



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

REPORT TO SUBCOUNCIL 16

4624246

1. ITEM NUMBER : 16 SUB 12/02/2020

2. SUBJECT

PROPOSED CLOSURE OF CITY OWNED IMMOVABLE PROPERTY BEING PORTIONS OF ERVEN 25 AND 2519 CAMPS BAY

PROPOSED TRANSFER OF CITY OWNED LAND BEING PORTIONS OF ERVEN 25 AND 2519 CAMPS BAY SITUATED OFF VICTORIA ROAD, TO THE OWNER OF ABUTTING ERF 3062 CAMPS BAY: PROMENADE CENTRE (PTY) LTD

ONDERWERP

VOORGESTELDE SLUITING VAN ONROERENDE EIENDOM IN STADSBESIT NAAMLIK GEDEELTES VAN ERF 25 EN 2519 KAMPSBAAI

VOORGESTELDE OORDRAG VAN GROND IN STADSBESIT NAAMLIK GEDEELTES VAN ERF 25 EN 2519 KAMPSBAAI, GELEË UIT VICTORIAWEG KAMPSBAAI AAN DIE EIENAAR VAN AANGRENSENDE ERF 3062 KAMPSBAAI: PROMENADE CENTRE (EDMS.) BPK.

ISIHLOKO

ISIPHAKAMISO SOKUVALWA KWEPROPATI YESIXEKO  
ENGENAKUSUSWA EZIZIQEPHU ZEZIZA 25 NO-2519 E-CAMPS BAY

ISIPHAKAMISO SOKUTSHINTSHELWA KOMHLABA WESIXEKO  
OZIZIQEPHU ZESIZA 25 NO-2519 ECAMPS BAY, EZIME EKUPHUMENI KWE-  
VICTORIA ROAD CAMPS BAY KUMNINI WESIZA-3602 ESIMELENE NASO  
ECAMPS BAY: KWI-PROMENADE CENTRE (PTY) LTD

LSU: L1797  
130003985  
CT14/3/4/3/612/A01  
(Category 1)

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### 3. DELEGATED AUTHORITY

This report is for decision by Council.

☒ The report is for comment by Subcouncil.

- An in principle approval of the immovable property in terms of Regulation 5 of the Municipal Asset Transfer Regulations
- Approval that the immovable property is not required for the provision of basic municipal services in terms of Section 14 of the Municipal Finance Management Act
- Approval of the Closure of the Public Place in terms of the Immoveable Property By-Law

In terms of the provisions of the Municipal Finance Management Act (MFMA) and the associated Municipal Asset Transfer Regulations (MATR), the City may only transfer or dispose of property after (a) the Council has made a determination that the asset is not required for the provision of basic municipal purposes and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset, and (b) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

The MATR further stipulates that the City may not commence with the transfer or disposal process of negotiations unless approval in principle has been obtained. For reasons referred to in the report, this transaction relates to a direct deal and not a transfer or disposal via a tender process and the following have therefor already been addressed and further discussed in the body of the report:

- public participation
- valuation determination

The recommendations for final approval will be submitted to the Immoveable Property Adjudication Committee (IPAC) in terms of Part 42 of the System of Delegations. This IPAC report will include the comments obtained from Subcouncil on the proposed transfer.

☒ Final decision lies with Council.

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#### 4. EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed closure and transfer of City land, being portions of Erven 25 and 2519 Camps Bay to the owner of adjacent Erf 3062 Camps Bay		
Site extent	± 88m <sup>2</sup>		
Submission date	11 August 2017		
Current zoning	General Business 1 and Community 1		
Current usage	Vacant		
Proposed usage	Construction of a wooden deck.		
WARD CLLR	NOTICE DATE	WARD	
Cllr Nicolla Jowell	4 October 2019	54	
Internal circulation date	18 November 2017		
Internal department comments	No objections were received.		
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on 4 October 2019. No objections were received.		
Viable	Yes		No
			X
	The subject property is regarded as being non-viable land which only has value to the abutting landowners in light of the fact that it cannot be developed or function as a separate entity. This Property Transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process.		
Recommended decision	Approval	x	Refusal
Factors motivating recommendation:	<ul style="list-style-type: none"><li>• The transfer of the land will relieve Council of the maintenance burden.</li><li>• Market related compensation in the amount of R2 500 000.00, excluding VAT, will accrue to the City.</li><li>• The transfer will allow for better utilisation of the property.</li></ul>		
Strategic intent	<b>SFA 1 : an OPPORTUNITY City of Cape Town</b>		
	Objective 1.1	Positioning Cape Town as forward looking globally competitive City	
	Programme 1.1(g)	Leveraging the City's assets	

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**5. RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL**

It is recommended that:

