

## COUNCIL MINUTES: 18 AUGUST 2022

### MINUTES

**OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF CAPE TOWN  
HELD IN THE COUNCIL CHAMBER, 6<sup>th</sup> FLOOR, PODIUM, CIVIC CENTRE, CAPE  
TOWN ON THURSDAY, 18 AUGUST 2022 AT 10H00.**

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#### MEMBERS PRESENT:

Cllr M F Achmat (AJ)	Cllr P W De Vos (DA)	Cllr M Kleinsmith (DA)
Cllr F Adams (CCC)	Cllr X D Diniso (ANC)	Cllr C Kobeni (DA)
Cllr Y Adams (CMC)	Cllr C J Esau (DA)	Cllr N F Kopman (ANC)
Cllr A Adams (DA)	Cllr F Essack (DA)	Cllr E Langenhoven (DA)
Cllr R Adams (DA)	Ald G Fourie (DA)	Cllr A Lansdowne (DA)
Cllr M Adonis (DA)	Cllr P Francke (DA)	Cllr T A Le Goff (DA)
Cllr N R Adonis (DA)	Cllr C V Franklin (DA)	Cllr S Liell-Cock (DA)
Cllr F K Ah-Sing (DA)	Cllr S Frenchman (CCC)	Cllr A G Lightburn (DA)
Cllr W Akim (DA)	Cllr A Gabuza (ANC)	Ald X T Limberg (DA)
Ald E Andrews (DA)	Cllr M Gadeni (ANC)	Cllr E Linde (DA)
Cllr E Anstey (DA)	Cllr G E Gordon (DA)	Cllr S A Little (GOOD)
Cllr R Arendse (DA)	Cllr T Gqada (DA)	Cllr F P Lombard (DA)
Cllr S F August (GOOD)	Cllr A J Griesel (DA)	Cllr N Lombi (ANC)
Cllr D Badela (ANC)	Cllr N E Grose (DA)	Cllr A C Louw (GOOD)
Cllr Z A Badroodien (DA)	Cllr L A Gungxe (ANC)	Cllr M Mabungani (ACDP)
Cllr U M Barends (DA)	Cllr K W Gxasheka (ANC)	Cllr E M Madikane (ANC)
Ald A J G Basson (DA)	Cllr B Hansen (DA)	Cllr B M Majingo (ANC)
Cllr A M Benadie (DA)	Cllr W Harris (DA)	Cllr N Makasi (ANC)
Cllr R Beneke (DA)	Cllr G Haskin (ACDP)	Cllr M S Makuwa (ANC)
Cllr M Booi (DA)	Cllr P G Helfrich (DA)	Cllr M Manuel (DA)
Cllr P N Booi (EFF)	Cllr A Hendricks (AJ)	Cllr M Manuel (CCC)
Cllr S S Booyesen (DA)	Cllr P Hendricks (PA)	Cllr B B Maqungwana (UDM)
Cllr N A Botya (EFF)	Cllr P C Heynes (ANC)	Cllr G P Marais (FF Plus)
Cllr E Botha-Rossouw (FF Plus)	Cllr F Higham (DA)	Cllr K Maré (DA)
Cllr R Bresler (DA)	Executive Mayor G G Hill-Lewis (DA)	Cllr S G Markgraff (GOOD)
Cllr R W Cannon (DA)	Cllr T Jackson (DA)	Cllr P I Marman (GOOD)
Cllr K R Carls (DA)	Cllr M R Jacobs (ARA)	Cllr M J Marr (DA)
Cllr H Carstens (DA)	Cllr B M Jacobs (DA)	Cllr L Martin (ANC)
Cllr A Cassiem (EFF)	Cllr H W Jacobs (DA)	Cllr D Z Masiu (DA)
Cllr C Cerfontein (DA)	Cllr D G Jacobs (CCC)	Cllr N Matutu (Luthango) (ANC)
Ald P H Chapple (DA)	Cllr P S Jacobson (FF Plus)	Cllr P Maxiti (DA)
Cllr M N Chitha (ANC)	Ald W D Jaftha (DA)	Cllr L Mazwi (EFF)
Cllr M Christians (ACDP)	Cllr E Jansen (DA)	Cllr S Mbandezi (DA)
Cllr D Christians (DA)	Cllr C Janse van Rensburg (DA)	Cllr L N Mbiza (ANC)
Cllr K A Christie (DA)	Cllr G V Joachims (GOOD)	Cllr N W McFarlane (DA)
Cllr G J Classen (ARA)	Ald C Jordaan (DA)	Cllr A P McKenzie (DA)
Cllr D G Cottee (ANC)	Cllr M Joseph (GOOD)	Cllr B Mei (EFF)
Cllr J Cupido (GOOD)	Ald C R Justus (DA)	Cllr S Ndamane (PAC)
Cllr A Davids (CCC)	Cllr N Jowell (DA)	Cllr M A Mkutswana (ANC)
Cllr R Davids (DA)	Cllr A Kay (CIP)	Cllr Y Mohamed (DA)
Cllr D C De Vos (ACDP)	Ald M L Kempthorne (DA)	Ald S Moodley (DA)
	Cllr M R Kleinschmidt (DA)	Cllr A Moses (DA)

