as other municipal assets that do not have any ownership restriction.

3.3 ELIMINATION OF USE RESTRICTIONS

The Council of Ministers abrogates the right of the local government unit to use an asset when:

⁴ The use of museums, libraries, and cultural monuments is also governed by the Law On Cultural Heritage. This law protects these assets from change of destination and any threat to their value due to construction or reconstruction.

- The delegated function for which the asset is transferred is concluded or terminated.
- The Council of Ministers finds that the asset is not being used by the local government unit according to the terms and limitations of the asset in question.

In the event that the Council of Ministers terminates a local government's use right because the delegated function is concluded or terminated, the Council of Ministers must provide 90 days notice and **must** pay the local government for any improvements that have been made to the property. Payment should be made within six months of the notice to rescind the use right; otherwise, the local government unit can continue to use the property for a period of up to three years until payment is made.

In the event that a use right is eliminated because a local government unit fails to comply with the terms and limitations, the Council of Ministers must provide 10 days notice. Again, the local government unit must be reimbursed for any improvements made to the property within six months. If payment is not made within six months, then the Central Government incurs 1% late payment charges for each day of the total amount it owes to the local government unit.

Once the Use Restrictions are eliminated, the management of these assets follows the same procedure as other municipal assets that do not have any use restriction.

4.0 THE ROLE OF LOCAL ACTORS IN ASSET MANAGEMENT

The comprehensive analysis of legislation that regulates municipal property administration illustrates that various actors at the local level are involved in the asset management decision making process. This chapter examines the role of the following stakeholders at the local level:

- The local government council as the owner, on behalf of the community, of municipal property; and
- The local government executive through the mayor and the asset management unit/ specialist as the day to day implementer of asset management policy.

Asset Management is performed as a top-down approach with the local government council defining the strategic program framework and providing the necessary momentum to the Asset Management Unit that performs the day to day functions of the program through the direction of the mayor. This approach ensures that all actors are using the same asset management methodology and policy and understand its usefulness and necessity to the municipality. The Asset Management Unit manages not only the data elements of the physical assets but also acts as the custodian of municipal property and oversees the end user of the asset. Support and trust from the local council and local executive is essential for the Asset Management Unit to develop partnerships among civic leaders and promote the asset management process.

4.1 THE ROLE OF THE LOCAL GOVERNMENT COUNCIL

The local government council, as the community's representative body, is the owner of municipal property. In this position, it has the sole authority to make decisions, in accordance with the law, on the creation of a local public asset, its usage, and/or its disposal. The local council should establish the municipality's asset management policy, establish priorities, and determine the overall approach to managing the municipality's assets. The municipal council determines whether or not to obtain or dispose of assets and establishes the parameters of any such purchase or disposal.

4.1.1 Creation of municipal assets

The local council decides on the creation of an asset through transfer, purchase, expropriation or donation. The council can approve the creation of an asset through several mechanisms.

The local council decides to accept the transfer of an asset from the central government to the local government.

Albania is currently transferring public assets necessary for the provision of local government functions from the central government to local government units. During the transfer process, the local council analyzes and approves:

- The inventory list of state immovable assets located within the unit's territory;

- The proposal to the Council of Ministers on assets requested to be transferred from central government ownership to local ownership; and
- Acceptance of assets that the Council of Ministers has decided to transfer to the LGU and the respective terms and conditions.⁵

The local council decides on the transfer of assets to the local government unit as a result of administrative-territorial changes. Two cases may occur:

- Administrative-territorial merging of two or more local units; and
- Partial transfer of certain territories such as a village, neighborhood, etc.

In the event of administrative-territorial changes, a local government unit may become responsible for providing services to new population segments. The Law on Organization and Functioning of Local Government provides that the local government units involved negotiate on the transfer of relevant assets.

The local council decides on the purchase of assets from a third party when they are necessary for the exercise of local functions.

The local council approves the initiation of asset expropriation procedures. The expropriation of private assets necessary for the provision of public services must be done in accordance with existing legislation, in particular Law 8651 On Expropriation and Taking for Temporary Use of Private Properties for Private Interest. In this case, the local Council's approval serves as a proposal to the Council of Ministers which is the competent authority that has the right to make the final decision for expropriation. Only after the Council of Ministers' approval can the expropriated asset pass into the ownership of the LGU in exchange for the payment calculated after the preliminary assessment conducted by a special committee formed by the central government.

The local council approves the acceptance of property (assets) donated by third parties and, as needed, defines the rules for meeting terms and conditions presented by the donor.

In each of these instances, the local council can approve local regulations that define how each process should be carried out. For instance, the local council may pass local regulations on the expropriation of property which mandates instances when expropriation is appropriate and mandate the type and format of information that the local executive must provide to the council in order for the council to consider proposed expropriation procedures. This information may include the justification of the expropriation, the estimated cost of the expropriation, and how the expropriation will be funded (through the budget, through borrowed funds, etc.).

4.1.2 Use of municipal assets

The local council decides who has the right to use municipal assets including local budgetary organizations, subordinated enterprises, or third parties. The local council should decide on the use of each asset with the aim of better and more service provision to the community, improved asset management efficiency, preserving/increasing the value of municipal assets, and attracting investment in municipal assets.

A local council has the following options when providing an asset for use:

⁵ See Section III on Transfer of Assets to Local Governments Units and Ownership/Use Restrictions.

- Use by a subordinated budgetary institution/enterprise for the purpose of delivering services to the population. These structures may be a part of the local unit administration, or separate administrative units created by the local council itself and directly subordinate to it (e.g., municipal police, lighting companies, solid waste companies, etc).
- Use by state budget organizations that are not under the administrative authority of the LGU such as Education Departments in the use of school buildings.
- Leasing in cases when the asset is not necessary for the provision of essential services and/or may be used more effectively by a third party.
- Provision in a concession or public private partnership to private entities, particularly when the engagement of third parties will result in more intensive investment and exploitation of public assets than can be provided by the municipality.

In general, most LGU assets will be used for the fulfillment of local government functions by local budgetary organizations/subordinated enterprises or other state institutions. Schools are used for education purposes, administrative buildings will be used by the municipal administration, etc. However, many LGUs have one or more assets that are surplus or can potentially be used more efficiently by a third party resulting in lower costs or increased revenues to the municipality and/or the introduction of improved or new service to the public. In these instances, the council may request the local executive branch to conduct preliminary studies and/or rigorous analysis to develop recommendations on the best use of a particular asset.

For example, if a LGU has sports premises in its asset portfolio, the local council may wish to analyze whether or not a private operator can provide better services at a lower cost (to either the municipality or the public) than if a budget organization used the premises. Regardless of which entity is using the municipal asset, the local council should determine the rules and standards to be respected in the use of an asset. The usage rules will be determined in a Use Agreement or Contract concluded between the municipality and, either the budgetary organization, the subordinate institution, or a third-party (see Section VIII for Options for Municipal Asset Use for more detailed information on contracts between the municipality and a third party).

When determining the method of use for each asset, the local council must take into consideration any use restrictions associated with the asset or petition the Council of Ministers for a change in the allowed use of the asset (see Section III on Transfer of Assets to Local Governments Units and Ownership/Use Restrictions).

Rules for Municipal Asset Use: When providing municipal assets for use by budgetary organizations, subordinated enterprises, or third parties, the local council is responsible for establishing rules and guidelines for use. Careful development of use rules will ensure that quality services are provided to the community while protecting the municipality’s asset. A use agreement, in the case of budgetary organizations/enterprises, and a lease contract in the case of third parties will establish the applicable rules. Table 2 shows items that should be included in every agreement/contract.

Table 2. Aspects of a Use Agreement

Aspect	Explanation
Assets provided for use	A list of assets provided for use should be included with sufficient detail to ensure precise identification of the asset
Purpose of asset use	Defines the functional areas for which a municipal asset can be used
Length of agreement	Is it open or for a specific time period

Level of service standards	Indicators to measure whether municipal assets are being used to achieve municipal targets and the degree to which these goals are being met (e.g., number of students, tons of solid waste collected per month, etc.). These level of service standards are in addition to any central government standards.
Reporting requirements	Frequency of reporting, reporting format and minimal items to be included in the report on the use of assets, and who should receive the report.
Responsibility for maintenance	Minimal maintenance standards and the party financially responsible for the maintenance. <i>Particularly important with third party usage.</i>
Responsibility for investment	Who is responsible for any necessary investment in the building. Over a certain amount, does it become the municipality's responsibility? <i>Particularly important with third party usage.</i>
Liability for damage	Who is responsible for the repair of any excessive damage, outside of normal wear and tear?
Use of excess capacity	Determines whether a budgetary organization, subordinated enterprise, or third party has the right to sub-lease all or some of the municipal asset provided for use. If sub-leasing is allowed, the use agreement/contract should determine any revenue sharing agreement.
Ability to terminate the use rights	What right does either party have to abrogate the agreement? When can the municipality terminate use rights? <i>Particularly important with third party usage.</i>
Other limitations	Any other limitations that might be placed on the use of the asset.

Level of Service Standards: The local council, with the advice of the local executive-administration, may set Level of Service Standards in order to establish and measure performance expected by the user of municipal assets. A major factor in the quality of community life is the quality of the asset's services and amenities – this quality can be measured by Level of Service standards. Level of Service can be defined as a measurement of the quantity and quality of services provided through the use of an asset. These characteristics typically describe “how much,” “of what nature,” and “how frequently” about an asset's service.

Establishing Level of Service Standards will help measure the asset's performance and provide managerial direction for the parties that use municipal assets. The standards provide a benchmark for evaluating service deficiencies, for monitoring progress toward meeting management and public service goals, and can alert the municipality or end user to opportunities for improved efficiency and savings. Level of Service Standards should be developed to ensure that the community's most important needs are met but should not be so restrictive that they hinder a service or cannot be realistically achieved. On the other hand, standards should be developed to promote affordable achievement rather than setting minimum acceptable standards.

These standards are in addition to any standards that may be established by the Central Government (e.g., for schools, health clinics, etc.). These standards are used to determine the level or quality of local public services provided through the use of the asset.

Table 3. Example of Level of Service Standards

Example Service Areas	Examples of Level of Service Standards
Maintain Health and Safety	<ul style="list-style-type: none"> - Maintain X number of police officers per X population - Define schedule and amount of solid waste collected per week - Allow X number of persons per building, per X number of square footage -

Maintain Social Wellbeing	<ul style="list-style-type: none"> - Ratio of students to teachers per classroom - Length of time from service interruption to service repair
Maintain Economic Viability	<ul style="list-style-type: none"> - Annual revenue generated for services provided - Utilization rate per month for service

Level of Service Standards can be set for budgetary institutions/enterprises and third parties that use assets. The standards and the required reporting can be stipulated in Use Agreements in the case of budgetary institutions/enterprises or in Use, Lease, or Concession, Agreements/Contracts in the case of third parties.

Sample Use Agreements between a local government unit and a public budgetary organization and between a local government unit and a municipal enterprise are included in Appendices 2 and 3 respectively and sample lease contracts between the municipality and a third party lessee are included in Appendix 4 (simple lease contract) and Appendix 5 (lease contract with the right of capital construction).

Budgeting for Municipal Assets: A key role of local councils is to approve the annual local budget, including the funds for maintenance and investment in municipal assets. When determining budget allocations, the municipal council must balance limited funds with the demand for public services and the condition of the assets. Because there are limited resources, the municipal council will have to make difficult decisions. Developing Criticality Ratings and Condition Assessments (see Section VI on Developing an Asset Management Strategy) is a valuable tool to enable municipalities to make well-informed policy decisions.

The Criticality Ratings and Condition Assessments allow the local council to target funds for municipal assets in the most efficient manner and allow municipalities to use limited resources for those municipal assets that are deemed critical and are used for the delivery of essential services and if funds are available, for maintenance and improvement of assets used for delivery of non-essential services.

In addition, the Criticality Ratings and Condition Assessments allow the local council to better understand which assets are not needed for the delivery of essential and non-essential services, and therefore to assign responsibility for ways to reduce expenditures on these assets to the Asset Management Unit. This would generally entail leasing or selling those assets.

4.1.3 Disposal and determining criticality of municipal assets

As the owner, the local council is responsible for approving the disposal of municipal assets. The council also approves the method of disposal and the disposal procedures. The decision to dispose of a municipal asset is warranted when the asset is no longer necessary for the provision of public services and will not be needed in the future for the provision of services and/or the disposal of the asset is expected to increase asset management efficiency.

The local council’s decision to sell an asset should be made on the basis of an asset’s criticality to the responsibilities and services of the municipal government. Municipal governments are expected to provide essential services to foster safe, healthy, and humane living conditions for the local population. Most communities require proper education and medical services for their residents to create opportunities for the community. If an asset is used for an essential function for the provision of social welfare, rather than a service that is merely desirable by social standards, then that asset would be classified as a critical asset. Critical assets should generally stay within the ownership of the municipality, with explicit use purposes, to maintain the integrity of the asset for the good of the

community now and in the future. Assets that do not provide critical functions or essential services and have been determined as surplus can be approved for disposal. Any decision to dispose of a municipal asset should be based on sound policy which has facilitated the determination of the asset as surplus and not needed for the delivery of essential or non-essential services. It is the responsibility of the executive branch to assign criticality ratings, but the municipal council should approve them.

Selling an asset is a significant decision and must be based on a careful determination that the asset is not just unneeded at the present time, but also that the asset will not be required in the future for the provision of services. This determination must take into account existing demand for services, the growth trend in service demand, and the growth of the population. In addition, the council must look at budgetary issues such as what the asset is currently costing to maintain (including security costs), and whether future demand is near enough in the future to warrant holding on to an under-utilized asset or if demand is so far in the distant future as to warrant selling the asset now and purchasing a new asset in the future (i.e., is the operating and maintenance costs necessary for the number of years expected until it is needed low enough to justify retaining the asset).

Municipal assets can be disposed of through the transfer to another LGU or through the sale of the asset to a public or private party. Disposal by transfer of the asset to another local unit is applied in instances of changes in the administrative-territorial division and in accordance with the relevant law regarding administrative-territorial changes.

The proceedings leading up to and during the disposal of a municipal asset to a public or private entity should be open to the public and transparent, and stakeholder opinions should be solicited prior to the final decision on asset disposal being taken. There are several methods that can be used to dispose of an asset (see Section VIII Options for Municipal Asset Use), and the local council should elect the method that will result in the highest profit possible. The local council determines measures to monitor the disposal of a public asset. The Council shall analyze at all times the work carried out in relation to the disposal process of a municipal asset.

4.2 ROLE OF THE EXECUTIVE BRANCH, INCLUDING THE MAYOR AND THE ASSET MANAGEMENT UNIT/SPECIALIST

As executive head of the local government unit, the mayor plays an important role in municipal asset management. However, the mayor cannot be expected to perform the daily functions necessary to undertake effective asset management. In order to maximize the efficient use of municipal assets, fulfill the policies, decisions and procedures approved by the municipal council, and to analyze and develop materials to allow the municipality to develop sound asset management approaches, the local government unit should establish an Asset Management Unit (or at a minimum include an Asset Management Specialist in the municipal staffing chart) responsible for the daily tasks associated with asset management. A sample Job Description for the Head of the Asset Management Unit (or Asset Management Specialist) is attached in Appendix 1.

4.2.1 Inventory (including criticality classification and condition assessments)

The executive branch, through the Mayor and Asset Management Unit, is responsible for keeping records on the municipality's immovable assets. These records, in electronic and hard copy, should contain identifying characteristics of the municipality's assets including registration numbers provided by the Immoveable Property Registration Office (IPRO) and individual criticality and condition assessments provided by the Asset Management Unit. The importance of inventorying

assets is quantified by the ability to identify assets within the property portfolio for use in performing local municipal functions or as surplus property. While initial inventorying can be resource intensive, the costs are offset to some degree as efficient asset management improves the patterns of property-related spending and revenues. Standardization of inventory formats will help to reduce inventorying costs. This Toolkit provides a standardized inventorying process in the Asset Register on the CD included with this Toolkit. See Section V on Developing an Asset Inventory and Section VI on Developing an Asset Management Strategy for detailed information on creating an Asset Register to inventory the municipality's assets.

The Asset Management Unit/Specialist will implement the daily functions of the asset inventory process with oversight from the Mayor. The Asset Management Unit will be delegated responsibility for inventorying all assets as well as assigning criticality classifications and managing the completion of asset inspections to create condition assessments and maintenance determinations. The Asset Management Unit's overall objective will be to provide the local council and the mayor with information that supports infrastructure decision making and provide recommendations on asset management policy, including the disposal or lease of municipal property. See Section VI for detailed information on determining criticality classifications and how to perform condition assessments.

The Asset Management Unit also plays the role of the asset owner's (the local council) representative in all relations the municipality has with third parties in the areas of creation, use, and alienation of local public assets. The Asset Management Unit acts on behalf of the LGU in relations with third parties on all asset issues.

4.2.2 Creation of municipal assets

As discussed above, there are several different methods by which a new municipal asset can be obtained including transfer from the Central Government, transfer from another local government, purchase, expropriation, and donation. The role of the local executive in the creation of a new municipal asset will depend on the method used to create the new asset.

In the case of asset transfer from the central government, the Asset Management Unit/Specialist should:

- Direct the work for creating a physical inventory of state assets in the local unit, and submit it for approval to the local council.
- Propose to the local council the list of assets requested to be transferred from the ownership and use of the central government, providing as an argument the need to exercise functions and authority in compliance with the law and to promote local economic growth.
- Follow up at the central level with the relevant institutions and cooperate with them during the asset transfer process to the local council.
- Upon approval by the Council of Ministers of the inventory of assets transferred under local council ownership, the chairperson shall manage the process of municipal asset registration at the Immovable Property Registration Office (IPRO).
- Compile cost data and ensure that the local council allocates the necessary funds for asset registration in the budget.
- Organize the work to receive both hard copy documents and physical assets from authorized central government institutions.

- Organize the work for the registration of local assets and the physical and financial inventory.

In the case of asset transfer from another local unit as a result of administrative-territorial division changes, the Asset Management Unit/Specialist shall:

- Submit to the local council a proposal on which assets should be received from the other LGU during the drafting of the law on changes in administrative-territorial division necessary to fulfill the municipality's new obligations. These opinions are then sent to the central government entities working on the proposal for the above legal changes in the administrative-territorial division.
- Receive both hard copy documents and the physical assets which are transferred to the local council in compliance with the relevant law approved for changes in administrative-territorial division.
- Record in financial documents the affects of the asset transfer.

In the case of asset creation through purchase, the Asset Management Unit/Specialist shall:

- Direct the procedure of procuring funds to purchase assets in compliance with the relevant law, starting with the procurement order, establishing a procurement commission, creating the conditions for transparency, etc. up to developing and signing the purchase contract.
- Be responsible for the process of taking ownership of the purchased asset.
- Request that competent entities meet legal procedures for recording the asset value in the asset's financial documents.