- a) Council resolve that, in terms of section 14 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, the subject portions of Erven 25 and 2519, situated off Victoria Road, Camps Bay, in extent approximately 88 m<sup>2</sup>, shown by the hatched figure lettered ABCD, on the attached Plan STC 3185 (**Annexure "A"**) is not required to provide the minimum level of basic municipal services; and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset;
- b) Council grants in-principle approval in terms of regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations for the transfer of portions of Erven 25 and 2519, situated off Victoria Road, Camps Bay, in extent approximately 88 m<sup>2</sup>, shown hatched and lettered ABCD, on the attached Plan STC 3185 (**Annexure "A"**);
- c) Council, in terms of section 4 of the City of Cape Town Immovable Property By-law, 2015, approve the closure of portions of Erven 25 and 2519, situated off Victoria Road, Camps Bay, in extent approximately 88 m<sup>2</sup>, shown by the hatched figure lettered ABCD, on the attached Plan STC 3185 (**Annexure "A"**);
- d) The transfer of portions of Erven 25 and 2519 Camps Bay situated off Victoria Road, Camps Bay, in extent approximately 88 m<sup>2</sup>, shown hatched and lettered ABCD, on the attached Plan STC 3185 (**Annexure "A"**); to Promenade Center (PTY) LTD, or its successor(s) in title, be approved, subject to the following conditions, that:
  - i) A purchase price of R2 500 000 excluding VAT be payable;
  - ii) The purchase price is to be escalated by 8% per annum compounded annually on a pro-rata basis commencing 6 months from date of valuation, i.e. 1 July 2019 until date of registration;
  - iii) An occupational rental of R16 700 per month (excluding VAT), escalating at 8% per annum, shall be payable as from 1 July 2019 until date of transfer.
  - iv) The valuation is to be reviewed if the transaction is not approved by the relevant authority of Council within 18 months from date of valuation, i.e. by 1 January 2021;
  - v) Rates and municipal charges, if applicable, be levied.

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- vi) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, inter alia the following:
  - aa) A servitude must be registered over 150mm sewer main crossing property.
  - bb) Cables/pipes are laid 1.0m clear of water mains, the appropriate positions which are shown on this plan.
  - cc) Chamber walls are 0.5m from water mains.
  - dd) District water inspector to be notified prior to commencement of work.
  - ee) No water main to be exposed without prior comment of the manager (water).
  - ff) Applicant will be responsible for the cost or damage to council services and other consequential damages.
  - gg) Any alterations or deviations to electricity services necessary as a consequence of the proposal, or request by the applicant, will be carried out at the applicants cost.
  - hh) Electrical infrastructure may exist on the property or in its vicinity. A wayleave shall be obtained from the Electrical Services Department before any excavation work may commence.

## **5. AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD**

Daar word aanbeveel dat:

- (a) Die Raad, ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet 56 van 2003, bepaal dat die onderhawige gedeeltes van erf 25 en 2519, geleë uit Victoriaweg, Kampsbaai, ongeveer 88 m<sup>2</sup> groot, gearseer en met die letters ABCD aangetoon op aangehegte plan STC 3185 (bylae A) nie vereis word om die minimum vlak van basiese munisipale dienste te voorsien nie, en die redelike markwaarde van die bate en gemeenskapswaarde wat in ruil vir die bate ontvang sal word, in ag geneem het;
- b) Die Raad die toekenning van beginselgoedkeuring toestaan ingevolge regulasie 5(1)(b)(ii) van die regulasies oor oordrag van munisipale bates vir die oordrag van gedeeltes van erf 25 en 2519, geleë uit Victoriaweg, Kampsbaai, ongeveer 88 m<sup>2</sup> groot, gearseer en met die letters ABCD op die aangehegte plan STC 3185 aangetoon, aangeheg as bylae A;

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- c) Die Raad, ingevolge artikel 4 van die Stad Kaapstad Verordening op Onroerende Eiendom, 2015, die sluit van die onderhawige gedeeltes van erf 25 en 2519, geleë uit Victoriaweg, Kampsbaai, ongeveer 88 m<sup>2</sup> groot, gearseer en met die letters ABCD op die aangehegte plan STC 3185 aangetoon, aangeheg as bylae A, goedkeur;
- d) Die oordrag van gedeeltes van erf 25 en 2519, geleë uit Victoriaweg, Kampsbaai, ongeveer 88 m<sup>2</sup> groot, gearseer en met die letters ABCD op die aangehegte plan STC 3185 aangetoon, aangeheg as bylae A; aan Promenade Center (EDMS.) Bpk. of hul regsopvolgers, goedgekeur word, onderworpe aan die volgende voorwaardes dat:
  - i) 'n Koopprijs van R2 500 000, BTW uitgesluit, betaalbaar is;
  - ii) Die koopprijs met 8% per jaar sal styg, jaarliks saamgestel en op 'n pro rata-grondslag bereken vanaf ses maande ná die waardasiedatum, d.w.s. 1 Julie 2019 tot die registrasiedatum;
  - iii) Okkupasiehuur van R16 700 per maand, BTW uitgesluit en wat teen 8% per jaar styg, vanaf 1 Julie 2019 betaalbaar sal wees tot die datum van registrasie;
  - iv) Hierdie waardasie hersien word as dit nie binne 18 maande ná die waardasiedatum (d.w.s. teen 1 Januarie 2021) deur die betrokke owerheid van die Raad goedgekeur word nie;
  - v) Eiendomsbelasting en munisipale gelde, indien van toepassing, gehef word.
  - vi) Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid, onder andere die volgende:
    - aa) 'n Serwituut oor die 150 mm-rioolhoofpypleiding wat oor die eiendom loop, geregistreer moet word.
    - bb) Kabels/pype 1 m weg van die waterpypleiding gelê moet word - die geskikte word op hierdie plan aangetoon.
    - cc) Dreinmure is 0,5 m vanaf die hoofwaterpyp
    - dd) Distrikwaterinspekteur in kennis gestel moet word voor werk begin word.
    - ee) Geen hoofwaterpypleiding oopgemaak mag word sonder kommentaar van die bestuurder (water) vooraf nie.
    - ff) Die aansoeker vir die koste of skade aan Raadsdienste en ander gevolglike skade verantwoordelik sal wees.