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Cllr T Mpengezi (ANC)	Cllr F A Sauls (DA)	Cllr C M K Wannenburg (GOOD)
Cllr L M Mqina (ANC)	Cllr M M Sibunzi (DA)	Ald B R W Watkyns (DA)
Cllr N Mvinjelwa (DA)	Cllr C C Siebritz (DA)	Cllr N Williams (CCC)
Cllr P S Mzolisa (DA)	Cllr L Simangweni (ANC)	Cllr J J Witbooi (DA)
Cllr D Nelson (DA)	Ald J P Smith (DA)	Cllr J Woodman (DA)
Ald I D Neilson (DA)	Cllr J Solomon (DA)	Cllr B Yeko (EFF)
Cllr B Ngcombolo (ANC)	Cllr L Somdaka (ANC)	
Cllr M Nikelo (DA)	Cllr L P Sonyoka (ANC)	
Cllr S Nodliwa (ANC)	Cllr Z W Sophazi (ANC)	
Cllr M L Nqavashe (DA)	Cllr K Southgate (DA)	
Cllr L Ntshuntshe (EFF)	Cllr S L Stacey (DA)	
Cllr N A Ntshweza (ANC)	Cllr J N Stevens (ANC)	
Cllr A Ntsodo (DA)	Cllr N Stuurman (EFF)	
Cllr T Nyamakazi (ANC)	Cllr N R E Sukers (ACDP)	
Cllr G D Paige (ACDP)	Cllr Z Sulelo (DA)	
Cllr B L Payiya (ANC)	Cllr P S Swart (DA)	
Cllr G C Peck (DA)	Cllr S Taliep (DA)	
Cllr X G Peter (ANC)	Cllr P P Tause (ANC)	
Cllr M Petersen (DA)	Cllr H P Terblanche (DA)	
Cllr L Phakade (ANC)	Cllr M Temlett (DA)	
Cllr S Philander (DA)	Cllr A Tetani (ANC)	
Cllr T I Pimpi (ANC)	Cllr S C Thompson (ANC)	
Cllr C Pophaim (DA)	Cllr G Timm (DA)	
Cllr A J Potts (DA)	Ald G Twigg (DA)	
Ald S Pringle (DA)	Cllr N V Tyandela (EFF)	
Cllr C B Punt (DA)	Ald T Uys (DA)	
Ald F Purchase (DA)	Cllr B van der Merwe (DA)	
Cllr Z L Qoba (ANC)	Ald J F H van der Merwe (DA)	
Cllr R M Quintas (DA)	Ald A van der Rheede (DA)	
Cllr M H Raise (DA)	Cllr P E van der Ross (DA)	
Cllr A Richards (PA)	Cllr B van Reenen (DA)	
Cllr S Rigby (DA)	Cllr A van Zyl (DA)	
Cllr N Rheeder (DA)	Cllr R Viljoen (DA)	
Ald S Rossouw (DA)	Cllr D Visagie (DA)	
Cllr S Salie (AJ)	Cllr J Visser (DA)	
Cllr M J Sampson (PA)	Ald J Vos (DA)	
Cllr N Satarien (CCC)	Cllr F C Walker (DA)	