In the case of asset creation through expropriation, the Asset Management Unit/Specialist shall, in accordance with Law 8561 of 22 December 1999 On Expropriation and Taking into Temporary Use Private Assets for Public Interests:

- Establish a committee to evaluate the private assets that are proposed to be expropriated for public interest.
- Calculate an estimated cost for the expropriation and determine the source of the funds.
- Develop a draft decision of the local council to expropriate the assets due to public needs in compliance with Law 8561.
- Submit for approval to the Council of Ministers the local council proposal for expropriation, abiding by the legal requirements.
- Enact the expropriation procedure upon approval by the Council of Ministers and the transfer of the assets to the municipality to fulfill the public needs for which the expropriation was requested.
- Ensure that expropriated assets are fully compensated.

Throughout the process, the Asset Management Unit/Specialist should ensure that the process is open and transparent. Affected citizens and the community at large should be informed throughout the process through a well orchestrated public information campaign during which citizens are informed about the expropriation plan, the reason for it, and the funding source.

In the case of asset creation through donation, the Asset Management Unit/Specialist shall:

- Submit to the local council the draft decision for accepting the asset proposed to be donated.

- Upon approval of local council decision, organize the receipt of the asset being donated and include it in the inventory of municipal assets and in financial records.

For each new asset, the asset should be registered with the IPRO, entered into the municipal property register, and a hard copy asset file created.

4.2.3 Use of municipal assets

Municipal assets should be used as needed to provide services to the community. All municipalities must provide mandatory, or essential, services, and depending on budgetary resources and local demands, the municipality will likely provide a mix of additional non-essential, supplementary services. In order to provide services, a municipality will either provide the services directly through a budget institution or subordinated enterprise or indirectly through a service contract, concession or lease agreement. Assets not needed for the provision of mandatory or supplemental services can either be leased or sold to third parties.

In order to determine which assets are needed to provide mandatory and supplementary services, the Asset Management Unit/Specialist compiles data for use in developing a criticality classification system and assigning a criticality rating for each municipal asset. The criticality rating is based on the use of the asset (which services are being provided), the cost of maintaining each asset, and expected trends in the demand for specific services due in part to population trends. The criticality rating is essentially a rating of the importance of the asset in the delivery of essential and non-essential services factoring in the cost of maintaining the asset.

The Asset Management Specialist should also develop condition assessments, at least for those assets used in the delivery of essential services, and ideally for each municipal asset. Condition assessment is a method of evaluating the physical condition of the asset and factoring this into the decision-making process.

The Asset Management Unit/Specialist is responsible for developing draft use agreements between the municipality and budget institutions/subordinate enterprises that use municipal property and leases and/or concession agreements between the municipality and third parties that use municipal property to deliver public services. The draft use agreement/contract should be approved by the local council before being presented to the municipal property user.

The use agreements/contracts should include: details of the asset being used, purpose of the asset use, length of the agreement, level of service standards, reporting requirements, responsibility for maintenance, responsibility for investment, liability for damage, use of excess capacity, and ability of either party to determine the agreement.

For each user of municipal property, the local Asset Management Unit/Specialist, in conjunction with special committees or interest groups if deemed desirable, should develop draft level of service standards to be included in the use agreement/contract. The level of service standards should be approved first by the Mayor and thereafter by the local council. The level of service standards detail the expected results through the use of municipal property. Level of service standards are usually phrased such as how much, how many, and unit cost. Level of service standards should be elaborated in use agreements in the case of budget institutions and/or subordinated enterprises or in lease contracts in the case of concessions or rental in cases where the user is providing public services.

The Asset Management Unit/Specialist is responsible for ensuring that users of municipal property submit the required reports to the local council and should develop reports stipulating the failures to meet the level of service standards and the recommended course of action, for the local council in instances when a municipal property user fails to meet the level of service standards. Both a use

agreement and/or a contract should stipulate the repercussions that the user of property faces if it fails to meet level of service standards.

Sample use agreements and lease contracts are included in the appendices.

4.2.4 Disposal of municipal assets

There are two methods of disposal, including sale and transfer to another LGU in instances of changes to territorial-administrative divisions. In the case of asset sale, the Asset Management Unit should develop a proposed list of assets to be disposed either annually or less frequently as applicable and the proposed method of disposal. The Asset Management Unit should develop the list based on the criticality ratings assigned to each asset. Essentially, assets not currently being used in the provision of essential or non-essential assets and not anticipated to be used in the future to provide services can be disposed of. In taking the decision on what to do with assets currently not being used to provide services, consideration has to be given to how much it is costing to maintain and guard the asset and the likelihood that the assets will be required to provide services based on citizen demand and population growth trends.

In deciding the method to use for the disposal of assets, municipalities must adhere to Law 9874 of 14 February 2008 On Public Auctions and DCM 794 of 21 November 2007 on Assessment Criteria for Public Property which is being Privatized or Disposed of and Sales Procedures. However, there is flexibility within the Public Auctions Law to use various forms of auction. Two primary types of auction include an open auction whereby interested bidders are invited to attend the auction and can bid openly among other potential bidders. This format is usually used for small assets, such as small pieces of vacant land, in which significant investment is not needed and therefore the Bidder does not need to provide documentation that he has the necessary funds. A second frequently used variant is to ask Bidders to submit closed Bids which are opened at a set date and time. The advantage of this option is that the bid documentation can be provided at cost to proposed Bidders, ensuring that only serious Bidders submit proposals. In addition, the proposal instructions can require that Bidders submit documentation proving they have the necessary funds for the purchase of the asset.

The proposed list of assets to be disposed of and the recommended method of auction should be submitted to the municipal council for approval. Included with the list should be a proposed starting sales price and a proposal of how the funds will be used upon disposal of the asset. Thereafter, the Asset Management Unit is responsible for enacting the municipal council's decision to sell specific assets through the approved method and should take measures for the completion of all sale procedures for each asset in compliance with the legislation.

During the disposal process, the Asset Management Unit should establish an asset evaluation committee in compliance with Chapter 1 of the Decision of Council of Ministers No. 794 of 21 November 11.2007 on Assessment Criteria for Public Property which is being Privatized or Disposed of and Sales Procedures. This Chapter mandates that a committee be established to determine the minimum sales price of a public asset.

The Asset Management Unit is also responsible for ensuring that the proper paperwork is completed and correctly filed, including a completed contract. The registration of the asset should also be modified at the Immovable Property Registration Office. Lastly, the Asset Management Unit needs to ensure that the sale proceeds are correctly and timely deposited into the municipal bank account and the financial records updated accordingly.

In instances when an asset is being disposed of through transfer to another local unit, the Asset Management Unit is again responsible for preparing a proposed list of assets to be transferred for

approval by the municipal council. Thereafter, a committee should be established, chaired by the head of the asset management unit or the asset management specialist, to handle the hand-over of the asset, to ensure that the changes are properly recorded with the Immovable Property Registration Office, and that the asset management and financial records are updated.

4.2.5 Budgeting for municipal assets

The executive branch is responsible for ensuring that adequate funds are budgeted to ensure proper maintenance of and investment into municipal assets. The reality of limited resources demands that the Asset Management Unit determines the best allocation of resources among municipal assets. The Asset Management Unit should work with the Department of Finance and Budget to ensure that operating expenses and investment funds are correctly reflected in the budget, as well as expected revenues from municipal assets.

The primary goals when budgeting for municipal assets should be:

- Providing increasingly better, continuous services to the community;
 - Preserving and increasing the asset value; and
 - Obtaining maximum profit from assets.
- a) In order to calculate expenditures, the Asset Management Unit should keep historical expenditure records for municipal assets including routine operating and maintenance costs as well as investment. In order to understand if increased maintenance or capital repair is needed, the Asset Management Unit should conduct condition assessments on ideally all assets or at a minimum the assets that are used in the delivery of services every three years. This information will allow the Asset Management Unit and Budget and Finance Department to accurately budget for expenditures and will allow the municipality to best target scarce investment funds to those assets most in need.

Expenditures associated with municipal assets include:

1. Maintenance expenses:
 - a) Salaries and social and health insurance for the administration directly serving the asset and not the service provided through the asset, e.g. guards of facilities; and
 - b) Expenses for direct operational maintenance of the asset, such as painting, repairs on different parts of the asset, etc.
2. Capital investment:
 - a) Creation of new assets by building or purchasing them;
 - b) Additions to existing assets; and
 - c) Reconstructions of existing assets.
3. Amortization funds

Determining the priorities for capital investment into municipal assets should be done through a participatory process involving citizens in the decision-making process. Planning for investment in new assets or capital repair may entail borrowing funds. In this case, the Asset Management Unit should work with the Finance Department and technical experts to develop estimated investment costs, cost of borrowing, and payback period which should be included in the budget. It is essential that amortization funds be budgeted for municipal assets. Budgeting these funds will allow the

municipality to reinvest in assets from year to year to help enable replacement when assets are fully depreciated and will allow the municipality to continue providing services.

The Asset Management Unit also needs to ensure that any revenues through the use of municipal assets are also accurately reflected in the budget. This entails gathering information from lease and concession agreements, and developing a list of assets which will be sold, if any, in the coming year. Note, best international practice is that revenues from the sale of municipal assets should be used only for capital investment, and should not be used for normal operating expenditures.

4.2.6 Oversight and monitoring

One of the most important responsibilities of the executive branch and the Asset Management Unit is to oversee users of municipal assets and to monitor that assets are used properly. As stated above, municipal assets can be provided for use through a use agreement (for budget organizations or municipal enterprises) or a lease or concession contract. The Asset Management Unit is responsible for developing these draft agreements for approval by the municipal council, and thereafter, for enacting the agreement with the municipal property user.

These agreements, regardless of the type, should specify how the municipal asset should be used and for what purpose. In addition, the agreement should specify level of service standards to be met by the user of municipal property and the required reports that must be submitted to the municipality and the frequency of these reports. The agreements should also ensure that any use restrictions are complied with and any relevant regulations and standards are met.

The Asset Management Unit should ensure that they level of service standards are met by municipal property users, that the reports are submitted on a timely basis and include the required information, and that all other clauses of the agreement are met including timely payment. The Asset Management Unit should convey this information to the municipal council.

When agreements are due to conclude, the Asset Management Unit should recommend whether or not the agreement should be extended or not. If the contract is not renewed, then the Asset Management Unit should agree with the municipal council on what should be done with the municipal asset and the parameters of that approach (e.g. sales price, lease price, method of disposal, lease term, etc.).

5.0 DEVELOPING AN ASSET INVENTORY

Municipalities should be knowledgeable about the assets it owns or is responsible for so that those assets can be used to provide the best quality and quantity of services and in order to make the best possible financial and economic decisions. A municipality cannot effectively manage assets for which it does not have comprehensive information, nor can it have a holistic view of how the assets work together for a community to function efficiently.

The municipality likely has assets that can be widely used by the community at an efficient cost, and there may be others that are not needed that the municipality can rent or sell. Having an organized inventory of all assets will allow the municipality to quickly see a snapshot of what is owned and/or used by the municipality; and which of those assets are needed to provide quality services to its citizens.

In order to aggregate comprehensive information on each municipal asset, either in ownership or in use, the LGU should develop a system of both hard and electronic record keeping. The hard copy record system is fairly straight forward and should consist of an Asset File for each asset. The electronic record keeping system may consist of an MS Excel workbook or an MS Access database called an Asset Inventory.

A model Asset Inventory is included in the electronic version of this Municipal Asset Management Toolkit and is available to all LGUs in Albania. The Asset Inventory was developed in MS Access as for purposes of the Asset Inventory it was deemed most user friendly. The Asset Inventory allows each municipality to enter specific data on its municipal assets, produce 10 different kinds of standard reports, update information as needed, and develop new reports as required. The following sections describe the Asset File and the Asset Inventory and detail the data categories.

5.1 ASSET FILE

The first step in creating an asset management record keeping system is to create a hard copy Asset File for each asset either owned or used by the municipality regardless of whether or not it has been registered with the Immoveable Property Registration Office (IPRO). Asset Files for individual assets can be labeled, filed, and tracked by the registration number provided at the time of registration by the IPRO, by a unique number provided by the municipality's Asset Management Unit, or by name of the Asset. The hard copy Asset File should include any asset specific documentation including building drawings, the certificate of ownership (if available), condition assessments, market analysis documentation, records of investment made to the building, operation and maintenance (O&M) records, and any Use Agreement, Lease, or Sales contracts. The Asset File serves as a comprehensive historical record on each asset and should be maintained throughout the existence of the asset and archived thereafter.

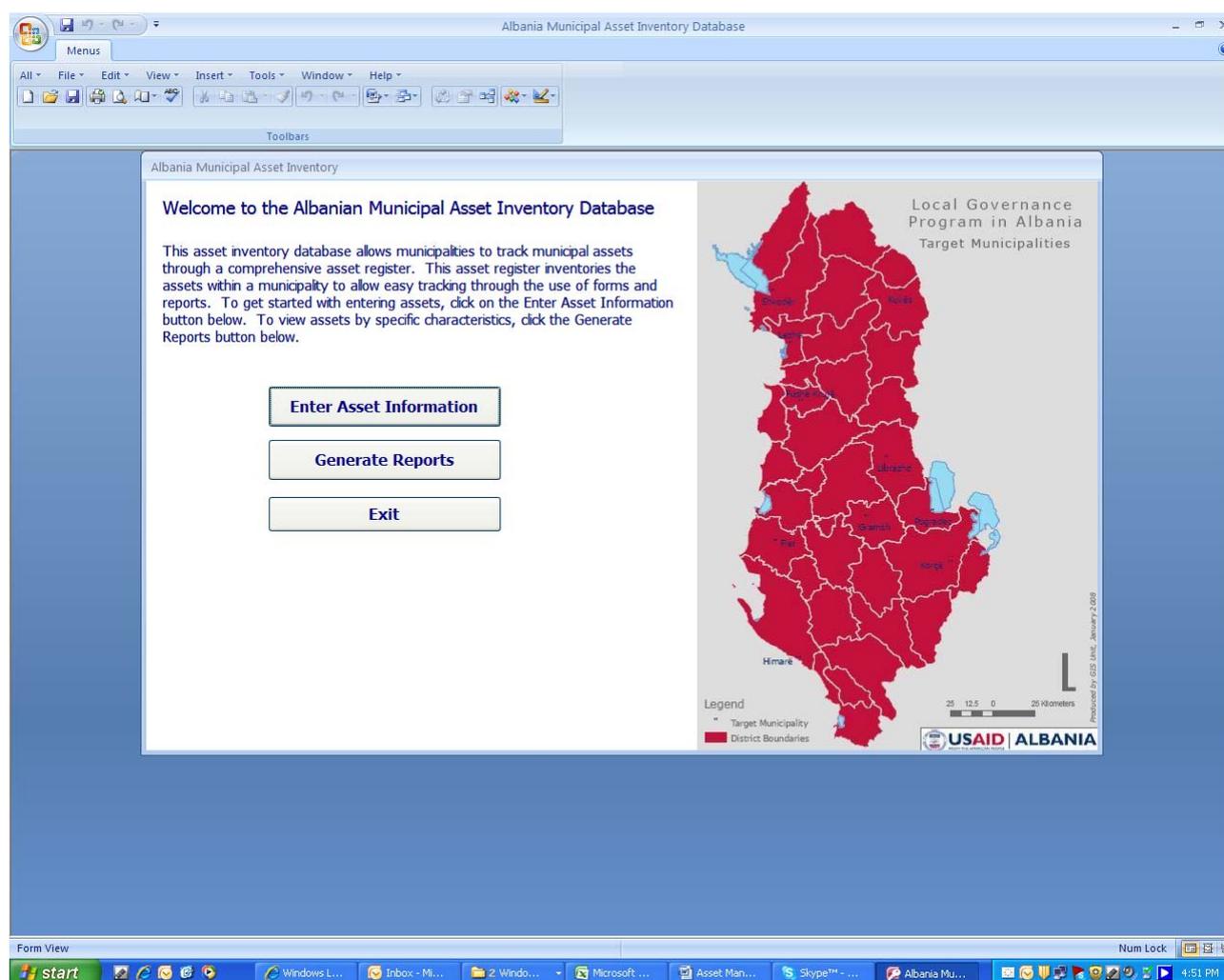
5.2 ASSET INVENTORY

The Asset Inventory is a user friendly MS Access based program which allows municipalities to track and recall data on municipal assets. The Asset Inventory allows the flexibility to easily sort the

assets by various features and to enter data that automatically generates a set of standard or customized reports that can easily be updated and maintained, as well as printed and stored in the individual Asset Files.

Adding assets to an Asset Inventory should begin immediately after transfer from the central government, even if they have not been registered with the IPRO. As new assets come into existence from construction, purchase, or transfer or if assets are sold or taken out of use, the municipality should register the asset or the change in status with the IPRO and update the Asset Inventory accordingly.

The opening screen of the Asset Inventory allows the User to select three different options: 1) Enter Asset Information, 2) Generate Reports, and 3) Exit.



5.3 ENTER ASSET INFORMATION

As the name suggests, in order to enter either new information or revised information for individual assets, the User should click the Enter Asset Information button. Here, the User can enter information on a new asset or an asset which has not previously been included in the electronic Asset Inventory or the User can edit or add information for a municipal asset which has already been included in the Asset Inventory. Pressing the Enter Asset Information brings the User to the only data entry sheet in the Asset Inventory.

Step 1: Enter General Asset Details

Step 1 includes basic information on the asset including:

- Asset Registration ID;
- Cadastral Zone;
- Asset Name;
- Asset Category Type;
- Property Type;
- Estimated Property Value (in Lek);
- Location;
- Land Parcel Size (m²);
- Building Size (m²);
- Number of Floors;
- Registration Status;
- Volume;
- Page;
- Date of Construction; and
- Index Map Number.

Step 1. Enter General Asset Details

Asset Registration ID	<input type="text"/>	Location	<input type="text"/>		
Cadastral Zone	<input type="text"/>				
Asset Name	<input type="text"/>				
Asset Category Type	<input type="text"/>	Land Parcel Size (m2)	Building Size (m2)	Number of Floors	
Property Type	<input type="text"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	
Estimated Property Value:	<input type="text"/>	LEK			
Registration Status	Volume	Page	Year of Construction:	<input type="text"/>	
<input type="text"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	Index Map Number	<input type="text"/>	

Asset Registration ID: The easiest way to identify an asset is by the Registration Number that was assigned at the time of asset registration by IPRO. This number serves as a unique identifier for an asset and distinguishes it from all other assets in a municipality.

Enter the Asset Registration ID to start a new record in the Asset Inventory.