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- gg) Enige veranderinge of afwykings aan elektrisiteitsdienste wat nodig is as van die voorstel, of wat deur die aansoeker versoek word, op die aansoeker se onkoste uitgevoer moet word;
- hh) Elektriese infrastruktuur moontlik op die eiendom of in die omgewing voorkom. 'n Reg-van-toegang moet van die departement elektrisiteitsdienste verkry word voor enige uitgrawingswerk mag begin.

## 6. IZINDULULO ZOKUBA ZIQWALASELWE KWAYE KUHLONYULWE KUZO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba:

- a) IBhunga malithabathe isigqibo sokuba, ngokwecandelo 14 loMthetho wobuRhulumente woMmandla woLawulo lweziMali zikaMasipala, uMthetho 56 ka-2003, iziqephu zeziza-25 no-2519 ezime ekuphumeni kweVictoria Road, eCamps Bay eziibukhulu bumalunga ne-88 m<sup>2</sup>, ezibonakaliswe ngemigca ekrweliweyo noonobumba ABCD, kwiplani eqhotyoshelweyo engu-STC 3185 (isihlomelo A) azifuneki ukubonelela ngeenkonzo ezingundoqo zikamasipala; kwaye kuthathelwa ingqalelo ixabiso lobulungisa lasemakethi lempahla nexabiso lezoqoqosho neloluntu eliyakuthi lifumaneke ngokutshintshelwana kweempahla;
- b) IBhunga malinikezele ngesiphumezo ngokomthetho-siseko ngokungqinelana nomgaqo 5(1)(b)(ii) weMigaqo engokuTshintshelwa kweMpahla kaMasipala kulungiselelwa ukutshintshelwa kweziqephu zeziza-25 no-2519 ezime ekuphumeni kweVictoria Road, eCamps Bay eziibukhulu bumalunga ne-88 m<sup>2</sup>, ezibonakaliswe ngemigca ekrweliweyo noonobumba ABCD, kwiplani eqhotyoshelweyo engu-STC 3185 (isihlomelo A);
- c) IBhunga, ngokungqinelana necandelo 4 loMthetho kaMasipala ongePropati ezingenakuSuswa weSixeko saseKapa, wango-2015, maliphumeze ukuvalwa kweziqephu zeziza-25 no-2519 ezime ekuphumeni kweVictoria Road, eCamps Bay eziibukhulu bumalunga ne-88 m<sup>2</sup>, ezibonakaliswe ngemigca ekrweliweyo noonobumba ABCD, kwiplani eqhotyoshelweyo engu-STC 3185 (isihlomelo A)
- d) Makuphonyezwe ukutshintshelwa kweziqephu zeziza-25 no-2519 ezime ekuphumeni kweVictoria Road, eCamps Bay eziibukhulu bumalunga ne-88 m<sup>2</sup>, ezibonakaliswe ngemigca ekrweliweyo noonobumba ABCD, kwiplani eqhotyoshelweyo engu-STC 3185 (isihlomelo A); kwiPromenade Center (PTY) LTD, okanye abangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke kwimiqathango elandelayo yokuba:

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- i) Makuhlawulwe ixabiso lentengiso elingama-R2 500 000 ngaphandle kweRhafu-ntengo;
- ii) Ixabiso lentengiso liyakuthi lonyuke nge-8% ngonyaka lihlanganiswa rhoqo ngonyaka ngokwekota, ukususela kwiinyanga ezi-6 emva komhla woqingqo-maxabiso (oko kukuthi ukususela ngowo-1 kweyeKhala 2019), kude kube ngomhla wobhaliso;
- iii) Makuhlawulwe irenti yendawo yokuhlala engama-R16 700 ngenyanga (ngaphandle kweRhafu-ntengo), apho iyakuthi yonyuke nge-8% ngonyaka, ukususela ngowo-1 kweyeKhala 2019, kude ibengumhla wokubhaliswa kotshintshelo.
- iv) Uqingqo-maxabiso kufuneka luhlolwe ngokutsha ukuba unaniselwano aluphunyezwa ngabasemagunyeni afanelekekileyo kwiBhunga kwiinyanga ezili-18 ukususela ngomhla woqingqo-maxabiso, oko kukuthi ngowo-1 kweyoMqungu 2021;
- v) Makuhlawulwe iirhafu neentlawulo zikamasipala, xa kufanelekile.
- vi) Ngokuxhomekeke kweminye imiqathango eyongeziweyo eya kumiselwa nguMlawuli: woLawulo lwePropati ngokwamagunya akhe agunyazisiweyo, kuquka phakathi kwezinye izinto, oku kulandelayo:
  - aa) Makubhaliswe ilungelo lokungena kumbhobho wogutyulo oyi-150mm onqumla kule propati.
  - bb) Ikheyibhile/ imibhobho ibekwe kumgama oyi-1.0m ukusuka kwimibhobho yamanzi, iindawo ezifanelekileyo ezibonakaliswe kule plani.
  - cc) Amadonga eholo akumgama oyi-0.5m ukusuka kwimibhobho yamanzi.
  - dd) Umhloli wamanzi weSithili kufuneka aziswe ngaphambi kokuqala komsebenzi.
  - ee) Akukho mbhobho wamanzi uzakuvulwa ngaphambi kokufumana uluvo lomphathi (wezamanzi).
  - ff) Umfaki-sicelo uyakuba noxanduva lweendleko okanye umonakalo kwiinkonzo zebhunga nakumonakalo ongomnye obangelwe koko.
  - gg) Naziphina izilungiso ezifunekayo kwiinkozo zombane ngenxayesisiphakamiso, okanye ezenziwe ngumfaki-sicelo, ziyakuthwalwa ngeendleko zomfaki-sicelo.

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- hh) Izakheko zombane zingakhona kule propati okanye kummandla okuwo. Kufuneka kufunyanwe ilungelo lokungena kwiSebe leeNkonzo zoMbane ngaphambi kokuqalisa kwawo nawuphi na umsebenzi wokomba.

## **6. DISCUSSION/CONTENTS**

### **6.1 BACKGROUND:**

Promenade Center (Pty) Ltd submitted an application to acquire portions of Erven 25 and 2519 Cape Town, situated off Victoria Road, Camps Bay, in extent approximately 88 m<sup>2</sup>. The subject property forms an integral part of the applicant's shopping centre.

The applicant has indicated that they wishes to convert the unused space into a wooden deck.

The subject property is regarded as being non-viable land which only has value to the adjacent landowner in light of the fact that it cannot be developed or function as a separate entity. This Property Transaction may therefore be approved without any competitive process having been followed.

The application to purchase was circulated to all the relevant Branches for comment. No objections were raised by the Branches to the proposed closure and transfer of the subject property.

The proposed closure and transfer of the subject property was duly advertised in terms of the stipulations of the City of Cape Town's Immovable Property By-Law in two local newspapers on the 4<sup>th</sup> October 2019, inviting the public to lodge written comments or objections. A notice in this regard was also served on the relevant ward councillor, Subcouncil and abutting land-owners on 4 October 2019. No comments or objections were received by the closing date.

### **6.2 CONSULTATION WITH INTERNAL BRANCHES:**

The application was circulated to the relevant branches of Council. The alienation of the property is supported subject to the following conditions which will be included in the Agreement of Sale where applicable.

- No excavations are to take place on site without a way leave and works permit.
- Electrical infrastructure may exist on the property or in it's vicinity.

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- Any alterations or deviations to electricity services necessary as a consequence of the proposal or requested by the applicant, will be carried out at the applicants cost.

It was further confirmed that the property is not required to provide the minimum level of basic municipal services.

### **6.3 VALUATION**

The City's Professional Valuers on 30 June 2019 assessed that the value of the Subject Property at R2 500 000 excluding VAT, escalating at 8% per annum compounded annually on a pro rata basis commencing from 1 July 2019 until date of registration. An occupational rental of R16 700 per month (excluding VAT), escalating at 8% per annum, shall be payable as from 1 July 2019 until date of transfer.

The Valuation Synopsis is attached to the report as Annexure B.

### **6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS**

- 6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.
- 6.4.2 Chapter B of Council's policy entitled the Management of Certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the transfer of immovable property;

### **6.5 FINANCIAL IMPLICATIONS**

All costs involved in this transaction will be for the Applicant's account.

The transfer price will be adjusted by 8% determined by the City Valuer compounded annually on a pro-rata bases which will commence on 1 July 2019 until date of registration which will be consistent with open market parameters.

### **6.6 TAX COMPLIANCE**

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19) paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

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In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 stipulates Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person whose tax matters have not ben declared by SARS to be in order.

Paragraphs 372 - 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property management adopted the principle as per paragraph 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City owned immovable property. Except for tarrif based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

The SARS tax clearance certificate will be submitted when the proposal is considered by IPAC for final approval.

#### 6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that it is not in arrears.

#### 6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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#### 6.9 LEGAL IMPLICATIONS

##### Regulation 7 of the Municipal Asset Transfer Regulations (MATR)

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed transfer or disposal of non-exempted capital assets:

**Factor A:** Whether the capital asset may be required for municipality's own use at a later date.

This proposal complies with Section 14 of the Local Government Municipal Finance Management Act No. 56 of 2003 in that the relevant branches of Council have confirmed in writing that the asset is not needed to provide the minimum level of basic municipal services.

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**Factor B:** The expected loss or gain that is expected to result from the transfer or proposed disposal.