### **APOLOGIES**

Cllr R C Cameron (DA)  
Cllr B Clarke (DA)  
Cllr M Dambuza (EFF)  
Cllr A C De Beer (UIM)  
Cllr S S Duka (ANC)  
Cllr P East (DA)  
Cllr A Z M I Elyas (DA)  
Cllr K Kama (ANC)  
Cllr A E Kuhl (DA)  
Cllr U F Lasiti (DA)

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Cllr J Martlow (DA)  
Cllr I P McMahon (DA)  
Cllr T M Mjuza (ANC)  
Cllr D Ngubelanga (AIC)  
Ald M Nieuwoudt (DA)  
Cllr A Plaatjies (DA)  
Cllr E Sawant (DA)  
Cllr N P Sono (PA)  
Ald X R Sotashe (ANC)  
Ald T Thompson (DA)  
Cllr C L Visser (DA)

### **ABSENT**

***The following Councillors were absent without an apology:***

Cllr A Adams (DI)  
Ald C A Brynard (CIP)  
Cllr M A Cassiem (DA)  
Cllr L H Max (FF Plus)

***The following Councillor submitted an apology for late arrival:***

Cllr N W McFarlane (DA)  
Ald S Moodley (DA)  
Cllr A Moses (DA)

***The following Councillors submitted an apology for leaving early:***

Ald E Andrews (DA)  
Cllr J Cupido (GOOD)  
Cllr G Haskin (ACDP)  
Cllr A C Louw (GOOD)  
Cllr P E van der Ross (DA)

### **PRESENT**

#### ***Executive Management Team***

Mr L Mbandazayo	-	City Manager
Mr K Jacoby	-	Chief Financial Officer
Mr E Sass	-	ED: Corporate Services
Ms D Campbell	-	ED: Urban Mobility
Ms N Gqiba	-	ED: Human Settlements
Mr K Nassiep	-	ED: Energy
Ms Z Mandlana	-	Acting ED: Corporate Services
Mr R Keraan	-	Acting ED: Urban Waste Management
Ms E Naude	-	Acting ED: Spatial Planning and Environment

#### ***Executive Committee Services***

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Mrs R Razack - Acting Director: Executive & Councillor Support Operations  
Ms J Cooper  
Ms C France  
Mr E Fray  
Mr G Josephs  
Mrs A Kline  
Ms M Levendall  
Ms L McGregor  
Mr N Meissenheimer  
Mr M Moses  
Ms L von Molendorff

### ***Legal Services***

Ms R Sayed  
Z Mohamed

<b><u>LIST OF ACRONYMS FOR INFORMATION</u></b>	<b><u>SEATS</u></b>
<b>ACDP - African Christian Democratic Party</b>	<b>6</b>
<b>AIC - African Independent Congress</b>	<b>1</b>
<b>AJ - Al Jama-ah</b>	<b>3</b>
<b>ANC - African National Congress</b>	<b>42 (1 vacancy)</b>
<b>ARA - Africa Restoration Alliance</b>	<b>2</b>
<b>CCC - Cape Coloured Congress</b>	<b>7</b>
<b>CIP - Cape Independent Party</b>	<b>2</b>
<b>CMC - Cape Muslim Congress</b>	<b>1</b>
<b>DA - Democratic Alliance</b>	<b>134 (1 vacancy)</b>
<b>DI - Democratic Independence</b>	<b>1</b>
<b>EFF - Economic Freedom Fighters</b>	<b>10</b>
<b>FF Plus - Freedom Front Plus</b>	<b>4</b>
<b>GOOD - GOOD</b>	<b>9</b>
<b>PA - Patriotic Alliance</b>	<b>4</b>
<b>PAC - Pan Africanist Congress of Azania</b>	<b>1</b>
<b>UDM - United Democratic Movement</b>	<b>1</b>
<b>UIM - United Independent Movement</b>	<b>1</b>
<b>Total</b>	<b>229 (2 vacancies)</b>