In cases when a LGU has not completely registered all of its assets with the IPRO and therefore does not have an IPRO assigned Asset Registration ID for each asset, the Asset Management Unit can assign an Asset Registration ID to those assets based on a municipally developed system. As assets

become registered with the IPRO, the municipally assigned Asset Registration ID should be replaced with the IPRO assigned Asset Registration ID.

If a municipality is assigning an Asset Registration ID, one easy way to create an Asset Registration ID is: Asset Category Abbreviation + Sequential Number as shown in Table 4.

Table 4. Sample Municipally Assigned Asset Registration IDs

Asset Category	Asset Category Abbreviation	Asset ID
General Public Expenditures	GPE	GPE_1 GPE_2 GPE_3 etc
Public Services	PS	PS_1 PS_2 PS_3 etc
Public Transport and Road Infrastructure	PTRI	PTRI_1 PTRI_2 PTRI_3 etc
Housing and Urban Issues	HUI	HUI_1 HUI_2 HUI_3 Etc
Water Supply and Sewage	WSS	WSS_1 WSS_2 WSS_3 Etc
Education	EDU	EDU_1 EDU_2 EDU_3 Etc
Social Care	SOC	SOC_1 SOC_2 SOC_3 Etc
Health Care	HLC	HLC_1 HLC_2 HLC_3 Etc
Culture and Sport	C&S	C&S_1 C&S_2 C&S_3 Etc
Tourism and Other Economic Services	TES	TES_1 TES_2 TES_3 etc
Other Services	OS	OS_1 OS_2 OS_3 etc

Cadastral Zone: A cadastral zone is a grouping of land parcels (or cadastral units). There are approximately 3,060 cadastral zones in Albania primarily based on territorial divisions such as administrative divisions or city districts/regions.

Asset Name: An asset's common or recognizable name (e.g., Ali Demi Primary School, Qemal Stafa Stadium, or Health Clinic 5) is one of the most important pieces of an inventory. It defines the Asset Category Type and allows the municipality to clearly differentiate between assets.

Asset Category Type: Asset category type defines the functional use of the asset so they can be grouped with other assets used for the same function. This is important for municipal budgeting and when evaluating capacity of municipal assets versus demand for services. Assets should be assigned to one of the following category types which are listed in a drop-down menu in the Asset Inventory:

- General Public Expenditures (e.g., Municipal Administrative Buildings);
- Public Services (e.g., Parks, Light Poles);
- Public Transport and Road Infrastructure (e.g., Roads);
- Housing and Urban Issues (e.g., Social Housing);
- Water Supply and Sewage (e.g., Irrigation Canals);
- Education (e.g., Primary School Buildings);
- Social Care (e.g., Orphanage, Retirement Home);
- Health Care (e.g., Health Clinics);
- Culture and Sport (e.g., Stadiums, Museums, Cinemas);
- Tourism and Other Economic Services (e.g., Archeological sites, Tourism Information Offices); and
- Other Services.

Property Type: The property type for each municipal asset should be defined to facilitate sorting and grouping. The User should select from the following Property Types which are listed in a drop-down menu in the Asset Inventory:

- Building;
- Land;
- Street; and
- Other Object.

Estimated Property Value: Enter the estimated property value, per m², based on book value, market assessment, etc.

Location: Knowing the location of an asset will help to distinguish it from similar assets listed in the Asset Register. It will also aid in determining if an asset is unnecessarily duplicating another asset or if an asset is optimally utilized. For the location, enter the complete address if possible. If the address is unknown or is not feasible, enter the street name and/or nearby landmarks that can easily identify the asset.

Land Parcel Size: Enter the size of the land parcel in m². This data field pertains to the land parcel **only** and does not include the size of any improvements or buildings located on the land parcel which should be entered separately.

Building Size: Enter the size of the building in m². In the event that the asset includes more than one improvement, enter the cumulative size of all improvements. This data field pertains to the building *only* and does not include the size of the land parcel which should be entered separately.

Number of Floors: Enter the number of floors in a building.

Registration Status: Enter the registration status of the asset with the Immovable Property Registration Office. The User should select one of the following options from the drop-down menu:

- In Process;
- Not Started; and
- Registered.

Volume: Enter the volume number as shown on the certificate of registration issued by the Immovable Property Registration Office to the municipality. The volume number, together with the page number, is associated with the filing system maintained by the Immovable Property Registration Office. By tracking the volume number, the municipality's interaction with the IPRO will be more efficient.

Page: Enter the page number as shown on the certificate of registration issued by the Immovable Property Registration Office to the municipality. The page number, together with the volume number, is associated with the filing system maintained by the Immovable Property Registration Office. By tracking the page number, the municipality's interaction with the IPRO will be more efficient.

Date of Construction: Enter the year that the object was constructed.

Index Map Number: Enter the Index Map Number as shown on the Registration Certificate from the IPRO. The Index Map Number is a reference to where the asset is based on the maps maintained by the IPRO.

Step 2: Enter Ownership and Use Details

Step 2 includes information on the ownership of the asset and how the asset is being used. Data fields in this step include:

- Ownership Status;
- Restrictions (if applicable);
- Date of Acquisition;
- Means of Acquisition;
- Use Status;
- Is the property under a leasing contract;
 - Name of Lessee
 - Price per month
 - Lease Agreement Start Date
 - Lease Agreement Termination Date

- Has the property been sold; and
 - Name of the person/organization who bought the property
 - Sales Price
 - Date of Sale
- Comments

Step 2. Enter Ownership and Use Details

Ownership Status

Restrictions (if applicable)

Date of Acquisition Means of Acquisition

Use Status

Is the property under a leasing contract?

Name of Lessee

Price per Month

Lease Agreement Start Date

Lease Agreement Termination Date

Has the property been sold?

Name of the person/organization who bought the property

Sales Price

Date of Sale

Comments

Ownership Status: When an asset is transferred to the municipality it can be transferred into ownership or into use. Moreover, even if it is transferred into ownership, there may be restrictions. This data field will allow municipalities to easily track whether it has ownership or use rights on each property. There are four possible entries to populate this data field:

- Ownership;
- Ownership with restrictions;
- Sold; and
- Use Rights.

Restrictions (if applicable): Enter the use restriction defined, if any, in the Transfer Act from the Central Government when transferring the asset to the LGU. If there are no use restrictions, leave this data field blank.

Date of Acquisition: The date that the asset is acquired should be entered in this data field. Either the date can be manually entered or selected from a calendar. The format should be DD/MM/YYYY.

Means of Acquisition: The method of acquisition should be entered in this data field. Methods of acquisition include:

- Transfer from CG (Central Government);
- Transfer from LGU (Local Government Unit);

- Donation; and
- Purchase.

Use Status: Typically an asset will be utilized by a budget institution or subordinate enterprise within the local government or leased to a private third party. Regardless of whether it is a public or private user of the asset, the entity that utilizes the asset is responsible for at least a portion of the general upkeep and maintenance of the asset, as determined in the use agreement or lease contract.

For example, if the Education Department is using a school, they will be required to perform maintenance so that the asset functions safely and properly. In the Asset Inventory, enter the name of the public or private entity that is using and/or overseeing the asset.

Is the property under a leasing contract: The database provides a box to check if the asset is under a lease agreement. If the asset is under a lease contract, additional detail on the contract should be provided.

If the asset is not under a leasing contract, this box should not be marked and the remainder of the lease questions left blank.

Name of Lessee: Enter the name of the person or entity leasing the municipal asset.

Price per month: Enter the amount the lessee pays per month, according to the lease contract, for use of the municipal asset.

Lease agreement start date and lease agreement end date: Enter the date that the lease begins, not the signature date of the lease contract. Also enter the date the lease terminates.

Has the property been sold?: If the property has been sold, check this box and enter the additional sales information. If the asset has not been sold, leave this box as well as those for the additional sale questions blank.

Name of the person/organization who bought the property: Enter the name of the person/organization who purchased the asset.

Sales Price: Enter the sales price of the property in Lek.

Date of Sale: Enter the effective date of sale.

Comments: Enter any additional comments or information deemed relevant/important regarding the use status, conditions on the lease agreement, or sales agreement. This area can also be used to clarify if the lease arrangement is actually a concession agreement.

Step 3: Criticality Assessment

Step 3 includes information on the criticality rating of an asset. As described in Section VI. Developing an Asset Management Strategy, a criticality rating essentially describes how important the asset is to providing core and/or non-core services to the community, or if it is surplus and is not necessary now or in the future for the provision of services and can be disposed of.

There are only two data entry fields in Step 3:

- Criticality rating; and
- List reasons (if any) to change the criticality rating.

Step 3. Criticality Assessment: for those assets that are classified as critical, please complete a condition assessment.

The screenshot shows a web form for criticality assessment. At the top left, there is a label 'Criticality Rating' next to a dropdown menu. To the right of the dropdown is a link that says 'View Definitions for Criticality Rating'. Below these is a large text area with the instruction 'List reasons (if any) to change the Criticality Rating'. At the bottom right of the form is a button labeled 'Enter/Edit Condition Assessment'.

Criticality Rating: The Asset Inventory includes a drop-down menu from which the User should select one of four possible criticality ratings:

- Critical;
- Critical – Surplus;
- Non-critical; and
- Surplus.

Definitions of these criticality ratings are included for easy reference and more discussion of the importance and how to determine which criticality rating to select is provided in Section VI.

List reasons to change the criticality rating: Reasons to change the criticality rating should be listed here. There are various reasons which might, in the future, necessitate a change in the criticality rating such as an increase/decrease in population, the deterioration of a building to the point where it is no longer economically feasible to repair it, new core services, etc.

5.4 ENTER/EDIT CONDITION ASSESSMENTS

At the bottom of the Enter Asset Information screen is a button for Enter/Edit Condition Assessment. As discussed in greater detail in Section VI, ideally for all assets, but certainly for critical assets, a condition assessment should be conducted once every three years. By clicking on this button, the User moves to a new screen: Condition Assessment. Here, information obtained from an on-site inspection should be entered to be part of the electronic record on the asset.

Detailed guidance on how to conduct a Condition Assessment is provided in Section VI. Therefore, discussion in this Section is limited to how the User of the Asset Inventory should transcribe the information into the Asset Inventory.

The Condition Assessment form includes the following data fields:

- Inspector's name;
- Inspection Type;
- Date of Inspection;
- Time of Inspection;

- Condition Rating;
- Confidence Level;
- Type of Maintenance;
- Target Maintenance Date; and
- Comments.

Inspector's Name: Enter the name of the Inspector.

Inspection Type: There are three types of inspections: 1) measurable, 2) opinion, and 3) visual. The User should select the most appropriate type from the drop-down menu. A measurable inspection is one based on maintenance data or other documents that have recorded the status of the asset over time, as opposed to interviewing people familiar with the asset (opinion-based inspection) or an onsite inspection (visual-based inspection). When doing a measurable inspection, financial records may be a strong indicator of how an asset is maintained; sometimes financial records can indicate if a building received a new roof or had any other major repairs.

Date of Inspection: Enter the date the inspection took place.

Time of Inspection: Enter the time of the start of the inspection.

Condition Rating: Enter the condition rating that was assigned by the inspector at the time of inspection. The choices included in the drop-down menu include:

- 1 - New or Excellent Condition (no noticeable defects, no reason to expect failure, preventive maintenance being done, new asset);
- 2 - Minor Defects Only (minor defects/wear, low possibility of failure, most preventive maintenance being done);
- 3 - Moderate Deterioration (some defects/wear, low to moderate possibility of failure, some preventive maintenance being skipped);
- 4 - Significant Deterioration (significant defects/wear, high probability of failure, health/safety issues, no preventive maintenance being performed); and
- 5 - Asset Almost Unserviceable (excessive defects/wear, unit in a failed state, inoperable).

Confidence Level: Select from the drop-down menu choices:

- High;
- Low; and
- Medium.

The Inspector, during the time of inspection, should indicate how confident he/she is that the data/information used during the inspection is reliable (i.e., High = confident, Medium = somewhat confident, Low = not confident). Confidence levels are subjective and will vary based on the opinion of the inspector that the data is correct. For example, a visual inspection that is not very thorough, for example the inspector only looked at the outside of the building versus a visual inspection that consisted of inspecting every room in the building, the elevators, the crawl space, roof, etc. would have very different confidence levels.

Type of Maintenance: Select the choice of maintenance indicated by the inspector from the choices included in the drop-down menu:

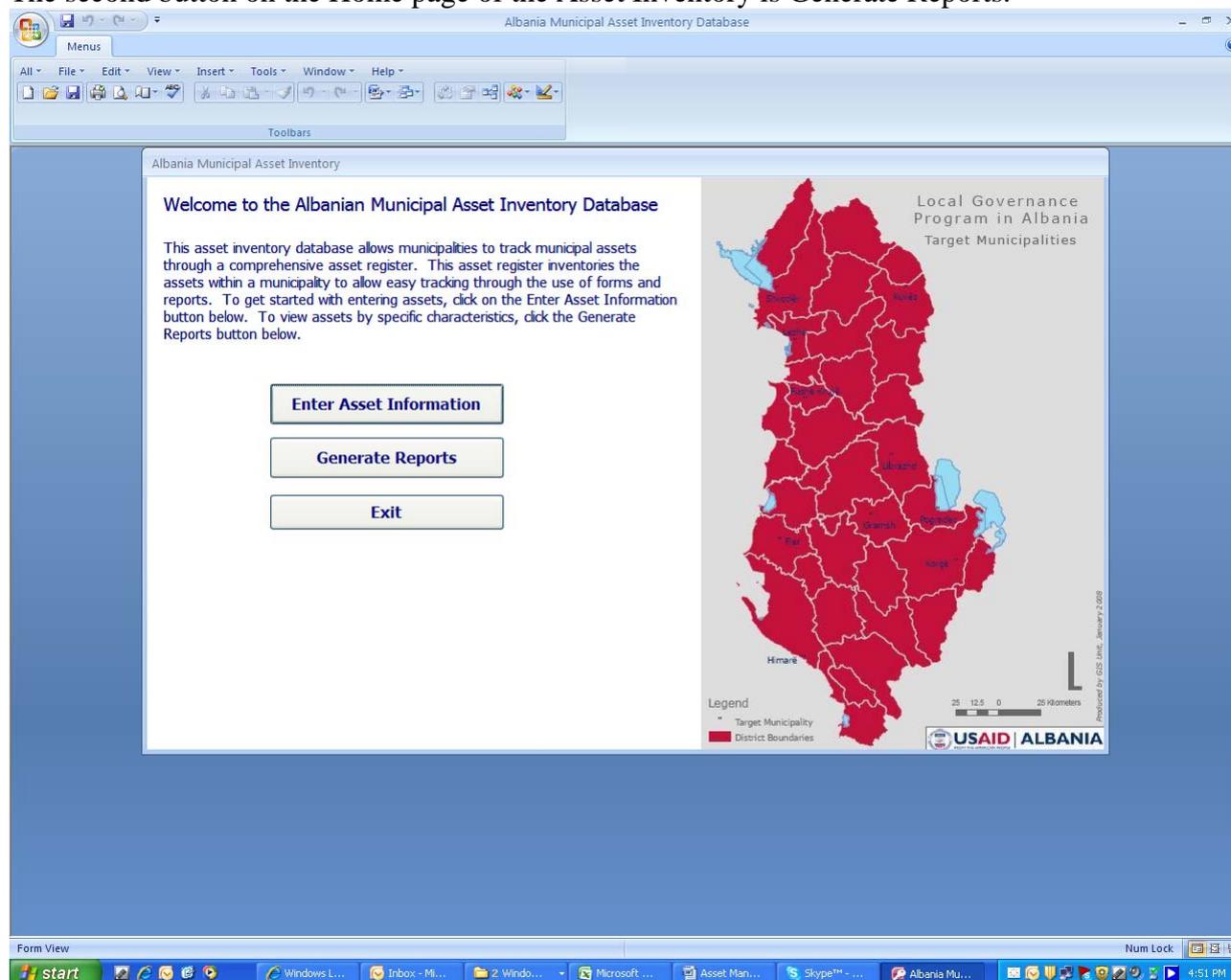
- Decommission;
- Rehabilitation;
- Repair; and
- Replace.

Target Maintenance Date: Either the inspector or an Asset Management Specialist should determine the targeted maintenance date, i.e., what is the preliminary plan for when the required maintenance will be performed on a municipal asset.

Comments: Enter any issues or problems identified during the inspection; for example, the main repairs needed on the asset problems with windows, walls, the foundation, the roof, etc.

5.5 GENERATE REPORTS

The second button on the Home page of the Asset Inventory is Generate Reports.



There are ten different standard reporting documents included in the Asset Inventory as shown in the screen shot below.



The reports are designed to enable the Asset Management Unit to sort asset data based on a variety of criteria. The reports allow the user to obtain either comprehensive or summarized data for five main categories: asset inventory, condition assessment, criticality ratings, leases, and sales. The comprehensive reports (those on the left side) provide a more detailed report on the assets and provide a one-page summary, depending on topic, for each asset. The summarized reports (those on the right side) provide brief information in one consolidated table.

The reports were designed based on the mostly common needs of municipalities; however, there may be instances where a municipality requires data presented in a different manner. As users become more experienced with MS Access, they can begin to develop their own reporting templates.

6.0 DEVELOPING AN ASSET MANAGEMENT STRATEGY

Asset management is a sustainable business process that helps municipalities make investment decisions about physical assets based on how important those assets are to the provision of social and economic services. Developing an asset management strategy will allow municipalities to provide social and economic stability and will create opportunity for growth through advanced decision making.

To start managing municipal assets, the assets will need to be clearly identified through inclusion in an Asset Inventory as described in Section V. Once all assets that a municipality owns or uses are inventoried, the municipality can then determine which assets are critical to the social and economic needs of the community. At that point, the assets’ condition should be assessed. Through these steps, the municipality can decide which assets need to be kept and maintained by the municipality and which assets can be leased or sold for profit.

6.1 DETERMINE WHICH ASSETS ARE CRITICAL FOR LOCAL GOVERNMENT FUNCTION

Not every asset that a municipality owns or uses is important to the overall economic and social stability of the community. Some assets are more important than others and should receive proportionally more attention and resources from the municipality. Therefore, it is important to know which assets are required for provision of municipal services. Determining which assets are the most critical is a judgment call that the Asset Management Unit, with approval of the local council, will make.

Assets can be given one of the Criticality Ratings shown in Table 5.

Table 5. Criticality Ratings

Criticality Ratings	Description
Critical	An asset that is used to provide essential services
Critical – Surplus	A critical asset that provides essential services in excess amounts, such as an aging primary school when there are other primary schools with adequate capacity for the children in the municipality
Non-Critical	An asset used in the provision of non-essential services that are deemed to be desirable services provided to the community, such as sports and culture
Surplus	A non-critical asset not used to provide essential services or non-essential services deemed desirable to provide to the community

Critical Property: These are properties that are needed by the municipality and should be retained for use except when the asset will be replaced or decommissioned. Some examples of critical property include school buildings, irrigation canals, and roads. Each of these assets provides essential public functions that are economic in nature and are mandatory by central government law. For example, all children must go to school to be educated (which will benefit future local governmental

functions), irrigation canals are essential for interstate and local commerce, and roads are essential for public safety and transportation. The assets that are given poor condition ratings will have to be repaired immediately to ensure that essential services are provided to the public or in cases when an asset cannot be adequately repaired, it should be replaced either with an asset from the critical-surplus criticality grouping or through purchase or construction of a new asset.