The expected gain to result from the proposed transfer is fair market value and future rates and taxes.

**Factor C:** The extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to municipality.

Council will receive a financial benefit in the form of a market related purchase price as well as rates and taxes, if applicable. The market value of the property has been determined to be R2 500 000 (excluding VAT), escalating at 8% per annum compounded annually on a pro rata basis commencing from 1 July 2019 until date of registration. An occupational rental of R16 700 per month (excluding VAT), escalating at 8% per annum, shall be payable as from 1 July 2019 until date of transfer.

**Factor D:** The risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests.

No operational or control risk to the City.

**Factor E:** The effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow.

None.

**Factor F:** Any limitations and conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions.

The sale agreement will contain terms and conditions as imposed by the Director: Property Management in terms of delegated authority.

**Factor G:** The estimated cost of the proposed transfer or disposal.

The purchaser will be responsible for the transfer costs.

**Factor H:** The transfer of liabilities and reserve funds associated with the capital asset.

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No liabilities and reserve funds are associated with the capital asset.

**Factor I:** Any comments or representations on the proposed transfer or disposal received from the local community and other interested persons.

The Director: Property Management in terms of her delegated powers, approved the public participation process as required, resulting in the proposed transfer being advertised in the Cape Argus and Die Burger on 4 October 2019. Closing date for objections was 4 November 2019. Copies of the advertisement were sent to the abutting land owners on 4 October 2019, the Ward Councillor and the Chairperson of the relevant Sub-Council. No objections were received.

**Factor J:** Any written views and recommendations on the proposed transfer or disposal by National Treasury and the relevant Provincial Treasury.

The asset considered for transfer is not a "high value" asset, as defined in the MATR. No objections / comments were received from National and Provincial Treasury.

**Factor K:** The interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community.

None of these interests will be compromised as a result of the alienation of the asset; in fact, it will be supported.

**Factor L:** Compliance with legislative regime applicable to the proposed transfer or disposal.

The proposal complies with Section 13.1 of the Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property, approved by Council on 26 August 2010, which allows for the direct sale of non-viable property which can only be utilised by one or more adjacent landowners, without any competitive process having been followed, on the basis that no purpose would be served by a competitive process.

The proposal complies with the provisions of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and the Municipal Asset Transfer Regulations published in Government Gazette No R. 878 dated 22 August 2008.

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**Should the recommendation contained in this report be adopted by Council, the following statutory processes will need to be undertaken:**

It will be necessary for the portion of Public Street to be closed in order to transfer the portion of land.

It will be necessary for the property to be subdivided in order to transfer the portion of land.

After closure, the subject properties must be consolidated with the applicant's property to form one single holding.

#### **6.10 STAFF IMPLICATIONS**

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No ☒

Yes ☐

#### **ANNEXURES**


Annexure A - Plan STC 3185

Annexure B - Valuation Synopsis

Annexure C - Copy of Advertisement

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FOR FURTHER DETAILS CONTACT:

NAME	
CONTACT NUMBERS	SAUL JACOBS (LA) 021 4006419
E-MAIL ADDRESS	SAUL.JACOBS@CAPETOWN.GOV.ZA
DIRECTORATE	ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT
FILE REF NO	CT14/3/4/3/612/A01 (130003985)
MANAGER : PROPERTY HOLDING RACHEL SCHNACKENBERG	<i>Schnackenberg</i>

Acting *W. B. Berman*  
 DIRECTOR : PROPERTY MANAGEMENT IN HER  
 CAPACITY AS EXECUTIVE DIRECTOR : ECONOMIC  
 OPPORTUNITIES AND ASSET MANAGEMENT  
 NOMINEE

NAME RUBY GELDERBLOEM *Desiré Berman*

DATE 2020/01/17

Comment:

*J. M. H.*  
 LEGAL COMPLIANCE

- ☒ REPORT COMPLIANT WITH THE PROVISIONS OF  
 COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS  
 AND ALL LEGISLATION RELATING TO THE MATTER  
 UNDER CONSIDERATION.
- ☐ NON-COMPLIANT

