



REPORT TO SUBCOUNCIL 3

L623334

1 ITEM NUMBER **03 SUB 22/10/19**

2 SUBJECT

**PROPOSED LEASE OF CITY LAND, BEING A PORTION OF ERF 3385
MILNERTON: MILNERTON PLAYERS FOR ARTS AND CULTURE PURPOSES**

ONDERWERP

**VOORGESTELDE VERHURING VAN STADSGROND, NAAMLIK 'N GEDEELTE
VAN ERF 3385 MILNERTON: MILNERTON PLAYERS VIR KUNS- EN KULTUUR-
DOELEINDES**

ISIHLOKO

**ISIPHAKAMISO SOKUQESHISWA KOMHLABA WESIXEKO, OSISIQEPHU
SESIZA-3385, MILNERTON: KWABE-MILNERTON PLAYERS
KULUNGISELELWA IMIBANDELA YEZOBUGCISA NENKCUBEKO**

PTMS NO: 130004049

**File Ref No: TYG 14/3/6/1/2/3385/1
(Category 3)**

3 **DELEGATED AUTHORITY**

- ☒ The report is for comment by Subcouncil to the competent authority in terms of Part 24, Delegation 10(1).
- ☒ In terms of delegation Part 27 paragraph 19 (7), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

"To approve the granting of rights to use, control or manage capital assets: Capital assets less than R10 million, longer than 3 years (<R10 million and > 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and <3 years) for the following categories:

- a) Social Care Leases: Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
- b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

JMH

Provided that this delegation may only be exercised after considering the comment from the subcouncil in whose area of jurisdiction the capital is situated.

☒ Final delegation lies with Director: Property Management.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the application by Milnerton Players to lease a portion of City land being Erf 3385 Milnerton for arts and culture purposes.		
Site extent	2 264m ²		
Submission date	4 April 2016		
Current zoning	Utility		
Current usage	Arts and Cultural activities		
Proposed usage	Arts and Cultural activities		
TOD ASSESSMENT	Leases are not required to undergo the Comprehensive TOD Assessment. All properties with an extent > 5000m ² and with a lease period of more than 5years have been circulated to the Urban Planning and Mechanism Branch for comment as part of the normal MATR process.		
Internal circulation date	26 April 2016		
Internal department	The lease application was circulated to the various departments and was supported by all.		
Public participation outcome summary	No comments or objections were received during the public participation process.		
WARD CLLR	NOTICE DATE		WARD
Cllr Mlulami Ngeyi	23 November 2018		4
Viable	Yes	No	x
	The property is deemed Non-Viable immovable and cannot be developed and function as a separate entity and cannot be registered as a separate entity by the Registrar of Deeds.		
Recommended decision	Approval	x	Refusal
Regulation 34(1) In-principle approval	Granted by Executive Director : Assets and Facilities Management in terms of delegated authority after 7 July 2017		

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5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the proposed lease of a portion of City land, being a portion of Erf 3385 Milnerton shown hatched and lettered ABCD on the attached plan TA 916v1, marked annexure A, in extent approximately 2 264m² to Milnerton Players or their successors in title be approved subject inter alia to the following conditions that;

- a) A tariff rental of R 920.00 per annum excluding VAT calculated at the rate applicable at the time of transaction, be payable. Rates not applicable;
- b) The lease will endure for a period of ten years.
- c) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- d) The property be used for arts and cultural purposes only;
- e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- f) Subject to compliance with any other statutory requirements;
- g) No compensation will be payable for any improvement made to the property.
- h) All outstanding accounts with the City of Cape Town must be settled.
- i) Upon approval of this lease by the Director: Property Management, the signed lease must be made available to Immovable Property Planning(IPP) in order to ensure that the City's Immovable Property Asset Register (IPAR) is updated.

AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die voorgestelde verhuring van 'n gedeelte Stadgrond, naamlik 'n gedeelte van erf 3385 Milnerton, aangetoon deur arsering en die letters ABCD op die aangehegte plan TA 916v1 gemerk bylae A, ongeveer 2 264 m² groot, aan Milnerton Players of hul regsopvolgers, goedgekeur word, onderworpe aan onder andere die volgende voorwaardes, naamlik dat:

- a) 'n Tariefhuurgeld van R 920.00 per jaar, BTW uitgesluit - bereken teen die koers wat ten tye van die transaksie geld - betaal moet word. Eiendomsbelasting is nie van toepassing nie;
- b) Die huurtermyn tien jaar sal wees;
- c) Die huurgeld jaarliks aangepas sal word volgens die huurtariefstruktuur deur die Raad goedgekeur;
- d) Die eiendom slegs vir kuns- en kultuurdoeleindes gebruik mag word;

- e) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaal sal word vir enige verbetering wat aan die eiendom aangebring word nie;
- h) Alle uitstaande rekeninge by die Stad Kaapstad vereffen moet word;
- i) Na goedkeuring van hierdie huurkontrak deur die direkteur: eiendomsbestuur, die ondertekende huurkontrak aan onroerende-eiendomsbeplanning (IPP) beskikbaar gestel word om te verseker dat die Stad se register van onroerende eiendomsbates (IPAR) bygewerk word.

IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe isiphakamiso sokuqeshiswa kwesiqephu somhlaba weSixeko, osisiqephu sesiza-3385 e-Milnerton, esibonakaliswe ngomzobo nangoonobumba abakhulu u-ABCD kwiplani eqhotyoshelweyo engu-916v1, ephawulwe iihlomelo-A, esibukhulu obumalunga nama-2 264 m², kwabe- Milnerton Players, ngokuxhomekeke ekuthotyelweni kwemiqathango elandelayo, yokuba:

- a) Makuhlawulwe ixabiso larenti elili-R 920.00 ngonyaka (ngaphandle kweRhafu-ntengo) ngexabiso elibalwe ngexabiso elijoliswe kwixesha elo lonaniselwano. IiRhafu zokuhlala azihlawulwa;
- b) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka elishumi.
- c) Irenti iyakuthi ilungelelaniswe rhoqo ngonyaka ngokungqinelana nesakheko samaxabiso njengoko siphunyezwe liBhunga;
- d) Ipropati mayisetyenziselwe kuphela imibandela yezobugcisa nenkcubeko;
- e) Ngokuxhomekeke kweminye imiqathango eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- g) Akukho mbuyekezo eyakuthi ihlawulwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati;
- h) Kuyakuthi kuhlawulwe zonke ii-akhawunti ezisileleyo kwiSixeko saseKapa;
- i) Emva kokuba kuphunyezwe olu qeshiso nguMlawuli woLawulo lwePropati, kufuneka kulungiselelwe ukuba kufumaneke uqeshiso olutyikityiweyo ijoliswe

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kwaboCwangciso lwePropati engenakususwa (IPP) ukuze kuqinisekiswa ukuba kuthi kuhlaziywe iRejista yeSixeko engePropato eyiMpahla engenakususwa (IPAR).

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

Milnerton Players has been in use of the property since 1989. The initial lease term has come to an end and an application was submitted to enter into a new lease. The organisation would like to continue its work providing an arts and cultural experience to the broader community.

6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and no objections were received, subject to the conditions set out in Paragraph 5 above.

6.3 VALUATION

The application category fits within the tariff structure of the City approved on 30 May 2019;

An annual rental tariff of R 920.00 excl. VAT, subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time, will be payable.

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 C of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the leasing of immovable property.

6.5 FINANCIAL IMPLICATIONS

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

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 92.3 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.

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 93 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person who's tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deals with the sale and letting of City owned immovable property and is silent on the SARS requirement. Property Management adopted the principle as per paragraph 93 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City Owned immovable property. Except for tariff 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.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not applicable.

6.7 FINANCIAL DUE DILIGENCE

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

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City? No ☒ Yes ☐

6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

Council's service branches confirmed that the asset is not required for own purposes.

Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a tariff rental to the amount of R 920.00 excluding VAT per annum

JMA

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management, in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Times and Die Burger on 23 November 2018. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. No objections were received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No comments were received.

Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to the proposed granting of the right

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

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: Sketch Plan
Annexure B: Tariff structure
Annexure C: NPO certificate

NAME	Karen Fortuin <i>Made</i>
CONTACT NUMBERS	021 444 4976
E-MAIL ADDRESS	Karen.Fortuin@capetown.gov.za
DIRECTORATE	ECONOMIC OPPORTUNITIES AND ASSETS MANAGEMENT
FILE REF NO	TYG 14/3/6/1/2/3385/1
MANAGER : PROPERTY HOLDING RACHEL SCHNACKENBERG	<i>Schnackenberg</i> 29-07-2019

26 SEP 2019

General
**DIRECTOR : PROPERTY MANAGEMENT IN HER
CAPACITY AS EXECUTIVE DIRECTOR : ASSETS &
FACILITIES MANAGEMENT NOMINEE**

NAME RUBY GELDERBLOEM

DATE 2019-09-11

Comment:

Jabbe
LEGAL COMPLIANCE

NAME

Jean-Mari Hote

TEL

021 400 2753

DATE

17/09/2019




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



NON-COMPLIANT

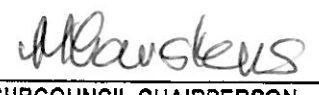
Comment:

JMH
Certified as legally compliant:
Based on the contents of the report.


MANAGER: SUBCOUNCIL (3)
JDJA BRAND
TEL NO (021)444-4862
DATE 10/10/2019

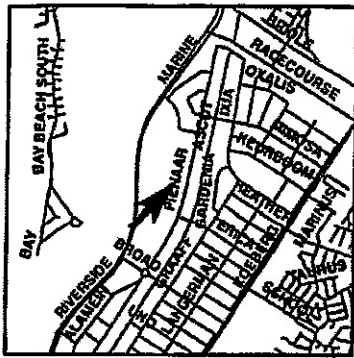
COMMENT:

1. Herewith confirm that the relevant delegation is quoted in item.
2. The recommendation is/are subject to Subcouncil decision.
3. Author of report was notified that item is on agenda and in terms of delegation 1(5) requested to attend the Subcouncil meeting.


SUBCOUNCIL CHAIRPERSON
COUNCILLOR HELEN CARSTENS
TEL NO (021) 444-4865
DATE 10/10/2019

COMMENT:

CITY OF CAPE TOWN - PROPERTY MANAGEMENT

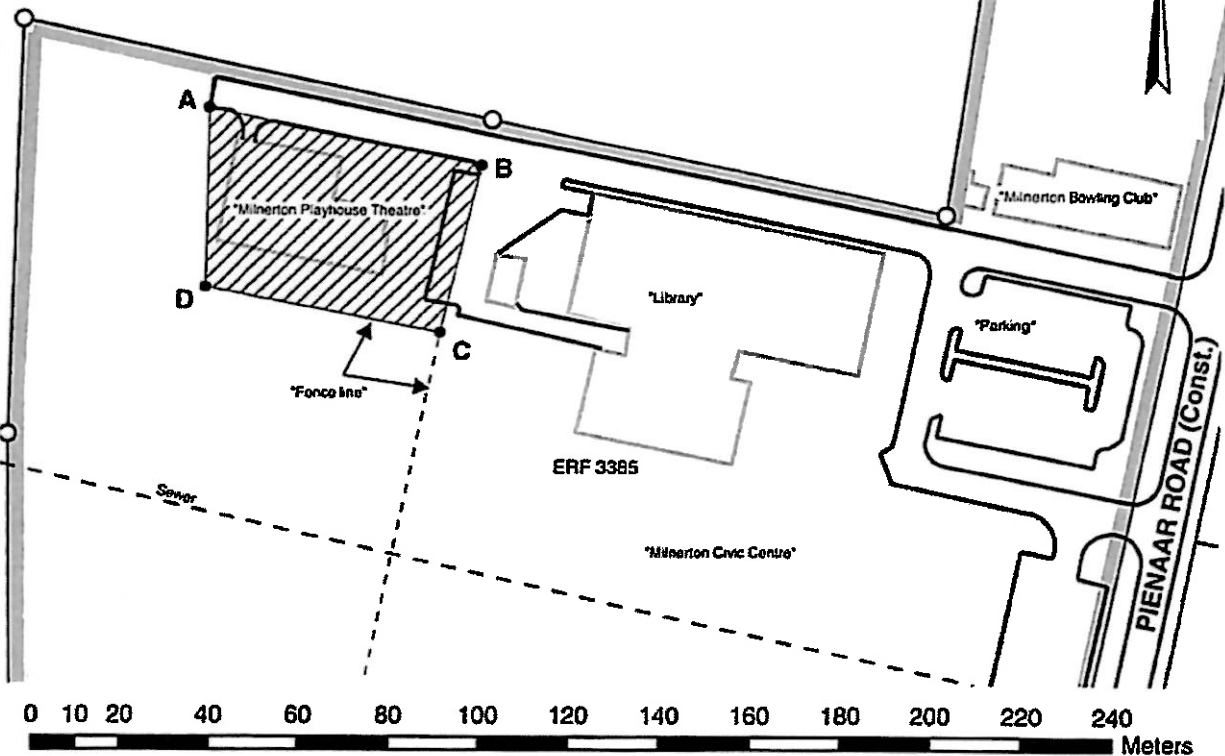


LOCALITY SKETCH

ERF 10676
"Playground"