Critical-Surplus Property: These are properties that in principle would provide essential services that are required local governmental functions, but whose services are not needed because of excess capacity and/or poor condition. Because the asset's function is critical in nature, the asset should be kept under ownership of the local government until further use is needed. An example of critical-surplus property is when there are multiple administrative buildings not filled to capacity, and the consolidation of one or more of those buildings will both increase the capacity of that building and also facilitate better coordination and communication between related administrative sectors.

If the asset is expected to be put into use in the near future, then the LGU should simply pay to maintain the asset in good condition. Once the asset is put into use, it should be transferred to the Critical Property group. If the asset is not expected to be put into use in the short-term, the municipality can consider leasing the asset to a third party. By leasing the asset, the municipality will successfully reduce the maintenance costs and increase revenues. The LGU should take into account the expected time when the asset will be put into lease when determining the length of the lease agreement.

If the asset is in bad condition or the municipality has so much excess capacity, the LGU may consider reassigning assets from Critical-Surplus to simply Surplus.

Non-Critical Property: These are properties whose use provides services that are supplementary to the mandatory functions of a local government. These services typically provide recreational or cultural experiences for the community and often generate income for the local government. These assets are desired by the community but are not necessary for the local government to function. These assets can be owned and maintained as long as there are available budgetary funds. Some examples of non-critical property are theaters, cinemas, parks, and sports premises.

Surplus Property: These are properties not needed for the delivery of mandatory/essential or supplementary services. They are classified as surplus and either held for generating recurrent revenue from lease or disposed to ease budget shortfalls. The asset management goal for these assets is to maximize the financial return on the assets (which requires the highest and best use of the property, if possible) and to control costs. These properties can be leased to generate revenues or sold/privatized to generate revenues and property taxes. Some examples of surplus property are former industrial buildings and factories and small parcels of land owned by the municipality which should be sold.

In order to assign a Criticality Rating to each asset, the Asset Management Unit may elaborate the characteristics of each Criticality Rating or can decide that the descriptions provided above (and in the Asset Inventory) are adequate. Using the Criticality Ratings, the Asset Management Unit should assign a Rating to each asset. The Criticality Rating should be recorded in the Asset Inventory and will serve as the basis for how the asset will be managed in the future.

Once the Asset Management Unit has assigned a preliminary Criticality Rating to each asset, the LGU executive, through the Asset Management Unit, should submit the list of assets and their Criticality Ratings to the local council for approval.⁶ It is essential that the local council understands

⁶ An explanation of the importance of the criticality ratings and how they will be used should be provided to the municipal council by the Asset Management Unit the first time criticality ratings are presented to them.

the importance of assigning a Criticality Rating to each asset. The approval of the Criticality Ratings by the local council provides the Asset Management Unit with the approval to begin initial steps to analyze the possibilities to lease Critical-Surplus assets and to potentially sell or dispose of Surplus assets. Note, this is only the initial approval to begin the necessary steps; further approval by the local council is required before leasing or selling a municipal asset.

6.2 DETERMINE THE ASSETS' CONDITION AND APPROPRIATE MAINTENANCE OPTIONS

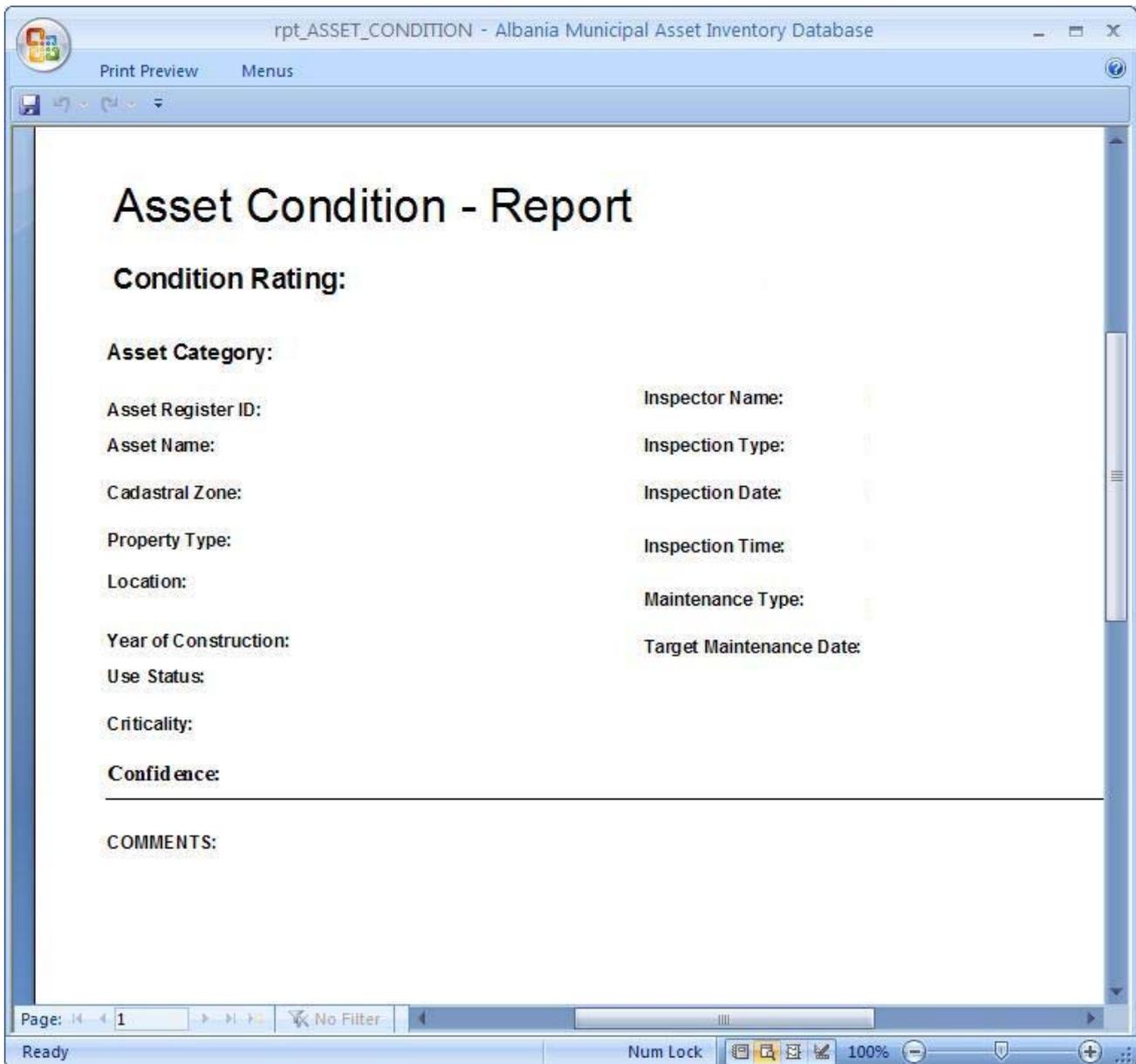
Once the municipality has identified the most critical assets, the municipality then decides which of those critical assets have a high risk or probability of failing (such as if the asset is very old or in poor condition) and what the major consequences would be if they did fail (major expense or safety implications). Because all assets will at some point fail, how the municipality manages the consequences of failure is very important. Simply look at the importance of an asset and think about how bad the situation would be if it failed tomorrow.

Condition Assessments and Ratings: After an asset's Criticality Rating has been identified, a Condition Assessment should be conducted and a Condition Rating Score assigned. A Condition Assessment provides insight into the nature of failure and the likely timing of failure. Developing Condition Assessments allows the municipality to know when, where, and how to inspect different assets and to foresee resulting budgetary costs.

A key purpose of a Condition Assessment is to establish the current condition of assets as a means of prioritizing and forecasting maintenance and rehabilitation efforts. Condition Assessments can be used to understand the level of asset deterioration and the impact it has on the probability of asset failure.

Ideally, a Condition Assessment would be done every three years for each asset in the municipal portfolio. However, keeping in mind both financial and staffing constraints, at a minimum a Condition Assessment should be done once for all assets and then again every three years for those assets that the municipality is using to provide services to the community (i.e., assets with a Classification of Critical and Non-Critical).

The Asset Condition Report is shown below:



An effective Condition Assessment includes the following information:

Asset Information:

- Category (i.e., General Public Expenditures, Public Services, Public Transport and Road Infrastructure, etc);
- Asset Registration ID (provided by IPRO or a municipally created ID);
- Asset Name (e.g., Ali Demi Primary School, Qemal Stafa Stadium, or Health Clinic 5, etc.);
- Cadastral Zone;
- Property Type (i.e. building land, other object, street);
- Location (e.g., address, name of street, or nearby landmarks);
- Year of Construction; and
- Use Status (e.g., Education Department, name of private company, etc).

Inspection Information:

- Inspector Name;
- Type (i.e., Visual inspection, Opinion-based inspection such as an interview, or Measurable inspection such as from using maintenance data); and
- Date and Time of the Inspection.

Maintenance Information:

- Type of maintenance that is needed (i.e., Repair, Rehabilitation, Replace, Decommission); and
- Target date that the maintenance is planned to be completed by.

Condition Information:

- Criticality rating (determined prior to the inspection and approved by the municipal council);
- Condition Rating Score (see below on how to determine); and
- How confident is the Inspector that the data is correct? (i.e., High = confident, Medium = somewhat confident, Low = not confident).

Basis for Score / Other Comments:

- Provide comments for the reasons why the condition rating score was selected, as well as any additional information found during the assessment.

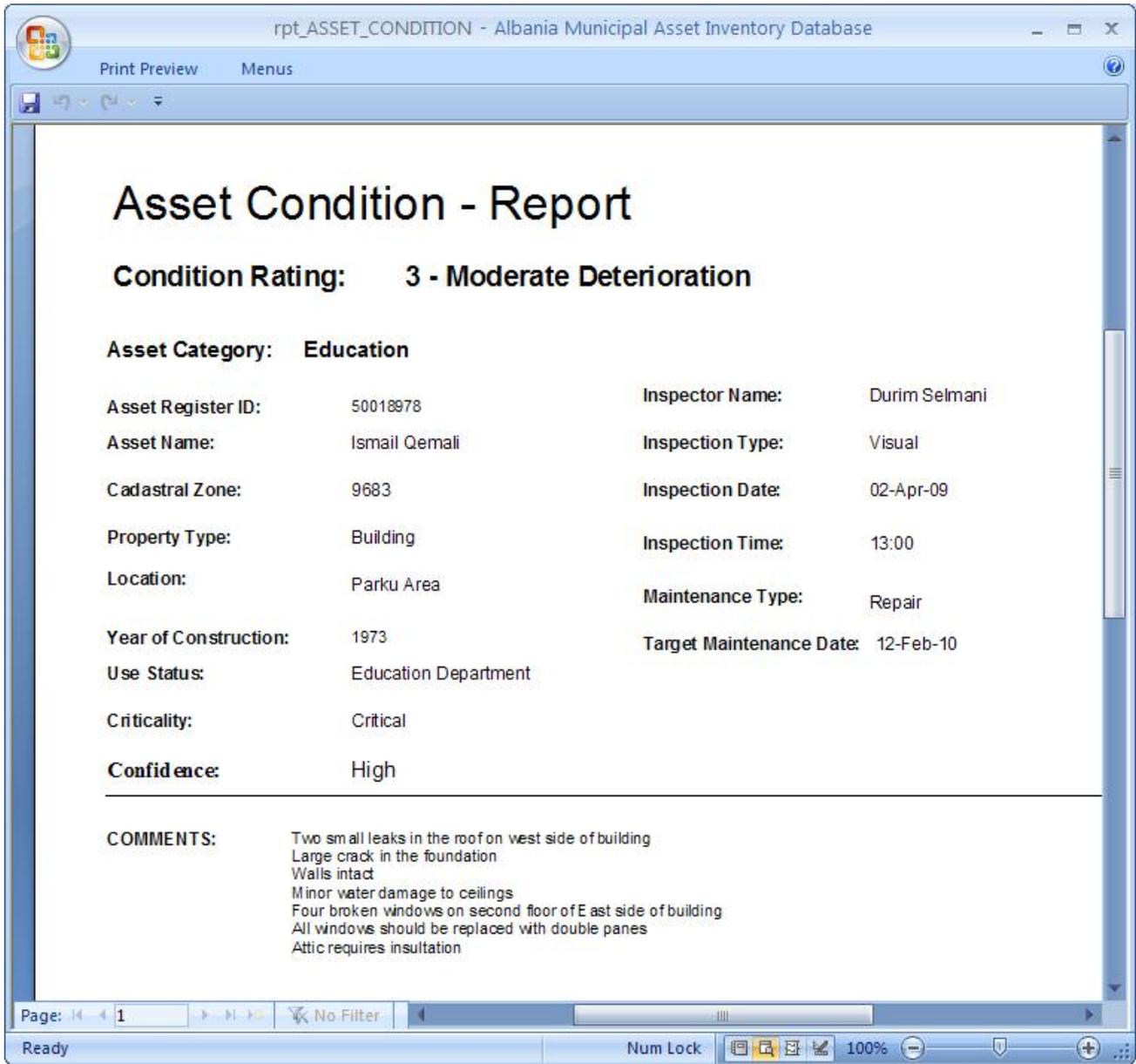
The Condition Rating Score is based on a scale from 1 – 5. Possible data elements that would help determine an asset’s Condition Rating Score include age, visual observations, past performance, past history of similar assets, knowledge-based estimations, and/or the level of asset use.

A Condition Rating Scoring system is shown in Table 6.

Table 6. Condition Rating Scoring System

Condition Rating Score	General Description	Detailed Description	Maintenance Level
1	New or Excellent Condition	No noticeable defects, no reason to expect failure, preventive maintenance being done, new asset	Normal Preventive Maintenance
2	Minor Defects Only	Minor defects/wear, low possibility of failure, most preventive maintenance being done	Normal Preventive Maintenance, Minor Repair
3	Moderate Deterioration	Minor defects/wear, low possibility of failure, most preventive maintenance being done	Normal Preventive Maintenance, Major Repair
4	Significant Deterioration	Significant defects/wear, high probability of failure, health/safety issues, no preventive maintenance being performed	Major Repair, Rehabilitate
5	Asset Almost Unserviceable	Excessive defects/wear, unit in a failed state, inoperable	Replace

A sample Condition Assessment report is shown below:



Maintenance: Effective maintenance practices help to minimize the total cost of asset ownership. Maintaining assets will improve overall condition and performance of the asset. Depending on the asset, a municipality can either wait until an asset breaks for maintenance to be performed (reactive approach) or provide routine maintenance to prevent or prolong an asset from breaking (proactive approach). A key requirement for the implementation of a proactive maintenance strategy is the ability to anticipate when a failure will occur. Roughly speaking planned maintenance costs one-third less than unplanned maintenance. For assets of low value or where the impact of failure is not significant, additional maintenance is not cost-effective and municipalities should adopt a reactive run-to-failure strategy. The municipality’s focus should be on maintaining the critical assets first.



When a failure occurs, the asset can be repaired, rehabilitated, replaced, or decommissioned. These terms are defined as follows:

Repair	Restoration beyond normal periodic maintenance; relatively minor in nature with no enhancement of capabilities
Rehabilitation	Replacement of a component to return the asset to the level of performance above the minimum acceptable level; may include minor enhancement of capabilities
Replace	Substitution of an entire asset with a new asset
Decommission	Taking the asset completely away (through removal or demolition)

Capital Improvements: A local government must use careful financial and management planning to maintain its valuable assets to provide services for future generations. Capital improvement plans are projects (including asset improvements, major repairs, and replacements) that need to be completed in the future for the asset to remain or retain proper functionality. This information is important because it allows the municipality to gain an understanding of upcoming obligations and the resource needs so that financial resources can be planned accordingly. Characteristics of capital improvement plans for local government units include that the asset:

- Is immovable
- Serves an essential public purpose and
- Is the responsibility of a local government

And that the improvement to the asset:

- Enables a long, useful life or significantly extends the useful life; and
- Is comparatively expensive and not of routine nature.

Using the electronic Asset Inventory, the local government will need to look at the critical assets' condition assessments and forecast when and where it believes it will face future demand and growth and if the critical assets can handle that increased demand or whether the municipality needs to begin using Critical-Surplus Assets. A local government should decide which assets are needed now or are likely to be needed in the future and which assets can be disposed to generate extra income. A portion of the capital improvements may be funded by disposing of surplus assets.

6.4 DETERMINE MANAGEMENT OPTIONS FOR ASSETS

Once an asset's Criticality Rating and Condition Assessment have been determined, the municipality can decide if that asset is essential to the provision of essential services and is needed to be managed by the municipality for current or future use, or if the asset is only used for recreational uses and is not needed to be retained or managed by the municipality. The following management options that a municipality has for each asset are:

- Own and maintain;
- Lease;
- Concession; and

- Sell.

Table 7. Sample Management Options Based on Criticality Classification and Condition Rating

Criticality Classification	Condition Rating	Options for Managing Assets
Critical	1-5	Own and maintain, lease, or concession agreement
Critical – Surplus	1-5	Own and maintain or lease
Non-Critical	1-5	Own and maintain; lease; concession agreement
Surplus	1-5	Lease, concession agreement, or sell

7.0 GEOGRAPHICAL INFORMATION SYSTEM

Once a complete digital inventory has been developed for a municipality's assets, including assigning a Criticality Rating to each asset and performing Condition Assessments, the information can also be used in a Geographical Information System (GIS) to better enable policy-making decisions.

A GIS is basically a combination of programs that realize a link between the mapping information (otherwise called Graphic Information) and the available data (in the form of a database, in this case, the Asset Inventory) thus allowing for several options such as geographical data archiving, reporting, collection, refreshing, selection, and analyses.

The process of establishing this link between the geographic location and the alphanumeric information (data) is widely used nowadays in various aspects of the decision-making process for both community related processes and private businesses activity for issues such as distribution of resources, processing of social data, planning, and business network analyses.

In a simplified way, the GIS can be described as a combination of different layers of information to enable better analyses and management of the specific case. The combination of these layers of information depends on the specific needs of the system users. Essentially, a GIS allows the user to see their data on a cartographic map.

There are many important applications for a GIS system in asset management. A GIS system can graphically show a municipality how close assets are to each other that are all used for the same purpose. For example, a GIS system can map all education buildings or all health clinics. It can also show the Condition Assessment for each education building. This type of information can help the municipality make decisions about which buildings should be prioritized for repair, or if there is a declining student population, which school should be closed down based on worse condition and proximity to others schools to which the students can be sent.