NAME *Joan-Mari Holt*

TEL *021 400 2753*

DATE *24/01/2020*

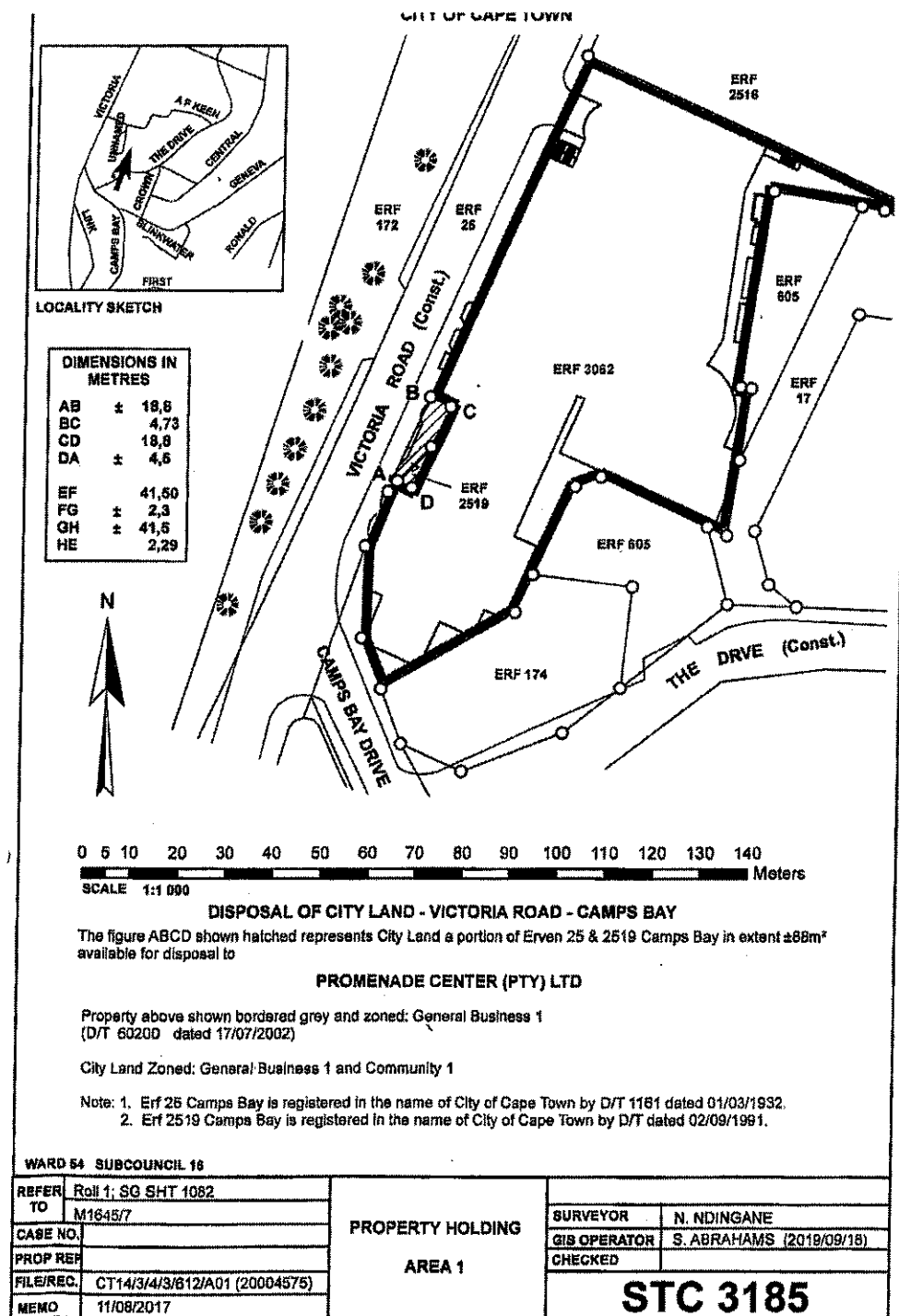
Comment:

*66* *JMH*  
*Approved by Council on 24/01/2020*

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## ANNEXURE A





## ANNEXURE B

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#### Annexure

#### VALUATION SYNOPSIS: PORTION OF ERVEN 25 AND 2519 CAMPS BAY FOR TRANSFER TO PROMENADE CENTRE (PTY) LTD

##### Brief and Background

We were requested by Charlene Davis, Head: Cape Town Region, to determine the market value of portion Erven 25 and 2519 Camps Bay, illustrated on sketch plan STC 3185 by the figure ABCD, 88m<sup>2</sup> in land extent, for possible transfer to Promenade Centre (Pty) Ltd.

The subject property is encroached on by the applicant's building/shopping centre over three levels.

Our date of valuation is as at 30 June 2019.

##### Approach to valuation

We have been tasked with determining the **market value** of the subject property, which, is defined by International Valuation Standards Committee (IVSC 2014) as:

*The estimated amount for which an asset or liability should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties acted knowledgeably, prudently and without compulsion.*

Implicit in the market value of a property is the notion of **highest and best use**, which the IVSC defines as:

*The most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible, and which results in the highest value of the property being valued.*

##### Method of valuation

We applied the *comparable sales method*, which includes the following steps:

- o Identifying recent sales transactions of similar properties in the same neighbourhood (or further afield if need be) for which information is available.
- o Comparing the comparable properties' value-forming characteristics with those of the subject property, viz. location, stand size, town planning restrictions, etc.
- o Adjusting the sale's price of the comparable properties for effluxion of time between their sale's date and valuation date (if deemed necessary).
- o Deducing the market value of the subject property after taking due cognisance of all incomparable characteristics and their potential influence on the sale's price.

[http://teamsites.capetown.gov.za/sites/finpropmanpt/Valuations/Users/nina.vass/2019/Camps Bay/0603\\_Portion Erven 25 and 2519 Camps Bay\\_S.docx](http://teamsites.capetown.gov.za/sites/finpropmanpt/Valuations/Users/nina.vass/2019/Camps Bay/0603_Portion Erven 25 and 2519 Camps Bay_S.docx)

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## Findings

We considered the following commercial sales in estimating the market value of the subject property. However, it should be noted that all of these sales are inferior in terms of location and hence an upward adjustment in bulk rate was necessary. Due to the uniqueness of the subject location, no truly comparable sales could be sourced.