DIMENSIONS IN METRES

AB	± 62,1
BC	± 38,7
CD	± 53,4
DA	± 40,5



SCALE 1:1 500

LEASE OF A PORTION OF CITY LAND- FOR ARTS AND CULTURAL ACTIVITIES- OFF PIENAAR ROAD- MILNERTON

The figure ABCD shown hatched represents a portion of City Land (Portion of Erf 3385 Milnerton) in extent approximately 2 264 square metres, available for lease to

MILNERTON PLAYERS

City Land (Erf 3385 Milnerton) zoned: Utility

Note: Erf 3385 Milnerton is registered in the name of Municipality of Milnerton by D/T 4288 dated 1966-03-09.

WARD 04 SUBCOUNCIL 03 M Ngeyi

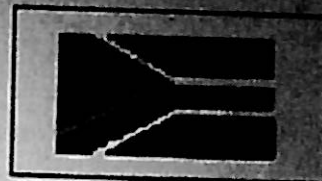
REVISION: LEASE RENEWAL

SUPERSEDES TA 916v0

REFER TO	Sq Shl. M1552 TA 916v0	PROPERTY HOLDING	Page 1 of 1	
CASE NO.	130004049		SURVEYOR	S SIJEQE (2018/06/13)
PROP REF	-		SNR TECH ASST	J WESTENBERG (2018/06/13)
FILE NO.	TYG 14/3/6/1/2/3385/1		CHECKED	A de Goede
MEMO	-		TA 916v1	

ASSETS AND FACILITIES MANAGEMENT - PROPERTY MANAGEMENT

CAT	SERVICES RENDERED	UNIT	2017/18 Recalculated excl. VAT	2017/18 R Incl. VAT	VAT Yes/No	2018/19 Recalculated excl. VAT	2018/19 R Incl. VAT	% Increase/ decrease
	>0cm to 10cm encroachment over the property boundary	per annum	No charge	No charge	Y	No charge	No charge	N/A
PCR	>10cm to 50cm encroachment over the property boundary or bigger than 50m ²	per annum	979.13	1,126.00	Y	1,043.48	1,200.00	6.6%
	Tariff rental iro land leased for gardening and/or security purposes							
PCR	< 100 m ²	per annum	392.17	451.00	Y	418.26	481.00	6.7%
PCR	> 100 m ² ≤ 200 m ²	per annum	791.00	909.65	Y	835.65	961.00	5.6%
PCR	> 200 m ² ≤ 300 m ²	per annum	1,176.52	1,353.00	Y	1,253.04	1,441.00	6.5%
PCR	> 300 m ² ≤ 400 m ²	per annum	1,568.70	1,804.00	Y	1,671.30	1,972.00	6.5%
PCR	> 400 m ² ≤ 500 m ²	per annum	1,961.74	2,256.00	Y	2,089.57	2,403.00	6.5%
PCR	> 500 m ²	per annum	2,353.04	2,706.00	Y	2,506.09	2,882.00	6.5%
	Tariff iro land (incl. improvements) leased for social related use purposes (Welfare, Community, Cultural, Creche, Early Childhood Development Centre, Place of Worship) as well as for sport and recreational purposes	per annum	828.70	953.00	Y	883.48	1,016.00	6.6%
PCR	10% - 25% of market rental will apply iro land (including improvements) leased for Educational purposes							
	PROPERTY SALTS							
	APPLICATION FEE							



CERTIFICATE OF REGISTRATION OF NONPROFIT ORGANIZATION

In terms of the Nonprofit Organisation Act, 1997, I am satisfied that

Milnerton Players

(name of the organisation)

meets the requirements for registration.

The organisation's name was entered into the register on **19 January 2016**
(date)

Registration number **164-508 NPO**

Director's signature

Department of Social



Development