This type of analysis can be extended to many other areas of asset management and depends on the quality and quantity of the data added to the system, and the analysis performed by the Asset Management Unit.

What is required to create and operate a GIS system?

A complete GIS system requires the following:

- Hardware
 - GIS systems do not require specific hardware features. Hardware requirements are usually related to the size of the database.
- Software
 - There are several GIS software applications. For a municipal asset management GIS system, Arc View 3.2, a cost-effective and readily available program, would be sufficient.
- Data

- GIS systems rely on different formats of data collected including, but not limited to, alphanumeric and cartographic. The Asset Inventory includes a substantial amount of information that a municipal Asset Management Unit will need in a GIS system and additional fields can be added depending on individual municipal needs.
- Properly trained personnel
 - Specific expertise is required at the initial stages of establishing a GIS system, including linking an asset inventory to the graphic and/or cartographic information. Once the system is developed, municipal personnel with basic IT skills can then be trained to operate the system on a daily basis including data entry, creating additional fields and production of required reports.

8.0 OPTIONS FOR MUNICIPAL ASSET USE

LGUs are empowered under the current legislation to determine the most effective use of municipal assets. There are no ready-made solutions for this and each municipal situation is different. Each LGU must evaluate and assess its asset portfolio and determine how best to use municipal assets in the delivery of services. Guiding principles include using the asset most efficiently to deliver the best services to the community and ensuring the most complete and fair use of the asset while seeking to reduce costs.

As discussed above, LGUs must classify assets according to those assets needed to provide essential services, those assets needed to provide non-essential services, and surplus assets. Next, surplus assets must be further examined to determine whether they can be disposed of or whether they should be retained in the expectation that they will be needed in the future to provide services (Surplus-Critical and Surplus). These decisions depend on the mix of services provided by the LGU, population trends, and financial decisions.

The decision making process may include an analysis of the physical state, the economic value, and the O&M costs for operating an asset; a market analysis regarding demand for an asset and potential bid amounts; and if considering outsourcing the provision of service together with the use of an asset, a market analysis on the availability and cost of service providers. Based on these analyses, a determination can be made on each asset regarding the most suitable option(s) for its use to ensure both qualitative and quantitative public services, as well as achieving cost effectiveness.

Options for use/disposal of municipal property are:

- Own use by a local budget organization or enterprise subordinated to the local government;
- Use by a state budget organization not under the administrative subordination of the LGU;
- Lease; and
- Sale
- Public Private Partnership/Concession.

8.1 OWN USE

Using assets for own use means the direct use of the asset by the local government unit's own administrative structure including local budget organizations and enterprises subordinated and under the LGU's direct supervision in order to accomplish the missions of the LGU. No fee is charged for the use of assets in these circumstances.

A Use Agreement is an agreement whereby one party provides an asset for the temporary use to a second party. A Use Agreement is distinguished from a lease agreement/contract in that there is no payment under a Use Agreement.

Who and how is the user determined in this case?

The user of a municipal public asset is determined by a decision of the local unit council, upon a proposal by the local executive. This decision determines:

- Assets: Which assets will be used, including identifying details such as name and address, as well as the movable property associated with the asset according to the physical and accounting inventory.
- Purpose of use: Functional areas for which the property can be used.
- Length of agreement: Is the term of use open-ended or is it for a specific period.
- Level of service (LOS) standards: Indicators to measure whether municipal assets are being used to achieve municipal service targets and the degree to which these goals are being met.
- Reporting requirements: Frequency, format, and content of required reporting.
- Responsibility for maintenance: Minimal maintenance standards.
- Responsibility for investment: Who is responsible for any necessary or desired investment in the building.
- Liability for damage: Who is responsible for the repair of any excessive damage outside of normal wear and tear.
- Use of excess capacity: Whether a budgetary organization or subordinated enterprise has the right to sub-lease all or some of the municipal asset provided for use. If sub-leasing is allowed, how are revenues shared.
- Ability to determinate the use rights: What right does either party have to abrogate the agreement.
- Other limitations: Any other limitations on the use of the asset.

Case Study: Use of a Municipal Asset for Kindergarten Services

Asset:	Building of Ali Demi kindergarten with movebale equipment as recorded in the physical and accounting inventory.
Purpose of Use:	To provide kindergarten service to children with a regisered addresss in the municipaluity up to the age of three
User:	Kindergarten management
LOS Standards:	Class sizes no bigger than 20 students, 20 hours of tuition per child per week, 35 weeks of tuition per year
Period of Use:	5 years, renewable
Reporting Requirements:	Must report quarterly in established format
Maintenance:	User is responsible for all maintenance which should be funded through budget allocations.
Investment:	LGU will pay for any required investment as resources allow.
Damage liability:	The Director of the Kindergarten (by name) will be liable for any damage caused through negligence.
Excess capacity:	The user has the right to sub-lease any excess capacity with the prior approval of the proposed lessee by the Asset Management Unit. Revenue from the sub-let will be allocated as follows: 50% to the municipality and 50% to the user for budgetary needs.
Ability to terminate:	The LGU has the right to terminate the agreement in advance with 6 months notice. The end of the use period must coincide with the summer school holiday.
Other limitations	Use only for determined purpose.

The local council decision granting use of a municipal asset should normally include approval of the draft Use Agreement between the municipality the user of the asset, although the local council may allow the Asset Management Unit/Specialist to finalize the details independently. Sample Use Agreements are included in Appendix 2 (for use by a public institution) and Appendix 3 (for use by a subordinate enterprise).

The Use Agreement should be signed by the Head of the Asset Management Unit or the Asset Management Specialist on behalf of the municipality and the head of the budget institution or subordinated enterprise that will use the asset. If applicable, an inventory of movable assets associated with the immovable asset can either be attached as an appendix to the Use Agreement or as a stand-alone document in which case it should also be signed by both parties.

The Asset Management Unit/Specialist will document the transfer of the public asset for use to a municipal budget organization. The following documents are normally part of the documentation:

- The decision of the local government unit council on the use of the asset;
- The Use Agreement signed by both the LGU and the budget organization or subordinated enterprise; and
- An inventory of associated movable property co-signed by the LGU and the budget organization or subordinated enterprise (as applicable).

As in all other cases of asset use, the user is required to abide by all the rules and standards related to asset administration, defined by laws and bylaws developed by the competent authorities, to include relevant acts approved by the local government unit. In addition to the standard reporting required in the Use Agreement, the local council or Asset Management Unit/Specialist may request special reporting.

The Asset Management Unit/Specialist is responsible for ensuring that the Use Agreement is adhered to by the user of municipal property, that the asset is being used properly, and that all reporting requirements are being met.

8.2 USE BY A STATE BUDGET ORGANIZATION NOT UNDER THE ADMINISTRATIVE SUBORDINATION OF THE LGU

The LGU may have an interest in providing a state (budgetary) structure, at no recompense, a certain object for temporary use. This organization/institution is a public entity financed by the state budget, but not within the respective LGU's structure or subordinated to it.

In these cases, a Use Agreement should also be used (see example of a Use Agreement in Appendix 2). The Use Agreement details the provisions to allow a state organization the use of a LGU's asset at no cost and is essentially the same as a Use Agreement between the municipality and its own budget organization detailed in the sub-section above.

Generally, but not always, a LGU would provide an asset free of charge for use by a state entity for the provision of public services. Instances when this type of arrangement might be used include:

- Assets for the exercise of administrative functions (e.g. office space, etc);
- Assets for education programs (school facilities, etc.); and
- Assets for the public health function (health-care facilities, etc.).

8.2.1 Lease

The local government unit may elect to allow others to use its assets through a lease agreement for a specific period of time and in some cases, only for a specific purpose. There are two primary reasons a municipality may choose to lease a property:

1. The asset is not needed in the short- to medium-term, but may be needed in the long-term. Therefore, the municipality does not want to sell the asset. A lease agreement allows it to continue owning the asset, while eliminating maintenance costs and creating a revenue opportunity.
2. A third-party will provide public services, for a cost, to the community. The LGU has determined through careful analysis that the service can be provided more efficiently by a third-party. Note, this is not to be used for essential, mandatory services, but can be used for non-essential services provided to the community.

The forms of lease contracts that the LGUs may use based on the Civil Code are the following two:

- Simple lease contract; and
- Lease contract with the right for capital construction.

Simple Lease Contract

The simple lease contract has some characteristic features that distinguish it from other types of contracts. These features are:

Lease – A contract granting use of real estate, equipment, or other fixed assets for a specified period of time in exchange for payment usually in the form of rent. There are two variations on a lease contract: 1) a lease to own contract which eventually results in the lessee becoming the owner of the asset and 2) a lease contract which grants permission for capital construction to the lessee.

- The lease contract is a legal relationship with mutual obligations between legal subjects.
- The lease contract includes remuneration for the right to use real estate, equipment or other fixed assets for a specified period of time.
- It is a contract which is widely used both for movable and immovable assets.

Assets which may be provided in a lease contract include:

- Assets for economic functions (e.g. production or trade facilities);
- Assets for economic and cultural activities; and
- Assets for residential purposes.

The lease contract is a **consensual** contract through which both parties agree to the terms of the

Details of a Lease Contract in Accordance with Articles 784 – 849 of the Civil Code

- The user shall properly maintain the property and use it for the intended purpose as detailed in the lease contract.
- For residential property, the lease contract cannot exceed 5 years. For other types of property, the lease contract cannot exceed 30 years unless otherwise stipulated by law.
- A lease contract for an asset used for agricultural cultivation exceeding nine years must be done with a notary public and be registered in the public register.
- The lease contract should detail the frequency and method of payment.
- A lessee cannot sub-lease the property, or part thereof, without prior approval of the lessor.
- The lessor is responsible for repairs, other than routine maintenance, for the duration of the lease unless otherwise stipulated in the contract.
- The lessee is liable for any damage.
- The lessor can conduct an inspection of the property at any time to determine compliance with the contract.
- If the lease period stipulates a period of time, no termination notice is required.
- If the lessee is late in returning the property, he shall pay the lessor the established rent until return of the asset plus remuneration for damages.
- The lessor is financially responsible for all taxes on the immovable asset.

contract.

A sample simple lease agreement is included in Appendix 4.

Lease Contract with the Right for Capital Construction

A local government unit may provide another party the right to use a municipal asset for a specified period of time for a particular purpose with the additional responsibility of improving the asset. This is governed by a lease contract with the right for capital construction.

- The lease contract with the right for capital construction is a mutual binding contract.
- This type of legal contract aims to **improve the quality of the property** and provide **periodic financial rewards**.
- It is a contract for transferring the rights over immovable property.
- It grants the right and competence to use and enjoy the property.

A lease contract with the right for capital construction provides the lessee the right to use and improve the lessor's immovable asset in exchange for periodic remuneration in cash or in-kind.

Examples of situations when this type of legal relationship might be used include:

- Assets used for agricultural and food processing;
- Assets for water supply and sewage; and
- Forests, pastures, parks and public gardens used in the local interest.

Details of a Lease Contract with the Right for Capital Construction in Accordance with Articles 784 – 800 of the Civil Code

- A legal contract whereby the lessee has the right to use the property and has responsibility for improving it and in exchange must pay a periodic remuneration to the lessor.
- The duration of the agreement should be determined in the contract.
- The lessee cannot sublet the property.
- The lease contract should detail the frequency and method of payment.
- The lessee is responsible for routine maintenance. Any extraordinary repairs are the responsibility of the lessor.
- The lessee can request termination of the contract unless otherwise stipulated in the contract.
- In the event the lessee requests termination of the contract, the lessor should pay the lessee for the value of the improvements to the extent that the value of the property increases.

Lease Procedures

When leasing municipal assets, the goal of the municipality should be to optimize service provision, maximize revenue, or both. The procedures used to lease any individual asset will affect these goals and play an important role in determining the success of the municipality.

Regardless of the goal, the Asset Management Unit should conduct a competitive lease process. This process entails publically announcing the lease of a municipal asset and disseminating it to the broadest possible audience, including outside of the city. Depending on the asset, it may be a good idea to advertize the potential asset lease in national newspapers. In addition, the municipality can send the lease announcement to specific entities that it thinks would be interested particularly if the goal is to optimize the provision of a specific service.

In conjunction with the municipal council, the municipal executive should determine the criteria by which proposals will be judged, including a description of the premises, the minimum lease amount, the minimum/maximum duration of the lease, any capital construction requirements, restrictions on

use, and any other criteria upon which a lease contract might be judged (although generally, a municipality should limit the criteria if the main aim is to maximize revenue). The weight allocated to each criterion should be established in advance to ensure transparency. For example, although the price of the lease might be the most important, the duration of the lease and frequency of payment are also important. The municipality, depending on the future needs for the asset, may prefer a shorter lease rather than a longer lease period, or vice-versa.

The announcement of the lease should specify any proposal requirements, including the criteria listed above, the deadline for submissions, how to submit the offer (i.e. should it be in a sealed envelope, does the application have to be hand-delivered, etc.), if a package of materials related to the asset is available where it can be obtained, and the contact point within the municipality for any questions. In most cases, the Asset Management Unit will want to prepare materials about the asset to be leased and the lease procedure. The complexity of the planned lease will affect the amount of information to be included in the material.

The above procedures can still be used in the event of a capital construction lease or in the event that a municipality is going to restrict the potential uses of the assets. In these instances, the lease should still be publicly announced, but the municipality will likely have to approach potentially interested parties as well. Often, a municipality may be approached directly by a potential lessee interested in a specific asset. However, the municipality should still go through the process of a competitive lease to ensure that a) revenue is maximized and b) the asset is being put to optimum use.

8.2.2 Sale

Sale of an immovable municipal asset represents an important opportunity for revenue. However, because the sale of an asset is irreversible, municipalities must carefully analyze not just current demand for services but population growth trends and possible short- to medium-term changes in demand to determine if the asset will be needed in the delivery of services in the short- to medium-term.

The decision to sell a municipal asset must be made with a majority of all local council members. Legally defined procedures must be followed by the relevant local bodies on the sale of a public asset.

When a decision is made to sell an asset, this process must go through two phases:

- Asset evaluation; and
- Asset sale.

Albania is still in a transitory phase, passing from a centralized state economy to a market economy, a phase which is accompanied by the privatization of former state enterprises. In order to regulate this process, the Albanian legislation provides specific regulations on the sale of these former enterprise assets, a part of which have as representatives of state assets the local government units.

Due to the above, there are two procedures that shall be followed for the sale of local assets:

- The sale procedure of assets under the former state enterprise privatization process; and
- Sale procedures of other local assets.

8.2.3 Sale procedures of assets under the former state enterprise privatization process⁷

Asset Evaluation of Former State Enterprises

Procedures and criteria for the evaluation of assets of state enterprises to be privatized are determined in CMD No.794, of 21.11.2007.

The evaluation is carried out by a commission created by the LGU chairperson and is chaired by the Chairperson of the Public Enterprises Branch at the relevant prefecture where the facility is located, and is comprised of:

- Evaluation experts of the relevant field, licensed and authorized
- Director of the enterprise where the asset is located

The evaluation committee shall be held legally accountable for the accuracy of the evaluation they make and for compiling the documentation they sign (evaluation acts, situations, layouts, etc).

The evaluation of the state asset approved for privatization is done for every element of the asset by the evaluation committee which determines the real market value in compliance with current legislation.

In determining the real market value of state assets, experts also take into consideration the initial accounting value, if applicable, and amortization in compliance with Decision No. 401, of 23.10.1989 of the Council of Ministers on Approval of New Norms for Amortization of Machinery, Equipment and Transportation Means (see the chapter on Amortization for Replacement), for the years the asset is in use, if applicable.

The evaluation committee, upon completing the evaluation procedures, requests from the Agency for Asset Restitution and Compensation the selling price of the lot on which the facility to be privatized is built, as well as the confirmation, if applicable, that there is an owner of this lot, recognized by a decision of the Committee for the Restitution and Compensation of former-owners' assets. In cases when this price does not exist, the experts shall determine the current market value for the sale of the lot of the facility to be privatized.

The procedural details and deadlines for evaluation are covered in Chapter III of the DCM no. 794, of 21.11.2007.

Sale Procedures for Former State Enterprises

Upon completion of the evaluation process in line with the above stipulations, the asset is sold as follows:

- In cases when it is confirmed that the facility is located on lots of expropriated subjects, the sale is done without an auction, and the expropriated lot subjects, in compliance with Law no. 9583, of 17.7.2006 on Amendments and Additions to Law No. 9235, of 29.7.2004 On Restitution and Compensation of Assets have the right to purchase the facility at its initial value.
- In cases when it is confirmed that the facility to be privatized is not located on lots of expropriated subjects, it is subjected to an auction in compliance with the procedures of this decision. If, on the date when the auction is held, the expropriated lot subject presents

⁷ In this case, the asset sale does not generate income for the LGU, because according to CMD No. 794, of 21.11.2007, 100% of incomes generated by this sale go to the State Budget for the purpose of the financial compensation fund for expropriated assets.

himself/herself with the legal documentation certifying ownership over the facility lot, then the expropriated subject has the right to purchase the facility at its initial value.

All sale and auction procedures shall be observed by the Public Asset Administration and Sale Directorate in the Ministry of Finance. The auction commission has a LGU representative.

Procedural details and terms of the sale and auction process are determined in Chapter IV of CMD No.794, of 21.11.2007.

8.2.4 Sale procedures of other local assets

With regard to the sale of other assets, which are not part of the former state enterprises, the local government units shall apply the public auction method, procedures of which are provided for in Law No. 9874, of 14.02.2008, on Public Auctions.⁸

Public auction is understood as a sale procedure through which the ownership rights to an asset are transferred in the form of public bidding based on the highest bid offered. Regardless of the procedure type to be applied, the LGU shall respect some general criteria on auctions including:

- Non-discrimination and equal treatment of participants in public auction procedures;
- Transparency of public auction procedures; and
- Fair treatment of requirements and liabilities as related to participants in the public auction procedures.

Asset Evaluation of Other Local Assets

Preliminary evaluation of the asset to be sold shall be made by a commission created by the LGU chairperson. This committee must be comprised of assessment experts in related areas who may or may not be LGU staff.

Estimation of the initial value of an asset to be auctioned is based on the Actual Monetary Value (AMV), market prices, INSTAT, or other official data. The initial value also includes the fiscal liabilities related to the asset's nature. The assessment method for the initial value shall be determined in public auction regulations which are yet to be approved by the Council of Ministers.

Sale Procedures of Other Local Assets

After the initial evaluation, the local asset can be sold through three types of procedures:

- Open procedure;
- Buyer selection procedure;
- Negotiation procedure, with prior notification of the auction.