### **SECTION 1 OPENING OF MEETING**

The Speaker, Ald F Purchase welcomed all Councillors, officials, guests, the media and the public connected to the virtual platform.

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A special word of welcome was extended to the Senior Officials of Buffalo City, East London, as well as to the Executive Junior Mayor, Executive Junior Deputy Mayor, Chief Whip and Speaker of the Junior City Council of the City of Cape Town.

A moment of silence was observed for Cllr Gladstone Ntamo (ANC), who recently passed away. The Speaker, on behalf of Council, extended her condolences to the bereaved family.

Councillors were called upon to register their attendance at the respective venues.

### SECTION 2 MAYORAL ADDRESS

The Speaker called on the Executive Mayor, Ald G Hill-Lewis to address Council, as follows:

*“Speaker, City colleagues, Members of the public and guests, Members of the media, Good Morning, Molweni, More, Assalamu alaikum, Shalom,*

*A special welcome to the delegation from Buffalo City Metro in the Eastern Cape, who have joined us to look at our EPWP best practice. It is wonderful to have you here with us in the Mother City.*

*We also welcome here for the first time the newly selected Junior City Mayor, Leah Tshotwana, and her colleagues from the Junior City Council, and we wish them all of the very best in their term.*

*Finally, Speaker, Cape Town is the proud host city of the 2023 Netball World Cup, now 344 days away. But even before that tournament, we have Cape Town teams showing what they can do. We congratulate the team from Simanyene High School in Nomzamo in the Strand who are now the national netball high school champions. Congratulations!*

*Speaker, Last week, at the City's annual Remembrance Day service, we honoured all fallen staff members across the law enforcement and emergency services. It was incredibly moving to sing the old hymn "Abide with me" in memory of these courageous men and women who lost their lives in the line of duty, and in comfort for their families. "Hold Thou Thy cross before my closing eyes; Shine through the gloom and point me to the skies. Heaven's morning breaks, and earth's vain shadows flee; In life, in death, O Lord, abide with me." Such apposite and powerful words. Our deepest sympathies lie with each of these officers and their loved ones for the sacrifice they have made to keep others safe.*

*Yesterday, I visited Constable Akhona Damane of Metro Police South in hospital where he is recovering from a gunshot wound to his foot after bravely responding to gunshot fire by a gangster in Hanover Park. I am pleased to report that the prognosis is very positive and he is in good*

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*spirits. I am sure you will all join me in thanking him for bravely putting his body on the line, and wishing him a speedy recovery.*

*Speaker, August is Women's Month, and our attention turns specifically to the plague of gender-based violence and what we, as a City, can do to help defeat gender-based violence and all violent crime. We were all shocked and appalled at the gang rape of eight women filming a music video in Krugersdorp on the West Rand three weeks ago. It was a brutal reminder of how dangerous it is to be a woman in South Africa, that – in 2022 – women do not enjoy the same freedoms as men. And, to Minister Cele, who said last week that one of these young women was "lucky" to have been raped by only one man: we say shame on you sir. Minister Cele, nobody is lucky to be raped! Closer to home, we were last week reminded that many women are not safe even with the people they are closest to. My heart goes out to the family of Siphokazi Silulo of Atlantis who was stabbed and burned to death, allegedly by her boyfriend.*