Comparable sales transactions					
#	Description	m <sup>2</sup>		Sale's dates	R (R/m <sup>2</sup> bulk)
		Land	Bulk		
1	Erven 117665 and 4339 Cape Town (Zero 2 One Tower)	2 645	31 740	2018-05	R240 000 000 R7 561/m <sup>2</sup> (R8 200/m <sup>2</sup> )
2	Erf 142181 Cape Town 142 Bree Street	2 805	*24 970	2018-03	R172 500 000 R6 908/m <sup>2</sup> (R7 600/m <sup>2</sup> )
3	Erf 178292 Cape Town (16 on Bree)	1 719	*20 503	2017-11	R133 955 454 R6 533/m <sup>2</sup> (R7 380/m <sup>2</sup> )
4	Erf 2099 Green Point, 169 Main Road, Green Point	1 776	3 614	2017-12	R20 520 000 R5 678/m <sup>2</sup> (R6 370/m <sup>2</sup> )
5	Erf 9787-Re Cape Town, 4 Liddle Street, Green Point	2 016	7 964	2017-05	R58 140 000 R7 300/m <sup>2</sup> (R8 190/m <sup>2</sup> )

\* Figures for sales 2 and 3 are planned bulk, whereas the remaining figures are permissible bulk.

**Sale 1** is zoned GB7, which has a Floor Area Ratio (FAR) of 12.0. This sale is not yet registered as Deeds Office records still record the previous sale as at 2016-12-21 for R66 500 000. Our deduction is that the current sale reflects the value after an increase in rights.

**Sale 2** involved a two-storey commercial property occupying a City Centre block, namely Bree, Dorp, Buitengracht and Leeuwen Streets. The existing building is to be demolished to make way for a multi-storeyed mixed-use development to maximize the MU3 zoning. The initial plans propose 24 970m<sup>2</sup> of bulk with a combination of commercial, hotel, residential, retail and sky bar space. 7,9 FAR plus 30%, as 30% floor space used as flats, equals 10,27.

**Sale 3** involved contiguous properties that were subsequently consolidated, situated on Bree Street, extending along Mechau Street. The buildings on the sites were subsequently demolished, maintaining the building's façade. This property is zoned MU3 (FAR = 6). The sale's price is not reflected in Deeds Office records, but the information was sourced from Property Valuations (14<sup>th</sup> floor, Civic Centre).

**Sale 4** is a split zoned site with approximately 950m<sup>2</sup> zoned GR5 (FAR = 2,5) and roughly 880m<sup>2</sup> zoned GR4 (FAR = 2,5). It is earmarked for development of 51

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apartments. This site is far inferior to the subject property in terms of position for a residential development.

**Sale 5** was bought by Angara Investment (Pty) Ltd for a mixed-use development. Located between Somerset Road and Prestwich Street, Green Point. The property has a split zoning with a portion measuring 25m<sup>2</sup> zoned Transport 2 and the remaining 1 991m<sup>2</sup> zoned MU2 (FAR = 4). The proposed development is 6 115m<sup>2</sup> of residential and 1 717m<sup>2</sup> of commercial/retail space.

As the above sales are not very good comparables, i.e. they are all inferior, we also looked at the market values of middle-priced to upmarket regional and community shopping centres owned by listed funds, and although also not ideally comparable, this information, together with our knowledge of line shop rentals along Camps Bay's promenade, leads us to believe that the market value of 'The Promenade' centre is probably in the order of R50 000/m<sup>2</sup>. Assuming that the market value of the land is say 20% of the final development's value, which is not an unrealistic assumption, we deduce that the market value of the land is probably in the order of R10 000/m<sup>2</sup> of bulk. The latter is validated by the tenders submitted in September 2017 for the Maidens Cove development (which was subsequently withdrawn by the City), where the highest bid for the 5 000m<sup>2</sup> shopping centre component was roughly R10 300/m<sup>2</sup> of bulk.

#### Conclusions

The evidence above points to the market value of the subject property being greater than R8 000/m<sup>2</sup> of bulk and probably somewhere close to R10 000/m<sup>2</sup> of bulk. Taking all factors into account, we ultimately applied R9 500/m<sup>2</sup> of bulk, which equates to:

$$88\text{m}^2 \times 3 \text{ storeys} \times \text{R}9\,500/\text{m}^2 = \text{R}2\,500\,000 \text{ (excluding VAT)}$$

As the applicant is in occupation, the following rental shall apply as from 1 July 2019, escalating 8% p.a., until date of registration:

$$8\% \text{ yield} \times \text{R}2\,500\,000 \div 12 \text{ months} = \text{R}16\,700 \text{ per month (excluding VAT)}$$

#### Recommendations

It is recommended that the City land, being portion of Erven 25 and 2519 Camps Bay, illustrated on sketch plan STC 3185 by the figure ABCD, 88m<sup>2</sup> in land extent, be sold/transferred to Promenade Centre (Pty) Ltd for an amount of **R2 500 000 (exclusive of VAT)**, subject to the following:


- i. The selling price shall escalate at 8% per annum compounded on a pro rata basis commencing from 2019-07-01 until date of registration.
- ii. This valuation is to be reviewed if not implemented within 18 months from date of valuation (i.e. by 2021-01-1).
- iii. An occupational rental of **R16 700 per month (excluding VAT)**, escalating at 8% per annum, shall be payable as from 2019-07-01 until date of transfer.