Regardless of the form, the auction procedures are applied by the LGU's executive authorities (chairperson and asset management staff) in conjunction with the municipal council. This includes setting the parameters of the sale, including the type of sale and setting the minimum sales price if desirable. The head of the LGU shall create a special structure called an "auction unit," which shall have specific duties and responsibilities to be provided for in the public auction regulations expected to be approved by the Council of Ministers.

⁸ This law is expected to be completed with its respective by-laws which are still pending Council of Ministers' approval as of February 2009.

In all instances, after the conclusion of the auction procedure, the final decision/approval on the asset sale shall be taken by the LGU's respective council.

Open Procedure: The open procedure for auctions allows every interested buyer to submit his/her offer. The open procedure is applicable to all auction types even when applying the selection or negotiation procedure.

In the open procedure, the selling authority publishes an announcement in compliance with the relevant procedures of Law No. 9874 (Articles 23 and 24), which includes a description of the asset for sale. All bidders submit their offers including the financial offer and proof of meeting the selection criteria according to the relevant requirements (such as minimum price, bank guarantee of funds, etc.).

After the deadline for bid submission, determined in the auction announcement, the LGU opens the bids, verifies the bidders' qualifications or deficiencies, documentation, and after comparing the bids, selects the winning bidder based on the highest price offered.

Buyer Selection Procedure: The buyer selection procedure is the auction through which only pre-selected candidates by the LGU may submit their bids. The buyer selection procedure may be used by the LGUs to carry out a sale in cases when:

- Due to its special and complex character, the asset for sale may be offered to only a limited number of buyers.
- It is beneficial to the LGU to initially analyze the bidders' qualifications and capacities and then invite the ones of minimum specific qualifications to submit their bids.

This type of auction is carried out in two phases. Phase One has to do with the preliminary qualification of candidates according to the legal criteria determined and published by the LGU.

Then, the LGU sends an invitation to bid to the selected candidates requesting them to submit their bids and the required documentation in Phase Two. After the submission deadline, the LGU opens the bids and announces the winner based on the highest price offered.

Negotiation Procedure with Prior Notification of the Auction: The negotiation procedure is when the LGU itself selects potential buyers and negotiates the terms of the contract with one or more of them. The LGU may use the negotiation procedure only in the event that the municipality has attempted the sale *twice* through either the open procedure or the buyer selection procedure and these procedures have not resulted in a buyer in compliance with Albanian legislation. Moreover, the asset cannot have undergone any fundamental changes in between the failed open procedures or buyer selection procedures and the launching of a negotiation procedure where fundamental changes includes sub-division, extension, serious investment, etc.

LGUs are only allowed to use the negotiation procedure after two failed open procedures or buyer selection procedures have failed in order to ensure that the principles of fair treatment, proportionality, and transparency are respected. The LGU negotiates with the bidders to adapt their offers to conform the requirements established in the announcement in order to select the best offer.

At all times, the LGU shall guarantee fair treatment to all bidders during the individual dialog with each one of them. No confidential or discriminating information or information that may favor one bidder over the others shall be divulged.

Once the auction procedure is completed as using one of the procedures described above, a Sale Contract is signed in accordance with the Civil Code.⁹

Regardless of the type of sales procedure utilized by a LGU, the law mandates that every six months the LGU submits a report to the Public Procurement Agency on auction related activities.

8.3 PUBLIC PRIVATE PARTNERSHIP/CONCESSION

8.3.1 Public Private Partnership

A Public Private Partnership (P3) is a risk-sharing, contractual relationship between public and private partners through which the private partners (1) funds, builds, renovates, or redevelops real property assets (e.g. physical facilities/infrastructure) and/or (2) operates, maintains, and/or manages a public service or facility. Initially, public-private partnerships were used in Europe after the 1970s by governments as an instrument to minimize public debts accumulated in public budgets as a consequence of the need to invest more than tax revenues covered.

P3s are now utilized throughout the world by both central and local governments to improve the quality of service while reducing public expenditures, while at the same time benefitting from efficiencies resulting from private operation. As stated by the National Economic and Social Council in Dublin, P3s:

- Plays a central role in the quick development of the strategic national infrastructure;
- Produce long term value for money – a concept that comprises efficiency, effectiveness and economy, rather than a mere cost minimization; and
- Provides qualitative public services.

What is a Public Private Partnership?

A public-private partnership is a commercial contract between a public entity and a private partner. When used by local governments, the contract typically envisages that the private sector:

- Exercises a local function for or on behalf of the LGU, or manages and/or uses a local asset for its commercial purposes.
- Undertakes critical financial, technical and operational risks related to the:
 - Exercise of the local function; and
 - Local asset management or use.
- Profits from the exercise of the local function, or from the use of the local asset, or both, by:
 - Payments issued by the LGU;
 - Fees that the private partner is allowed to collect from the users or the clients of the provided service; and
 - A combination of the above two cases.

⁹ The Civil Code is explicit on which clauses a sales contract should include, therefore, no sample sales contract is included in the Appendices.

From the above definition there are clearly two P3 types:

- When the private sector exercises a local function
- When the private sector makes use of the local asset for commercial purposes.

What is a P3 not?

It is important to identify that:

- A P3 is not a mere delegation of the local function where the crucial financial, technical and operational risks are covered by the LGU;
- A P3 is not a donation given by the private sector to provide public goods;
- A P3 is not the privatization of a local asset; and
- A P3 is not a loan taken by the LGU.

In Albania, P3s have only recently come into use despite the introduction of the concept in legislation passed in 1995. However, it is only with the passage of Law No. 9663, of 18.12.2006, on Concessions that introduced concessions as the sole form of public-private partnerships acknowledged in Albanian legislation.

8.3.2 Concessions

According to Albanian legislation, a concession is an agreement, regardless of the name given, between the contracting authority and the concessionaire which assigns responsibilities to the concessionaire including:

- Carries out financial activity that would otherwise be carried out by the contracting authority for a concession project, administration contract or other public services.
- Undertakes all or an essential part of the risk related to the financial activity.
- Profits through:
 - Direct payments from the contracting authority or on its behalf;
 - Fees or payments collected from the users or buyers; and
 - A combination of these fees and direct payments.

In order to conclude a concession agreement, there are two procedures:

- Procedures for **solicited proposals** – when the LGU identifies and requests potential concessions as needed. These procedures are provided for in Articles 11-21 of the Law on Concessions.
- Procedures for **unsolicited proposals** – when a proposal to undertake concession projects is submitted to the contracting authority which is not in response to a request made by the contracting authority within the context of a competitive selection procedure. These procedures are provided for in Article 23 of the Law on Concessions.

Economic activity concessions that, in accordance with Albanian legislation, are within the authority of the LGU are referred to as **local concessions**.

Sectors where Local Concessions can be Utilized

Local concessions may be granted by the LGUs for economic activities in these sectors:

- Transportation (railroads, rail transportation, ports, airports, roads, tunnels, bridges, parking lots, public transportation);
- Production and distribution of electrical power and heating;
- Water production, distribution and administration, in processing, collecting, and distributing sewage; irrigation; drainage; and the cleaning of canals and dams;
- Collection, transportation, processing and administration of solid waste;
- Preschool and sport;
- Tourism and culture;
- Recycling projects, rehabilitation of land and forests, industrial parks, shelters, governmental residences, information technology maintenance services and database infrastructure; and
- Administration contracts or in carrying out public services to include those of the aforementioned sectors.

Identification of potential local concessions is done by the LGU executive bodies in cooperation with the Concession Processing Unit in the Ministry of Economy or by the private sector through unsolicited proposals. However, any concession and the associated contract must be approved by the local council.

The LGU executive bodies, with the assistance of the Concession Processing Unit, carry out the financial analysis and feasibility study in order to deem whether a potential local concession should be applied. This analysis is based on the financial value of the contract, on the commensurability of potential concessions with local strategic objectives, technical and commercial feasibility of the potential concession, and its capacity to attract potential concessionaires and private financings. In addition, the analysis must include an evaluation of the impact on the quality and quality of the service provision to the population, and the resulting financial impact on both the municipal budget and the users of the service.

A concession agreement is a very complex document which must be drafted with great care to ensure that the local government's interests are well-protected. There are numerous examples around the world of insufficient language being included in the contract to allow the local government to adequately oversee the concessionaire or a lack of details resulting in misunderstanding on the part of the public and/or private partner in terms of its responsibilities. For this reason, it is essential that the LGU obtain legal assistance when drafting and negotiating a concession agreement. However, the text box below contains essential items which should be considered by a LGU when drafting a concession agreement.

Typical Concession Contract Clauses

- The nature of the work or services to be provided by the concessionaire.
- The length of the concession contract (by law not to exceed 35 years).
- Assistance, if any, from the LGU to obtain the necessary licenses and permits.
- The liabilities of the LGU and the concessionaire.
- The remuneration of the concessionaire in terms of payment from the LGU and/or payments from users of the service including the method of calculation and the frequency of payment.
- Any restrictions on the concessionaire in terms of maximum fees that can be charged to clients, restrictions on changes to existing staff or staffing plans, required level of service standards.
- Procedures for review of engineering or construction plans by the LGU.
- Reporting requirements from the concessionaire to the LGU and LGU rights to oversee and monitor the concessionaire.
- Ability of the concessionaire, if any, to transfer its concession rights to a third party.
- Limitations on the use of the asset by the concessionaire.
- Limitations and consequences of force majeure.
- Instances when the agreement can be revised or terminated by either party.
- Instances when the LGU can temporarily undertake the administration of the infrastructure asset to ensure effective continuous service.
- Required warranties and insurance policies to be maintained by the concessionaire for the life of the contract.
- Procedures for the correction of any contract violations.
- Method of resolution in the event of a disagreement.

9.0 TRANSPARENCY AND CITIZEN PARTICIPATION IN ASSET MANAGEMENT

Managing municipal assets is done for the good of the community in order to enable public services to be provided in a cost-efficient manner. The management of public assets by local government units should always be a transparent process with public participation in order to support the stewardship of public assets. The engagement of civil society in participatory and transparent processes with the executive, legislative, and private sectors can make the difference between a well-governed and a poorly governed local government.

9.1 WHY ESTABLISH TRANSPARENCY AND PUBLIC PARTICIPATION IN ASSET MANAGEMENT?

9.1.1 Transparency and public participation are a legal requirement

- Article 35 of Law No. 8652, of 31.7.2000 on the Organization and Functioning of Local Government stipulates that public hearings are required in cases of asset disposal or the transfer of assets for use to third parties.
- The European Charter for Local Government, of which Albania is a signatory, stipulates that local municipalities must ask the public's opinion in a timely and proper manner during the planning and decision making process for issues directly related to municipal property (Article 4, par.6).

9.1.2 Transparency and public participation are important conditions for good and effective governing because:

- A basic objective for a successful, effective democratic local government is to fulfill the community's needs through the provision of goods and public services. The use of municipal infrastructure is vital to provide safety, economic development, social well-being, and cultural advances.
- Decentralization and local autonomy allow citizens to participate in decision making processes in a wider and more qualitative manner. Managing public assets affects public citizens in their everyday lives. Decisions like the construction of a road, bridge, or water supply system or the functioning of a school or health clinic will be of interest to the general community and should be discussed in an open manner before final decisions are made.
- Citizen participation can legitimize a program, its plans, actions, and leadership. Legitimization can often mean the difference between success and failure of community efforts. Unsupported leaders often become discouraged and drop activities that are potentially beneficial to community residents.

- It ensures that assets are used cost effectively and in cases where assets are leased or sold, ensures that the highest possible lease or sales price is obtained.

9.1.3 Transparency and public participation are required for common property

In democratic governance, citizens are not only beneficiaries, but they also must oversee those elected to govern. Local councils are their representatives, and designated chairpersons are authorized to act on and manage common property on their behalf. Public assets are common property used by the entire community and the way they are managed and used must be evaluated by the public. Citizen participation in community affairs serves to check and balance political activities to ensure public asset use for future generations.

9.2 WHAT ARE THE EXPECTATIONS FROM TRANSPARENCY AND COMMUNITY PARTICIPATION?

Transparency and community participation increase public awareness of civic functions and allow collective decision making for managing public property. Public participation strengthens and contributes to the local government, improving conditions within the community. Benefits include:

- ***Increases accountability of publicly elected officials*** and the role they provide in managing assets.
- ***Increases collective public engagement*** to solve problems and identify issues that are of interest and importance to the community at large.
- ***Increases public understanding of asset management*** that allows consensus for more effective local governance related to public asset use and investments.
- ***Increases trust*** both with citizens in their local officials (realization that local officials are performing for the good of the community) and with local officials and their citizens (realization that citizens can legitimize the asset management process).

9.3 WHAT METHODS OF COMMUNITY PARTICIPATION CAN BE USED?

9.3.1 Passive participation

Passive participation of the public is when the community is aware of the development of governing processes through information dissemination. Information is released to make the community knowledgeable of practices that are in place. Passive participation includes:

- Reading publications of decisions;
- Attending informational meetings;
- Becoming aware of information via the media (including television, newspapers, radio, internet, etc); and
- Observing reports on asset inspections and financial data.

9.3.2 Active participation

Active participation of the public is when the community is able to provide feedback on asset management matters and contributes in addressing and solving issues. In these cases the community is proactively participating in decision making regarding municipal assets. Active participation includes:

- Opportunities for public comment on draft decisions;
- Public discussions on activities carried out for asset management;
- Participating in citizen satisfaction and situation surveys; and
- Establishing organizations and working groups to articulate the community's position/stance.

Both forms of citizen participation are necessary in democratic governing activities but active participation by members of the community contributes to the community's role as a significant stakeholder in the municipality's overall prosperity.

9.4 WHAT TYPE OF ISSUES WILL THE COMMUNITY BE INTERESTED IN THE MANAGEMENT OF PUBLIC ASSETS?

Public participation will ideally be included in all aspects of municipal asset management. Community participation can be extended in the following areas:

- Asset ownership, use, and disposal;
- Asset condition, maintenance, and level of service; and
- Financial indicators of asset management.

9.4.1 Public asset ownership, use, and disposal

It is important for the local government to be aware of community opinion about different categories of assets used for social services. It may be important to a community to have cultural and recreational activities provided or it may be important to a community to have adequate sidewalks along busy roads. It may also be important to a community to have both recreational activities and sidewalks. It is vital for the local government to assess the priority of importance in community wants and desires. Participation perceptions can be helpful when establishing ownership (through transfer by the central government, changes in the administrative-territorial division, donations and purchases), changing the asset's use (through administration by the local government or by third parties through leases or concessions), and when disposing of current assets (through demolition or sale).

Transparency and community participation are important in cases of asset sale or temporary use transfer in a concession or lease. For example, in the case of a use transfer of the water supply and sewage system in the form of a concession (in the context of a potable water supply system), the community must both be informed and allowed to give its opinion regarding: what is the need to take such actions; what would be the effects in the level of service in the future as compared to the current levels of service; what would be the financial effects on the municipality's revenue; what will be the impact on the cost of service owed by citizens; and how the public revenue would be redistributed by the concession of the public asset?

9.4.2 Asset condition, maintenance and level of service

An asset's condition can have a profound effect on the asset's availability for public use. Condition assessments should be made publicly available if requested and all maintenance records should be kept on file to show historic performance of the asset in order to guarantee public safety. The public assets' level of service standards should also be documented to determine if the standards are adequately being met. Participation by interested citizens in assessing the standards and determining revised standards will be helpful in determining public expectations of municipal assets. See Section IV: The Role of Local Actors in Asset Management for information about level of service standards and Section VI: Developing an Asset Management Strategy for information about condition assessments.

9.4.3 Financial indicators of asset management

Economic development is an important aspect of any community. A clear understanding of assets and liabilities is a precondition for moving forward intelligently with financial management in local governments. Public citizens have a vested interest in the economic position of their government, including the public assets that are managed; and citizens need to be informed of how assets fulfill public functions and the ability of income generation activities to support the fulfillment of these public functions. The public should therefore be conscience of assets that could be better utilized through leases or privatization and should be informed if necessary assets are not operating cost efficiently.

9.5 HOW CAN THE LOCAL GOVERNMENT ENSURE TRANSPARENCY AND CITIZEN PARTICIPATION IN ASSET MANAGEMENT?

9.5.1 Direct communication with the public

Open Meetings with the Public: Public meetings are instrumental in addressing community needs and can provide a framework for open discussion and evaluation. In order to obtain good results from open meetings, it is important to carefully organize the meeting space and meeting agenda:

- Notify the public in a timely manner on the venue, time, and issue to be addressed through media such as newspapers, radio, television, and written notices posted in public spaces;
- Arrange the meeting space to be an appropriate size for the group expected and to have an adequate number of chairs as well as fact sheets/leaflets to distribute on the issue;
- Prepare a detailed presentation of the issue;
- Include time to allow the public to ask questions and provide input; and
- Provide written conclusions after the meeting.

Surveys or Questionnaires: Surveys or questionnaires are used to gather data on public opinions that the local government can use to understand customer values and expectations. The survey or questionnaire should include a clear description of the issue at hand as well as the issues where public opinion is needed. It should include a representative sample of participants from the community (i.e., not given to one particular group or neighborhood), be given to a specific percentage of the population, contain specific and direct questions, and specify the date or timeframe

that the survey should be completed. The municipality should develop a final analysis report of the survey data and make it available to the public at large.

For example, for a public opinion survey on the construction of a new market on a parcel of vacant public land, the following issues may be included:

1. Do you see a need to construct a market on this land?
2. What would you like the market to be used for?
 - a) Fruits and vegetables;
 - b) Clothing or retail shops;
 - c) Construction materials; and
 - d) Industrial materials.
3. How should ownership or use rights be determined for the market?
 - a) Municipality;
 - b) Private company; and
 - c) Concession.

Referendums: Referendums are one of the most democratic and comprehensive ways to assess the community's opinion on a particular issue. They are typically organized to coincide with a vote on relevant legislation in order to approve an issue. Citizens vote on the issue at hand, and the majority vote determines the outcome of that issue. Referendums are an important method that the public can use to establish a decision about an issue, however, referendums are limited to specific pre-established voting dates which may not overlap with the timing of the particular issue.

9.5.2 Organizations and groups representing the community

Non-governmental organizations and non-profit organizations can represent a specific group of citizens or an entire community. These organizations can serve as the monitors of the asset management process or they can focus on specific issues brought by citizens. These groups typically act as the representative for a collective group of citizens and speak on their behalf. These organizations often have good working relationships with both the local government and the community and can act as an intermediary in some cases.

Working groups are created to focus on a short-term, specific topic. These working groups include specialists and/or experts on the issue at hand and the group members should be objective in order to represent the civic opinion. Such groups can be established by the municipality or commune council, within permanent committees regarding issues to be discussed at the relevant council.