*[I would like to ask us all to observe a moment's silence for Ms. Silulo, her family and every victim of gender-based violence].*

*As a man, as a father of a daughter, and as Mayor, I feel a sense of personal responsibility for making our society a safer place for all women. As a man, it is just not good enough to blame other men when it comes to gender-based violence. And then do nothing. As men, we must do much more to actively stop this violence. And we must be proactive in rooting out those toxic practices that objectify women.*

*So, this message is for the men of this city. When you hear your friends making sexist remarks, call them out on it. When you see other men reduce women to sex objects, call them out on it. And if you are a dad, or even if you are talking to or around young boys, remember that you are a role model to them. How you talk about women today will determine how they treat women tomorrow. Because that is where gender-based violence starts. It starts when we men dehumanise women with our words and our actions. We can only start to bring down gender-based violence if we, as men, change the way we think and talk about women.*

*Speaker, violent crime has its roots in society. And South Africa is a broken society. Over the course of our country's history, communities were broken up and family structures damaged. The last 30 years of democratic government has done little to repair that damage. Every year we celebrate Freedom Day, but we must ask ourselves: how free are we when we live in fear of violent crime? Under apartheid, people lived in fear of the government. Now, under a failing national government, people live in fear of their fellow citizens. In Cape Town, we are faced with a double whammy: not only is there a failure of policing leadership at a national level; there is a chronic under-resourcing of the South African Police Services (SAPS) in this province and in this city. How is it acceptable that, over the past five financial years, the National Police Minister has decreased the number of SAPS officers allocated in 71% of the Western Cape's police stations?*

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*Speaker, a democratic state does not need to be a weak state. On the contrary, in a democracy, citizens elect a government with the expectation that it will protect them from harm. I was disgusted to read this week that Police Minister Bheki Cele has spent R1,5 billion on accommodation and R42 million on catering in the three years he has been in office. I am sure everyone here will agree that, instead of spending billions on hotels and food, the Minister should be using this money to make our crime-ravaged communities safer. In this City, we have taken the decision that we will not be held hostage by the national Police Minister. If Mr Cele will not fulfil his democratic mandate to make the people of Cape Town safer, then we certainly will. We need to do more – right now – to protect people from the gangs and violent criminals that steal, rape and murder with absolute impunity. And so today I want to announce what we are doing to increase policing power in Cape Town. When I was elected Mayor I pledged to make Cape Town safer by training and deploying hundreds of additional law enforcement officers, expanding neighbourhood watches, fully harnessing technology to fight crime, and fighting to expand municipal policing powers.*

*Speaker, I am pleased to say that we are making significant progress on every one of these promises. Last Thursday, in Bishop Lavis, I was joined by the Premier of the Western Cape, Alan Winde, for the passing-out parade of a new deployment of LEAP (Law Enforcement Advancement Plan) officers. To date, we have deployed 1 100 new officers in communities impacted by high crime rates, including Delft, Nyanga, Khayelitsha, Philippi, Hanover Park, Bishop Lavis, Mfuleni, Harare, Gugulethu, Kraaifontein, Mitchells Plain, Atlantis, Philippi East and Samora Machel. Our local Law Enforcement has more than tripled its arrest rate in recent years due to increased City and Provincial Government investment, with 50% of these arrests being drug-related. As of 31 July 2022, LEAP officers have made 8 500 arrests overall since the first deployment in February 2020. Of the 12 murder hotspots where LEAP officers have been deployed, four of them – Gugulethu, Philippi East, Mitchells Plain and Elsies River – no longer feature among the top 30 murder hotspots in the country. As a result of these interventions, violent crime in Cape Town is now decreasing in some of the most crime-affected areas of our city. And we intend to keep up the momentum by training and deploying more officers to the areas that need it most. The City has allocated a record R5,4 bn safety budget this year, with funding for 230 more officers and auxiliaries this year alone.*