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**Garth Johnson**  
Principal Professional Valuer



**Paul Pendlebury**  
Head: Market Valuations

2019-07-23

[http://teamsites.capetown.gov.za/sites/finpropmanpi/Valuations/Users/nina.vass/2019/Camps Bay/0603\\_Portion Erven 25 and 2519 Camps Bay\\_S.docx](http://teamsites.capetown.gov.za/sites/finpropmanpi/Valuations/Users/nina.vass/2019/Camps Bay/0603_Portion Erven 25 and 2519 Camps Bay_S.docx)

## **ANNEXURE C**

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### Closure and disposal

#### **• City Owned Immovable Property being Portions of Erven 25 and 2519 Victoria Road, Camps Bay: Promenade Centre (Pty) Ltd**

Notice is hereby given that the Council is, in terms of the Policy on the Management of Certain of the City of Cape Town's Immovable Property (promulgated on 26 October 2010), considering an application for the closure and disposal of a portion of Erven 25 and 2519 Victoria Road, Camps Bay in extent approximately 88m<sup>2</sup>, to the owner of abutting Erf 3062 Victoria Road, Cape Town at a purchase price of R 2 500 000 excluding VAT. The purchase price will escalate at a rate of 8% per annum compounded annually on a pro rata basis as from 01-07-2019 until date of transfer. Occupational rental of R16 700 per month (excluding VAT), escalating at 8% per annum, shall be payable as from 01-07-2019 until date of transfer.

Notice is hereby given in terms of section 4(2) of the City of Cape Town: (Immovable Property By-Law, 2015 of Council's intention to close a portion of Erven 25 and 2519 Victoria Road, Camps Bay in extent approximately 88m<sup>2</sup> as shown on plan STC 3185.

#### **Information Statement:**

- The valuation of the capital asset to be transferred or disposed of is R2 500 000 exclusive of VAT and cost. The sales comparable method of valuation was used to determine the value.
- The reason for the proposal to transfer the capital asset is that the City received an application to purchase the subject property. After due consideration, the subject property is regarded as being non-viable land which only has value to the abutting landowner in light of the fact that it cannot be developed or function as a separate entity. The proposal was circulated to the relevant branches of Council, no objections were received. It is therefore concluded that the property is not required to provide a minimum basic service.
- The expected benefits to the Municipality of the proposed transfer is to be relieved of the maintenance burden in terms of the subject property and it will also allow for better utilisation of the property.
- The expected proceeds to be received by the Municipality from the transfer or disposal are a market related purchase price of R2 500 000 excluding VAT. The purchase price will escalate at a rate of 8% per annum compounded annually on a pro rata basis as from 01-07-2019 until date of transfer.
- The expected gain or loss that will be realised or incurred by the Municipality arising from the transfer is fair market value, future rates and taxes, occupational rental of R16 700 per month (excluding VAT), escalating at 8% per annum, shall be payable as from 01-07-2019 until date of transfer.

For further details of the transaction contact Saul Jacobs, tel 021 400 6419, Property Holding, Cape Town Region, Media City Building, weekdays between 08:30-15:00 by appointment. Any comments/objections must be submitted in writing, together with reasons therefore, to Saul Jacobs, 3rd Floor Media City Building, or email [sauljacobs@capetown.gov.za](mailto:sauljacobs@capetown.gov.za) on or before 4 November 2019.

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CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

ECONOMIC OPPORTUNITIES  
AND ASSET MANAGEMENT

Ruby Gelderbloem  
Director: Property Management

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E: Ruby.Gelderbloem@capetown.gov.za

25 November 2019

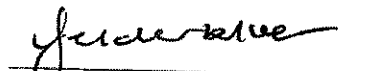
Ms Desiré Borain  
Manager: Support Services – Property Management

Dear Mr Anderson

**AUTHORISATION: ACTING APPOINTMENT**

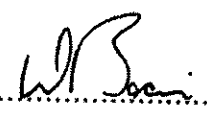
You are hereby appointed as Director with effect from 07:00 on Monday, 13 January 2020 until 07:00 on Monday, 20 January 2020.

All delegations, responsibilities and accountabilities assigned to that of the Director: Property Management post will be applicable during the duration of your acting period.

  
**RUBY GELDERBLOEM**  
DIRECTOR: PROPERTY MANAGEMENT

  
**KELCY LE KEUR**  
EXECUTIVE DIRECTOR: ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT

I, Desiré Borain, hereby accept the terms of this appointment.

Signature:  Date: 2020/01/13

CIVIC CENTRE IZIKO LEENKONZO ZOLUNTU BURGERSENTRUM  
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