9.5.3 Committees, councils, and boards

The creation of working committees can be used to represent certain aspects of the community. For example, "planning committees," "the school board," "procurement committees," etc within the municipality are established entities that make decisions on behalf of the community. These groups act for their constituency and have the ability to make decisions based on what they feel is good for the public.

9.5.4 Media

The media play a major role in the communication between local government and the general public. The media, including television, newspapers, radio, internet, etc, serve to disseminate public service announcements that inform or educate the public about an issue or topic. The local government can use the media to:

- Convey messages;
- Relay decisions;
- Provide coverage of local government meetings; and
- Publicize lease or sale of public assets.

9.5.5 Asset management unit

The Asset Management Unit is responsible for the day to day functions of the municipality's asset management program through the direction of the mayor, including relaying information to the public, media, and potential users of municipal property. The Asset Management Unit interacts with the public on all issues related to the management of municipal assets and addresses public concerns and comments. In regard to public participation on asset management issues, the Asset Management Unit should:

- Provide an easy access point for citizens to go to when they have a problem with the use of an asset;
- Direct citizens to appropriate service institutions functioning at the local unit;
- Inform interested persons on the decisions made by the legislative bodies and institutions functioning at the local government unit;
- Follow up and support public communication activities organized by the unit; and
- Ensure that lease and sale notices are widely disseminated.

10.0 CONCLUSION

The transfer of public property to Albanian local government units represents an excellent opportunity to improve local service provision and is a potential source of local economic development and revenue. Used efficiently, LGUs can reduce expenditures and increase revenues while improving the quality and quantity of services provided to the local community.

Using the tools provided in this Toolkit, LGUs can begin to analyze their newly acquired assets to determine the best use of each asset. The tools provided allow the municipality to inventory each of their assets to develop a comprehensive picture of the municipality's asset portfolio. The inventory allows the LGU to have all relevant data on municipal assets in one easy to use format which can be used to generate a variety of important reports for the Asset Management Unit, the council, or the mayor.

Thereafter, the LGU can analyze the use of assets through criticality ratings, condition assessments, and the Geographical Information System. This analysis is the basis for asset management decision-making including setting level of service standards, determining if there are any surplus assets that can either be leased, sold, or used in a public-private partnership, and allocating limited investment funds. Appendices to this Toolkit can be used by LGUs to ensure that the assets are correctly used by budget institutions and subordinate enterprises through sample use agreements and as a starting point for creating municipal lease contracts.

Municipal assets should be carefully protected to ensure proper management. It is important that the local council and the executive work together to ensure that the assets are properly managed and used correctly. Decisions on sale, lease, and concessions need to be made collaboratively by the council and the executive to ensure a balance of powers at the local government level. Moreover, the disposal and use of assets by the local administration should be done in an open and transparent way to not only protect against corruption, but to ensure that the community understands asset management decisions and feel comfortable that the policy is designed to optimize the quality and quantity of services provided based on fiscal reality.

Despite the wealth of information provided in this Toolkit, it will be supplemented with case studies as Albanian LGUs begin the process of managing their new assets.

ANNEX 1: SAMPLE JOB DESCRIPTION FOR ASSET MANAGEMENT SPECIALIST

Title: Asset Management Specialist

Supervisor: Head of Asset Management Unit or Mayor

Position Summary: The Asset Management Specialist is responsible for ensuring that municipal assets are properly maintained in order to provide a high quality of service to the community while ensuring that municipal assets are maintained to allow optimal utilization while minimizing costs. In addition, the Asset Management Specialist will manage surplus property (those properties not needed now or in the short to medium-term future to provide essential and non-essential services) such that revenues are maximized. The Asset Management Specialist protects the municipality's interest with regard to municipal assets, and ensures that the municipal council has sufficient information to make policy decisions. The Specialist is responsible for maintaining an orderly record-keeping system to track relevant data for each municipal asset.

The Asset Management Specialist should have an in-depth knowledge in municipal asset management practices and procedures and regulations so that s/he can act independently and establish priorities. The ability to work under demanding conditions with very short deadlines and the need for courteous and effective relationships with the stakeholders are salient features of this position.

Duties & Responsibilities:

Registration and Inventory

- Ensure that municipal assets are properly registered with the Immovable Property Registration Office
- Maintain a hard-copy file for each municipal asset
- Develop and maintain an electronic inventory, or Asset Register, of municipal assets which will include all relevant data including ID number, location, current use, etc.
- Maintain the Asset Register by recording changes to assets made in response to the acquisition of a new asset, the disposal of an existing asset, or maintenance or operational needs
- Perform analyses and assessments of asset condition and criticality

Use of Municipal Assets by Budget Organizations or Municipal Enterprises or Lease or Concession of Municipal Assets

- Develop use agreements, for approval of the municipal council, for budget organizations and/or municipal enterprises that govern the use of municipal assets by budget organizations or municipal enterprises
- Develop recommendations for the municipal council on municipal assets which should be leased to third parties
- Develop lease contracts, for approval of the municipal council, between the municipality and third-party users of municipal property

- Develop or outsource the development of concession agreements for approval by the municipal council
- Develop level of service standards for users of municipal property including budget organizations, municipal enterprises, and third-parties (lessees or concessionaires)
- Represent the municipality, in conjunction with the Mayor, when negotiating or re-negotiating lease and concession contracts
- Conduct transparent, fair, and competitive lease procedures to ensure that the highest price is received for leasing municipal assets to third parties
- Implement public information campaigns, as needed, to inform the public about changes to the status of municipal assets such as lease and concessions. Ensure that there is public buy-in.
- Provide direction to the end users, including budget organizations, municipal enterprises, lessees, and concessionaires on issues related to asset logistics, such as use and maintenance as well as level of service standards

Sale of Municipal Assets

- Develop recommendations for the municipal council on municipal assets which should be sold
- Develop sales contracts for approval by the municipal council
- Establish and participate on commissions convened to assess the value of municipal assets that are to be privatized
- Conduct transparent, fair, and competitive sales procedures to ensure that the highest price is received for the sale of municipal assets
- Implement public information campaigns, as needed, to inform the public about changes to the status of municipal assets through sale. Ensure that there is public buy-in.

Budgeting and Oversight

- Ensure that required reports are received from users of municipal assets including budget organizations, municipal enterprises, third party lessees, and concessionaries and convey these reports to the municipal council
- Prepare documentation and reports to the local council and mayor of asset inventory status and recommendations on future use and disposal
- Provide input into the development of the annual municipal budget to ensure that expenditures for municipal assets are accurately estimated and to ensure that forecasted revenues are accurately reflected in the budget
- Ensure the accurate collection of revenues from users of municipal assets

Qualifications:

Strong communication (written and oral) and interpersonal skills

Excellent qualitative analysis skills as evidenced by prior work history

Proficiency with Microsoft Excel and Microsoft Access

Strong negotiating skills

Prior asset management/real estate experience preferred

Coursework in Accounting, Finance or Real Estate desired

ANNEX 2: SAMPLE USE AGREEMENT BETWEEN A LOCAL GOVERNMENT UNIT AND A PUBLIC BUDGET INSTITUTION

Republic of Albania

Notary Chamber _____

Today, as of _____ 2009 (two thousand and nine), in _____, before me Notary..... located at [address: Rruga], member of Notary Chamber..... personally appeared the following parties:

Lender: Local Government Unitrepresented by..... Mr./Ms. son of, born on..... whose identity I am assured by Passport No hereinafter referred to as “Lender.”

User: [Name of public institution], represented by Mr./Ms., born on acting as Administrator, adult and entitled to full juridical responsibilities, on whose identity I am assured by Passport No hereinafter referred to as “User”.

Legal Basis: This Agreement is made in accordance with Law No. 8652, dated July 31, 2000 On the Organization and Functioning of Local Government, amended by Law No. 9208, dated March 18, 2004, Article 901 and in continuance of Law No. 7850, dated July 29, 1994, the Civil Code of the Republic of Albania; Municipal Council Decision No. dated, and the Council of Minister’s Decision No. dated....., On Approving the Inventory List of State Immovable Properties in the Municipality of

Object: Giving in use and at no recompense the building with an area of located at [address]: affirmed by the IPRO document No, dated

The Parties Agree:

Article 1

The Lender shall give in use, to the User, the immovable property (building, edifice, object) with Cadastral No located in Area..... with an area of....., to be used for purposes of.....

Article 2

The Use Right is transferred free of charge.

Article 3

The immovable property (.....), subject to this Agreement, after being verified by both parties for its technical and functioning conditions, is taken by the User, who warrants the return it in its original conditions. He shall be liable to pay all expenses for repairing any observed damage.

Article 4

The User shall use the object for exercising the function of as defined in this Agreement.

Article 5

By taking for use the object, the User agrees to safeguard it against thefts, damages, fire, etc. as well as any other obligation provisioned by applicable laws.

Article 6

The User shall be obligated to pay to the state the applicable taxes and any other charges as provisioned by the applicable laws. The User is responsible for the payment of all water and electric power bills.

Article 7

This Use Agreement is made for a period of years. It commences on and ends on The termination of this Agreement before this period can only be made by the Lender in cases of unpredictable emergency.

Article 8

This Agreement shall be deemed to be enacted at the time when the Lender shall hand over the object to the User.

User's Obligations

Article 9

The User shall be obligated to keep and maintain the object with care.

Article 10

The User shall not use the object for purposes other than those defined in this Agreement, or from the character of the object.

Article 11

The User has no right to sell, rent, lease, use as collateral, contribute it as authorized capital of a company or partnership, or otherwise dispose of any municipal property it has been granted the use of without the approval of the Lender.

Article 12

The User shall be responsible for any loss or damage to the object, except when he proves that the loss or the damage would have happened even in the case it was not provided for use.

Article 13

The User cannot claim from the Lender any costs incurred from the use of this object.

Article 14

If during the Agreement period or before the User ceases to use the object as per this Agreement, the Lender faces an immediate unpredictable necessity for the object, he can request to terminate this Agreement and the immediate return of the object.

Article 15

The User is obligated to make at his own expenses the routine maintenance of the object, unless otherwise provided for in this Agreement, whereas any other repair works shall be done by the Lender.

Article 16

If during the Agreement period the User has been forced, for purposes of keeping the object, to make extraordinary, necessary and immediate expenses and was not able to give notice to the Lender, the latter has to compensate the User.

Lender's Rights**Article 17**

In the event that the User does not fulfill the above mentioned obligations, the Lender can request the immediate return of the object, in addition to compensation for any damage.

Article 18

In the event that the User uses the object for purposes different either from those defined in this Agreement or from its nature, and/or for a longer period than per the Agreement, he is liable for any resulting loss, even if it was beyond the User's control unless it is proven that the loss would have occurred even if it was not used differently or returned on due time as per this Agreement.

Article 19

If the object subject to this Agreement has had such defects that have caused damages to the user, the Lender shall be obligated to provide compensation for the damage, provided that while being aware of the defects of the objects, he has not given notice to the User.

Article 20

When the period of this Agreement expires or when the Agreement is terminated before that period, the User is obligated to return the object to the Lender in the same condition that it was received, except for normal wear caused by its use, or in the condition provided in this Agreement. Unless proven otherwise, it is presumed that the object has been received in good conditions.

Article 21

In case of any disagreement which cannot be solved amicably between the parties, each of the parties reserves the right to make a claim at the competent authorities, based on the applicable laws, for finding a solution.

Article 22

In the event that any of the Parties of this Agreement are unable to perform all, or part of the obligations provided by this Agreement due to force majeure, that party shall not become liable for not performing its obligations during that period of force majeure or for the consequences caused by force majeure. The suspension of this Agreement due to force majeure shall extend to the period during which the effects of force majeure continue.

Article 23

For any possible lack of provision in the content of this Use Agreement, the Parties shall refer to the Civil Code, approved by Law No 7850, dated July 29, 1994 Civil Code of the Republic of Albania in general, and to the sections on obligations and contracts in particular.

Final Provisions

Any correction made to this Agreement after its signing shall make it void and null.

This Agreement is made in 5 (five) original copies, each signed by both parties and equally binding.

I, Notary, after reading in loud voice the content of this Agreement to both Parties, certified that it represents their intents, and after they signed it with their full and free will in my presence, I certify their signature as provided by the law.

LENDER

USER

NOTARY

ANNEX 3: SAMPLE USE AGREEMENT BETWEEN A LOCAL GOVERNMENT UNIT AND THE MUNICIPAL PUBLIC SERVICES ENTERPRISE (A LGU SUBORDINATE ENTERPRISE)

Republic of Albania
Notary Chamber _____

General Provisions

Today, as of _____ 2009 (two thousand and nine), in _____, before me Notary..... located at [address: Rruga], member of Notary Chamber..... personally appeared the following parties:

Lender: Local Government Unitrepresented by..... Mr./Ms. son of, born on..... whose identity I am assured by Passport No hereinafter referred to as “City Administration.”

User: Municipal Public Services Enterprise, of Register No, dated represented by Mr./Ms., born on acting in the quality of Administrator, adult and entitled to full juridical skills, on whose identity I am assured by Passport No hereinafter referred to as “Enterprise.”

Legal Basis: This Agreement is made in accordance with Law No 8652, dated July 31, 2000, On the Organization and Functioning of Local Government, amended by Law No. 9208, dated March 18, 2004, Article 901 and in continuance of Law No. 7850, dated July 29, 1994, the Civil Code of the Republic of Albania; Municipal Council Decision No. dated, and the Council of Minister’s Decision No. ... dated....., On Approving the Inventory List of State Immovable Properties in the Municipality of

Object: The City Administration of _____ (hereinafter “City Administration”) grants to the Municipal Public Services Enterprise (hereinafter “Enterprise”), in order to fulfill its objectives and tasks as stipulated in the Enterprise’s Charter, use rights for the municipal objects listed in Appendix 1.

Property given for use is granted for an indefinite term (or specify the number of years), until the rights are formally rescinded by the City Administration.

II. Use of Municipal Property

1. The Enterprise shall use the municipal property in a rational way and shall take measures to keep it safe and avoid any possible damage, including any damage caused by actions of third parties and force majeure circumstances.

2. The Enterprise shall be responsible for the following activities with regard to the transferred objects:
 - a. ensure proper maintenance and repair, including capital repair;
 - b. ensure the proper use, operation and development consistent with its functions and the needs of the City Administration and its citizens, and in compliance with relevant state standards of safety and proper use;
 - c. provide financial management, accounting and record keeping;
 - d. provide the City Administration with information on municipal objects that are operated by the Enterprise in accordance with reporting formats provided by the Asset Management Unit to enable the City Administration to maintain an inventory of municipal property.
3. The City Administration and City Council have the right to control the use of municipal property by the Enterprise in accordance with this Agreement and legislation of Albania. If the Enterprise violates the terms of this Procedure and/or legislation of Albania, the City Administration or City Council has the right to request a change in Enterprise operations to rectify the situation or can rescind the right to operate the municipal property.
4. The Enterprise has no right to sell, rent, lease, use as collateral, contribute it as authorized capital of a company or partnership, or otherwise dispose of any municipal property it has been granted the use of without the approval of the City Administration.

III. Financial Management and Accounting of Municipal Property Provided

1. The objects of municipal property granted for use and listed in Appendix 1 are transferred to the balance sheet of the Enterprise through this Agreement.
2. In the event that new immovable or movable property is purchased by the Enterprise with proceeds from its own budget, subsidies of the municipal or state budgets, the private donations, or any other means, this new property will be considered municipal property.
3. The Enterprise bears the costs of maintenance of the municipal property it has for use, and shall keep it in proper technical condition. This includes the necessary and appropriate current (preventive) and capital repairs.
4. The Enterprise shall maintain accounting and statistical reporting according to procedures and standards established by law for legal entities, to be submitted to the City Administration as required.
5. The Enterprise must depreciate all capital assets and must maintain a separate capital account for these revenues. Depreciation that is accumulated on municipal objects by the Enterprise is municipal property. Depreciation funds can only be used for the significant repair and/or purchase of additional capital assets.
6. In order to obtain capital assets with a cost greater than _____ Lek, regardless of the source of funding, the Enterprise must have prior approval of the City Council. This approval can be included as part of the approval process of the Operating and/or Budget Plan.
7. The Enterprise has the right to write-off physically worn out municipal property upon consent of the City Administration in accordance with procedures approved by the City Council.

IV. Categories of Service to be Provided by the Enterprise

1. The Enterprise will provide, through the use of municipal property, three categories of service including:

- a) Category 1 - Core services to be provided to physical and legal bodies, including state and local government bodies;
 - b) Category 2 – Municipal improvement services, excluding Category 1 services, to be provided to the City Administration;
 - c) Category 3 - Services to be provided to physical and legal bodies on a one-on-one basis;
2. Category 1 services or core services are those services which the City Administration requires the Enterprise to provide to physical and legal bodies, including state and local government bodies on a non-discriminatory basis. At the current time, core services consist of solid and liquid waste collection and disposal. For solid and liquid waste collection and disposal services, a service agreement should be concluded between the Enterprise and each subscriber. The form of this service agreement must be approved by the City Council, along with any subsequent changes, prior to implementation. The core services may be expanded as required by the City Administration. The City Council must approve the tariff for all core services.
 3. Services included in Category 2 are services provided by the Enterprise on a contractual basis with the City. The cost for these services will be negotiated by the City Administration and the Enterprise and will be based on a full cost recovery basis. Services included in Category 2 may include, but are not limited to: street cleaning, maintenance of street lighting, greenery services, and solid waste collection from public places such as parks, etc.
 4. Category 3 services are additional services which the Enterprise may provide on an individual contractual basis to physical and legal bodies. The City Administration must grant permission to provide Category 3 services (see Article VII). The price for these services is negotiated on a bilateral basis between the Enterprise and the consumer.

V. Tariff Scheme for Category 1 Services

1. Any tariff scheme submitted to the City Council for review must be based on the principle of full cost recovery in order to sustain the services provided by the Enterprise.
2. A tariff scheme for each type of service in Category 1 consists of:
 - a) usage norms (if applicable);
 - b) tariff rates (composed of operating costs, depreciation costs, capital repair costs, financial costs (if any), and profit).
3. It is obligatory to submit a proposed change in tariff scheme to the City Council for approval.
4. When submitting a proposed change to the tariff scheme to the City Council, the Enterprise must include the following for each type of service for which a tariff change is requested:
 - a. the total quantity of service provided and information on the source of this data (number of trips per solid waste truck and estimated volume of each truck, information on the weight of solid waste removed, volume of liquid waste trucks and number of trips, etc.);
 - b. the number of consumers receiving service;
 - c. detailed cost information for the previous 12 months or longer as requested by the City Council;
 - d. a financial impact analysis of the new tariff scheme including the net increase (decrease) in collection revenues;
 - e. the change in financial burden to an average household and to average small/medium and large sized businesses;
 - f. the anticipated effect the new tariff scheme will have on collection rates;
 - g. a justification as to why a revised tariff scheme is warranted and an explanation of how the additional resources will be allocated.