*We will soon release details of the deployment of 100 Law Enforcement officers to the Cape Town CBD. Every day thousands of residents from communities across Cape Town come to the CBD to work, and this deployment will give the City a 24-hour policing presence in the Cape Town CBD. We are not going to allow our city centre to degenerate into a cesspit of criminality as has happened in other cities around the country. Because, the simple truth is that, if you surrender the CBD to criminal elements, you kill investment, growth and jobs. In the coming months, we will launch an 80-officer strong Facility Protection unit to protect key municipal buildings from vandalism, and our staff from violent*

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*attacks. This new team are currently undergoing their training, and we wish them well and look forward to the difference they will make.*

*In addition, our traffic services will soon see the implementation of the City's 24 hour Highway Patrol Unit. This new unit will improve traffic service, reduce fatalities, and ensure that law and order is maintained on our roads. Lastly, we are in the process of ensuring that all our trained Law Enforcement Officers are out in our communities protecting people from crime, and not sitting behind desks. This government will ensure that all admin jobs will be filled by admin clerks, freeing up our law enforcement officers to do what they are trained to do. And, on the subject of training: over the next 3 years R66m has been budgeted for expanding the City's law enforcement training college to produce even more well-trained officers. This includes the recruitment of 25 additional training staff to deliver on the expanded training needs of the City's policing departments.*

*Speaker, the neighbourhood watches throughout our City are one of its biggest success stories. It has been shown that communities are safer when residents work together to fight crime, which is why we have budgeted R5,6 million for training and new equipment for neighbourhood watches across Cape Town. My programme of patrolling with neighbourhood watches continues and I look forward to joining the Belhar community next week. Not only are neighbourhood watches highly effective in fighting crime, they are also a proving ground for volunteers who want to take their participation to the next level. Over the next five years, we will expand the Auxiliary Law Enforcement Service – with members mostly recruited from neighbourhood watches. The City aims to recruit, train and deploy an additional 600 volunteers over the next five years to bolster its current volunteer corps of 470.*

*Speaker, in his speeches, President Ramaphosa likes to talk about 'Smart Cities'. I have just returned from the World Cities Summit in Singapore where city leaders from around the world showcased how they are using technology and data to solve complex challenges. I was pleased to see that Cape Town is already drawing on much of the global best practice that is available. Now I am a firm believer that, when it comes to policing, there is no substitute for good old-fashioned boots on the ground. But I am more convinced than ever that technology can tip the scale in our favour as we work to win the war on crime. Technology gives us the means to develop and execute a truly integrated approach to make the most efficient use of the City's limited resources. Plans are underway to convert the City's current Transport Management Centre in Goodwood into a fully-integrated Joint Services Operations Centre or JSOC. To use a biological analogy, the JSOC will become the 'head' of our policing operation – it is where our entire crime-fighting apparatus will be run from. If the JSOC is to be the head, then the Emergency Police Incident Control or 'EPIC' software system will be the 'brain'. EPIC will process data in real time to give our operational command team enhanced real-time situational awareness, and enable us to respond decisively and immediately to incidents as they occur.*



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*The 'eyes' of the operation will be the various camera-based technologies including CCTV footage, remotely piloted and manned aircraft systems, automatic number-plate recognition technology, vehicle dash cams and body-worn cameras. These digital 'eyes' will constantly feed data back to our operational command, via the EPIC software system. The 'eyes' will be augmented by the 'ears' – a network of audio sensors that detect when a shot is fired, precisely where it is fired and even the type of firearm used. Gunshot location data will help our police officers to deploy resources to gun crime hotspots, react quickly to gun crime when it occurs, and to help with prosecuting those who commit gun crime.*

*Speaker, on the subject of prosecution, it is common cause that the SAPS has a woeful conviction rate. Lost dockets, lack of evidence and corrupt officials are staple features of SAPS investigations, which is why so many criminals still roam our streets, terrorising communities. These failures give the many hard-working SAPS officers a bad name, and erode public trust in the police. In the City of Cape Town, we are building our municipal police into a proper crime-fighting force. We are developing the policing power – through tech and boots on the ground – to make our communities safer.*

*But the truth is, Speaker, we need to do much more if we are to win the war on crime. And we want to do much more. It is not good enough for us to increase our policing power; we need to expand the powers of our city officers as well. I think everyone here knows that devolution is an overarching policy position of this government. We are a capable government, and we are capable of achieving much more if the national government devolves more power to us. Our Metro Police and Law Enforcement Officers do an incredible job, but they do not yet have all the powers envisaged in the Constitution to win the war against crime. Specifically, our officers are limited to crime prevention in the main, with limited scope for criminal investigations. While we already use that existing scope to the full, and we are fully confident in our power to do so, we also want to do so much more.*

*By going beyond crime prevention, we could be doing so much more to help SAPS build prosecution-ready case dockets. Instead, our officers have to rely on an overwhelmed and under-resourced SAPS that, frankly, does not have the capacity to investigate crime properly. A recent study found that 48% of SAPS detectives in the Western Cape have a caseload of over 200 dockets per officer. This is 333% above the norm. This problem is compounded by the current shortage of more than 500 SAPS detectives in the province. Between 1 April 2022 and 30 June 2022, a period of just three months, 198 cases serving before court were withdrawn because of SAPS inefficiencies. That is 198 cases that will never be tested by the law, 198 crimes where the perpetrators will simply walk free.*

*Fortunately, there is a practical, realistic, and workable solution. I can announce today that I have sent a formal request to Minister Cele to give the City's police officers full crime-fighting powers, including the ability to*

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*investigate crime. Minister Cele has previously said that he cannot devolve power in the absence of a constitutional amendment. This is nonsense. Section 99 of the Constitution provides that "a Cabinet member may assign **any** power or function...to a Municipal Council." Accordingly, I have written to the Minister to request that he uses his constitutionally-enshrined power to give us the policing powers we need. I was pleased to see President Ramaphosa's remarks on Tuesday this week pledging to re-organise and strengthen law enforcement capacity across the board. With greater police powers granted by Minister Cele, we can help President Ramaphosa achieve his goal.*

*Speaker, let me be absolutely clear about what we want: We want our own, fully-fledged City police force with all the powers it needs to drastically reduce crime in Cape Town. And, if the Minister is not prepared to give us the powers we seek, we will fight tooth and nail to get them. We owe it to the millions of people in this City who live in fear of crime.*

*Speaker, on a final note, I am pleased to say that while we are cleaning up Cape Town of criminals, we are cleaning up in other ways too. In two weeks from now, we will welcome the arrival of Spring and the start of what will become an annual Spring Clean campaign. I will be sending out a letter to all Cape Town residents with a clear call-to-action: As Mayor, I am calling on residents to help us spring clean our beautiful Mother City together!*

*I am calling on **residents, schools, businesses, faith communities, and community groups to join the #SpringCleanCT campaign.** Let's get our city looking sparkling clean and fresh this spring, including our **parks, public spaces, beaches, rivers, and roads.** Let's take pride in our city and show what's possible when we unite as **Team Cape Town.** And change is easy: First, none of us should ever litter! Then, each one of us can tell someone to stop littering, or to pick up their litter when we see them doing it. And each of us can take a few seconds to pick up some litter ourselves. Together, we can **keep our communities clean and put a stop to illegal dumping.** Send us pictures of the clean-ups you organise, along with the hashtag #SpringCleanCT, and we will share them far and wide on social media. We can be a positive, powerful force for change when we take action together. Thank you, Speaker."*

### SECTION 3

#### C 02/08/22 APOLOGIES / LEAVE OF ABSENCE

The Chief Whip of Council, Cllr D Visagie announced the applications for leave of absence as listed below.