5. City Council sessions at which a tariff change is considered or discussed must be open to the public.
6. Prior to City Council approval of a change in tariff scheme, a public hearing shall be held at such time and place as the City Council and/or City Executive shall direct. Public announcement of the hearing must be made one week in advance.

VI. Contract for Services between the City Administration and the Enterprise for Category 2 Services

1. Prior to the submission of the Enterprise's draft operating and budget plans in accordance with Article VIII of this Procedure, the City Administration will indicate in writing the type and quantity of Category 2 services that it will likely purchase in the subsequent budget year.
2. As part of the operating and budget plan submission detailed in Article VIII, the Enterprise will provide to the City Administration and the City Council the unit cost of providing each of the services likely to be purchased by the City Administration. The City Administration and the City Council have the right to request that the Enterprise calculates unit costs for additional services.
3. During review of the Enterprise's operating and budget plans, the City Council and City Administration have the right to question the calculation of the unit cost for Category 2 services. This includes questioning the quantity of materials and/or staff required to provide the service.
4. Based on the quantity of each service requested by the City Administration and the unit cost agreed to by all parties as part of the budget process, the Enterprise will develop a Contract for Services detailing:
 - a. the quantity of each service to be provided for the specified period;
 - b. the unit cost for each service, the total per service, and the total contract cost;
 - c. the schedule of payments;
 - d. the circumstances in which the Enterprise may reduce its services and to what extent, for instance, in case of late payment;
 - e. the circumstances in which each party is entitled to cancel the Contract (for example non-payment, or non-fulfillment of services); and
 - f. performance indicators as applicable

VII. Provision of Category 3 Services

1. The Enterprise may request, in writing, permission from the City Administration to provide various types of services in addition to Category 1 and Category 2 services to physical and legal bodies on an individual contractual basis. These services are Category 3 services.
2. The City Administration has the right to refuse permission for the Enterprise to provide additional types of services based on the following criteria:
 - a. provision of the additional services could potentially have a detrimental effect on the Enterprise's ability to provide quality Category 1 and 2 services;
 - b. the City Administration believes the proposed services to be outside the scope of competence of the Enterprise;
 - c. for reasons of local economic development (e.g. to encourage the growth of local businesses)
3. The City Administration will provide an answer in writing to the Enterprise's request to provide additional Category 3 services.
4. If the City Administration grants the Enterprise the right to provide Category 3 services, the Enterprise retains this right until revoked by the City Administration.

5. For Category 3 services approved by the City Administration, the Enterprise will negotiate a contract on an individual basis with each customer.

VIII. Operating and Budget Planning

1. The Enterprise shall prepare and submit to the City Council annual operating and budgeting plans for the subsequent fiscal year in accordance with the budget calendar and based on the deadline established annually by the City Council. The annual operating and budget plans will include:
 - a. an operational plan on the activities that the Enterprise will conduct during the ensuing fiscal year including any projected capital construction or significant maintenance; intent to extend the solid and/or liquid waste collection and disposal services to new residential and consumer areas in the City and how this will be funded; policy and guideline on service interruptions in the event of non-payment; a discount schedule for unintentional interruptions in service or poor quality of service; organizational restructuring; a staffing schedule including a description of tasks for each position, planned changes in internal procedures (including changes to the service agreement between the Enterprise and consumers); proposed maintenance schedule, and strategies and/or goals for improving service or financial status (this section should include information on how well these strategies improved the service delivery or to what degree the goals were achieved will be measured at the end of the year);
 - b. a description of the existing tariff scheme for each type of Category 1 service including the usage norms, the tariff rates by type (residential, business, institution); the collection rates for the last three years, existing discounts or subsidies, and any other pertinent information;
 - c. a current budget plan which includes an estimate of revenues by type of service including each service to be provided in Categories 1, 2 and 3 and by type of consumer (residential, business, and budgetary institutions) and revenues or grants from any other source; and an estimate of operating expenses for each type of service in Category 1, 2, and 3 necessary for conducting day to day operations and routine maintenance including cost and volume of materials;
 - d. a summary of proposed discounts for Category 1 services to specific groups of vulnerable residents and the subsequent loss of revenue resulting from these privileges;
 - e. a breakdown of accounts receivable and accounts payable by major category
 - f. a summary of the current financial debt position, including the cost of debt financing and a payment schedule;
 - g. information on any other funds (depreciation, reserve, social development, etc.) which the Enterprise has established with the approval of the City Council.
 - h. a capital budget plan which includes information on expenditures for construction of new capital and any significant repair, and shows the source of funding;
 - i. estimated profit.
2. The Enterprise's proposed operating and budget plans will be considered by the City Council, in conjunction with the City budget, but will remain separate and independent. Prior to approving the proposed operating and budget plans, the City Council may request clarification or changes including but not limited to:
 - a. revised collection rates for Category 1 services;
 - b. consideration of a revised tariff scheme for Category 1 and unit cost for Category 2 services;
 - c. reduction in expenses such as materials, office supplies, travel, or other for Category 1 and Category 2 services;
 - d. change in staffing.

3. The City Council must approve the annual operating and budget plans prior to implementation by the Enterprise.

IX. Reporting Requirements

1. The Enterprise will submit quarterly operating and budget execution reports for each Category of Service (for quarters I-III) to the City Council and City Administration within 10 business days following the end of each quarter. Operating and budget reports will illustrate the execution to date of all components of the approved operating and budget plans. The budget report should include detail on all revenue and expenses of the Enterprise for the preceding quarter and year to date compared to the plan for each type of service. The report should illustrate if there are any revenue shortfalls or expenditure overruns for each expenditure item. In the event that this occurs, the Enterprise must describe how it will rectify the situation; either increasing revenues from collections or other sources, or by reducing costs. Detailed information should be provided on estimated revenue increases or specific cost reductions.
2. The Enterprise must submit an annual report on the execution of its operating and budgeting plans at the first City Council session following the conclusion of the fiscal year. The annual report shall include the following:
 - a. report on the extent to which the operating plan for the preceding year was fulfilled;
 - b. report on the execution of all components of the approved budget with detail on all revenue and expenses of the Enterprise for the preceding year compared to the plan for each type of service;
 - c. a copy of the Enterprise's balance sheet;
 - d. income statement.
3. The City Administration may require an independent audit of the annual report prior to its presentation to the City Council. The auditor shall be selected by the City Administration. The auditor shall have access to all supporting materials used to prepare the annual report. The expense of such an audit, if required, shall be paid by the Enterprise.
4. Upon its acceptance of the annual report by the City Council, the City Administration shall make the annual report available to the public.
5. The Enterprise shall maintain accounting and statistical reporting according to procedures and standards established by law for legal entities, to be submitted to state and local self-government bodies as required.
6. The Enterprise must maintain proper documentation on the transfer, reconstruction, rehabilitation and maintenance of municipal property granted for economic management and use. This information shall be submitted to the City Administration upon request.

X. Final Provisions

1. For any possible lack of provision in the content of this Use Agreement, the Parties shall refer to the Civil Code, approved by Law No 7850, dated July 29, 1994, the Civil Code of the Republic of Albania in general, and to the sections on obligations and contracts in particular.
2. Any correction made to this Agreement after its signing shall make it void and null.
3. This Agreement is made in 5 (five) original copies, each signed by both parties and equally binding.

I, Notary, after reading in loud voice the content of this Agreement to both Parties, certified that it represents their intents, and after they signed it with their full and free will in my presence, I certify their signature as provided by the law.

City Administration Representative

Head of Subordinate Enterprise

NOTARY

APPENDIX 1: LIST OF IMMOVABLE MUNICIPAL PROPERTY GRANTED TO ENTERPRISE X FOR USE

Object of Municipal Property	Detailed Information	Balance Sheet Value (Lek)
Object A	Address, location, length, etc.	Value of XXX Lek

ANNEX 4: SAMPLE LEASE CONTRACT

Republic of Albania

Notary Chamber _____

Today, as of _____ 2009 (two thousand and nine), in _____, before me Notary..... located at [address: Rruga], member of Notary Chamber..... personally appeared the following parties:

Parties:

Lessor: Local Government Unitrepresented by..... Mr./Ms. son of, born on.....on whose identity I am assured by Passport No hereinafter referred to as “Lessor.”

Lessee: [Name of Lessee], of Register No, dated represented by Mr./Ms., born on acting as Administrator and entitled to full juridical responsibilities, on whose identity I am assured by Passport No hereinafter referred to as “Lessee.”

Legal Basis: This Contract is made in accordance with Law No. 8652, dated July 31, 2000, On the Organization and Functioning of Local Government amended by Law No. 9208, dated March 18, 2004; Article 801 and in continuance of Law No 7850, dated July 29, 1994, the Civil Code of the Republic of Albania; Municipal Council No... dated..., Council of Minister’s Decision No, dated On Approving the Inventory List of State Immovable Properties in the Municipality of

Article 1. Description of Leased Premises

The Lessor shall lease to the Lessee, the immovable property (_____) with an area ofm² located in area to be used for _____.

Article 2. Validity of the Contract

1. The Lease Contract is made for a period of _____years, commencing on _____ (two thousand and _____) until _____ (two thousand and _____) with an option of renewal.
2. One month prior to its expiration, each of the parties should give notice to the other party for negotiating the extension of this Contract for a certain period or for terminating it.
3. In the absence of such notice, or of any communication between the parties, the Contract shall be automatically terminated.

Article 3. Payment and Terms of Payment

1. The annual lease amount is and should be paid in equal installments {annually, every six months, quarterly}.
2. The Lease Fee shall be paid at the Treasury bank account No., at “_____”.
3. The first fee shall be paid within 10 (ten) days from signing of this Contract by both Parties.

Article 4. Lessor's Rights and Obligations

1. The Lessor undertakes to enable the Lessee to use and enjoy the property without any claim raised by third parties.
2. As the owner, the Lessor shall be liable for the payment of any applicable taxes associated with the property. In the event that the Albanian government shall adopt any procedure that obligates the Lessee to act as an agent for paying such taxes, the Lessee, in accordance with the law, shall deduct those amounts from the Lease Fee.
3. The Lessor shall not be liable for claims that are not related to the object and purpose of this Contract.

Article 5. Lessee's Rights and Obligations

1. By signing this Contract, the Lessee has the right to give free access to the property subject to this Contract, to his employees, agents, representatives and any other person that the Lessee considers appropriate.
2. In addition, the Lessee can perform any action that he considers productive while exercising his activity.
3. The Lessee must obtain prior consent from the Lessor before making any temporary or permanent constructions on the property.
4. The Lessee shall, at his own expense, perform any maintenance work that he deems necessary to the object of the lease.
5. The Lessee has no right to sell, rent, lease, use as collateral, contribute it as authorized capital of a company or partnership, or otherwise dispose of the property under this Contract.

Article 6. Common Obligations of Parties

1. The Lessor is obligated to register this Contract at the Immovable Property Registration Office.
2. The Lessor hereby guarantees the Lessee that this Contract and its conditions and timeframes shall remain unchanged and the Contract in its entirety shall remain valid throughout its period of validity against third parties, to which could be transferred the title of property during the period of this Contract.
3. In case the Lessor intends to transfer to a third party the title of the property subject to this lease agreement, the Lessee shall have the right of first refusal.
4. The Lessee should give prior notice to the Lessor as to whether the Lessee plans to use his right of first refusal within 15 (fifteen) days from the day when the Lessee has received the notice in written form.
5. At the conclusion of the Contract, or upon its termination, the Lessee is obligated to dismantle and to remove any constructions and to return the object of this Contract in the original state excluding normal wear and tear.
6. All notices and communications between the Parties shall be made in written form.

Article 7. Force Majeure

1. In case either Party is unable to perform all or part of its obligations provided in this Contract due to force majeure, that party shall not become liable for non-performance of its obligations during the period of force majeure and for the consequences caused and derived from force

majeure. The suspension of this Contract as a result of force majeure shall be limited to the period that the effects of force majeure continue.

Article 8. Termination of Contract

1. This Contract shall be terminated by mutual consent of the parties or with the expiration of the period of this Contract.
2. The Lessor has the right to terminate the Lease Contract in the event that the Lessee does not make the payment within three months from the due date.
3. The Lessee can terminate the Contract earlier than its expiration date with an advance notice of 30 (thirty) days when:
 - a) The Lessor does not guarantee to the Lessee the undisturbed and free usage of the object leased.
 - b) The Lessee is obligated to leave the territory of the Republic of Albania in the event of a Civil War, turmoil, or other reasons.
 - c) Necessitated by business activity.

Article 9. Final Provisions

1. Any issue not covered by this Contract shall be subject to the Civil Code provisions as provided under the Lease Contract section.
2. Any dispute between the Parties during the execution of this Contract shall be solved amicably, otherwise claims shall be sent to the Judicial District Court of _____.
3. Any modification to this Contract after its signing shall make it void and null.
4. This Contract is made in 5 (five) original copies, each signed by both Parties and equally binding.

I, Notary, after reading in a loud voice the content of this Contract to both Parties, certify that it represents their intents, and after they signed it with their full and free will in my presence, I certify their signature as provided by the law.

LESSOR

LESSEE

NOTARY

ANNEX 5: SAMPLE LEASE CONTRACT WITH THE RIGHT FOR CAPITAL CONSTRUCTION

Republic of Albania
Notary Chamber _____

Today, as of _____ 2009 (two thousand and nine), in _____, before me Notary.....
located at [address: Rruga], member of Notary Chamber..... personally appeared the
following parties:

Parties

Lessor: Local Government Unitrepresented by..... Mr./Ms. son of, born
on.....on whose identity I am assured by Passport No. hereinafter referred to as “Lessor.”

Lessee: [Name of Lessee], of Register No, dated represented by Mr./Ms., born
on acting in the position of Administrator and with full juridical responsibilities, on whose
identity I am assured by Passport No hereinafter referred to as “Lessee.”

Legal Basis: This Contract is made in accordance with Law No. 8652, dated July 31, 2000, On the
Organization and Functioning of Local Government amended by Law No. 9208, dated March 18,
2004; Article 801 and in continuance of Law No. 7850, dated July 29, 1994, the Civil Code of the
Republic of Albania; Municipal Council Decision No. ... dated, and the Council of Minister’s
Decision No, dated, On Approving the Inventory List of State Immovable Properties in the
Municipality of

Object: Granting for lease with the right for capital construction the property (land,.....) with an
area of..... located atattested with IPRO Registration Document No....., dated
....., for the purpose of_____.

The Parties Agree

1. The Lessor shall give to the Lessee under Contract with the Right for Capital Construction the
property (building, edifice, object, land) to be used and improved against remuneration that shall
be defined in this Contract.
2. The lease period shall be _____ years.
3. The annual lease amount is and should be paid in equal installments {annually, every
six months, quarterly}.
4. The Lease Fee shall be paid at the Treasury bank account No., at “_____”.
5. The first fee shall be paid within 10 (ten) days from signing of this Contract by both Parties.
6. One month prior to its expiration, each of the parties should give notice to the other party for
negotiating the extension of this Contract for a certain period or for terminating it.

7. In the absence of such notice, or of any communication between the parties, the Contract shall be automatically terminated.

Rights and Obligations of the Parties

1. The Lessee enjoys the property the same as if he were the owner, except as per limitations provided in this Contract.
2. The Lessee cannot alter the use of the property without the owner's consent.
3. When the object of this Contract is substantially or visibly damaged, to the extent that it cannot provide sufficient incomes for the payment of the lease amount, the Lessee can request to lower it or to terminate the contract, by paying to each party the respective obligations.
4. The claim for lowering the remuneration should be made within one year from the date that the loss or damage has taken place to the property under this Contract.
5. The Lessee cannot claim exemption from obligation to pay the lease amount or to lower it as a result of no production or loss of income even in the event of bad fortune.
6. The Lessee has no right to sell, rent, lease, use as collateral, contribute it as authorized capital of a company or partnership, or otherwise dispose of the property under this Contract.
7. The Lessee can request at any time to terminate this contract with _____ months notice.
8. The Lessor can request to terminate the Contract when the Lessee has not paid the due amount for _____, damages or does not maintain and improve the property, and does not perform in an obvious manner the obligations that result from this Contract.
9. Taxes and dues that result from the activity and those associated with the property shall be the responsibility of the Lessee, except when otherwise provided by the law.
10. Unless otherwise provided in the Contract, the Lessee, during the term of this Contract, reserves the right to remove the constructions and other works that have been made under this Contract but at all times without damaging the property and by returning it to the previous state.
11. When the contract is terminated, the Lessee is not entitled to any value of performed improvements for the amount that the value of the property has increased at the time of its return.
12. When it becomes necessary to make extraordinary repairs to the property, the Lessee is obligated to give notice to the owner and to provide him the opportunity to perform the required repair works.
13. The Lessor is not obligated to perform any routine repairs.
14. The Lessee can benefit from servitudes to the property and can provide servitudes across the property under Lease providing written notice to and consent from the Lessor.
15. The Lessor hereby guarantees the Lessee that this Contract and its conditions and timeframes shall remain unchanged and the Contract in its entirety shall remain valid throughout its period of validity against third parties, to which could be transferred the title of property during the period of this Contract.
16. In case the Lessor intends to transfer to a third party the title of the property subject to this lease agreement, the Lessee shall have the right of first refusal.

17. The Lessee should give prior notice to the Lessor as to whether the Lessee plans to use his right of first refusal within 15 (fifteen) days from the day when the Lessee has received the notice in written form.
18. In the event of disagreement between the Parties which cannot be resolved amicably, then each of the parties reserves the right to make a claim at the competent authorities, based on existing legislation, for finding a solution.
19. In case either Party is unable to perform all or part of its obligations provided in this Contract due to force majeure, that party shall not become liable for non-performance of its obligations during the period of force majeure and for the consequences caused and derived from force majeure. The suspension of this Contract as a result of force majeure shall be limited to the period that the effects of force majeure continue.
20. For any possible lack of provision in the content of this contract, the Parties shall refer to the Civil Code, approved by Law No 7850, dated July 29, 1994, the Civil Code of the Republic of Albania in general, and to the part on obligations and contract of lease with the right to capital construction in particular.

Final Dispositions

1. The Lessor is obligated to register this Contract at the Immovable Property Registration Office.
2. Any modification to this Contract after it is signed shall make it null and void.
3. All notices and communications between the Parties shall be made in written form.
4. This Contract is made in 5 (five) original copies, each signed by both parties and equally binding.

I, Notary, after reading in a loud voice the contents of this Contract to both Parties, certify that it represents their purposes, and after they signed it with their full and free will in my presence, I certify their signature as per law.

Lessor

Lessee

NOTARY

U.S. Agency for International Development

Local Governance Program in Albania

St. Dervish Hima

3 Towers near Qemal Stafa Stadium

Tower No. 1, Apt. 91, Tenth Floor

Tirana, Albania

Tel: 355-04-271-355

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