**RESOLVED** that the following applications for leave of absence as announced by the Chief Whip, **BE NOTED:**

Cllr R C Cameron (DA)

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Cllr B Clarke (DA)  
Cllr M Dambuza (EFF)  
Cllr A C De Beer (UIM)  
Cllr S S Duka (ANC)  
Cllr P East (DA)  
Cllr A Z M I Elyas (DA)  
Cllr K Kama (ANC)  
Cllr A E Kuhl (DA)  
Cllr U F Lasiti (DA)  
Cllr J Martlow (DA)  
Cllr I P McMahon (DA)  
Cllr T M Mjuza (ANC)  
Cllr D Ngubelanga (AIC)  
Ald M Nieuwoudt (DA)  
Cllr A Plaatjies (DA)  
Cllr E Sawant (DA)  
Cllr N P Sono (PA)  
Ald X R Sotashe (ANC)  
Ald T Thompson (DA)  
Cllr C L Visser (DA)

**ACTION: L KELLEM**

### **SECTION 4 ANNOUNCEMENTS BY THE SPEAKER**

The Speaker advised Councillors on the procedure and the use of the voting system in the Council Chamber and requested their co-operation during voting.

### **SECTION 5 OFFICIAL NOTICES / URGENT MATTERS**

There were no official notices or urgent matters raised.

#### **C 03/08/22 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING: 28 JULY 2022**

**RESOLVED** that the minutes of the ordinary Council meeting held on 28 July 2022, be confirmed, subject to the following correction:

Pg. 8 ABSENT WITHOUT AN APOLOGY

That the names of Cllrs A Gabuza (ANC), M Gadeni (ANC) and T Mpengezi (ANC) be listed under the heading "APOLOGIES"

**ACTION: N MEISSENHEIMER**

**At this stage, the Speaker, Ald F Purchase (DA) announced that the following items were agreed on by the respective political parties at the Whips' meeting:**

**Volume 2 - Items 5, 8, 10, 11, 12 and 14,  
Volume 3 - Items 18, 20, 21, 22 and 24.**

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205 Councillors participated when this announcement was made.

It also be noted that the following totals of Councillors from the respective Political Parties present at the meeting were taken into account when the decisions were taken by Council:

<b>ACDP</b>	- <b>African Christian Democratic Party</b>	<b>6</b>
<b>AIC</b>	- <b>African Independent Congress</b>	<b>0</b>
<b>AJ</b>	- <b>Al Jama-ah</b>	<b>3</b>
<b>ANC</b>	- <b>African National Congress</b>	<b>38</b>
<b>ARA</b>	- <b>Africa Restoration Alliance</b>	<b>2</b>
<b>CCC</b>	- <b>Cape Coloured Congress</b>	<b>7</b>
<b>CIP</b>	- <b>Cape Independent Party</b>	<b>1</b>
<b>CMC</b>	- <b>Cape Muslim Congress</b>	<b>1</b>
<b>DA</b>	- <b>Democratic Alliance</b>	<b>118</b>
<b>DI</b>	- <b>Democratic Independence</b>	<b>0</b>
<b>EFF</b>	- <b>Economic Freedom Fighters</b>	<b>9</b>
<b>FF Plus</b>	- <b>Freedom Front Plus</b>	<b>3</b>
<b>GOOD</b>	- <b>GOOD</b>	<b>9</b>
<b>PA</b>	- <b>Patriotic Alliance</b>	<b>3</b>
<b>PAC</b>	- <b>Pan Africanist Congress of Azania</b>	<b>1</b>
<b>UDM</b>	- <b>United Democratic Movement</b>	<b>1</b>
<b>UIM</b>	- <b>United Independent Movement</b>	<b>0</b>

### **C 04/08/22      ADJUSTMENTS BUDGET: 2022/23 FINANCIAL YEAR**

The recommendation as per the agenda was put to the vote, with results as follows:

In favour      : 135  
Against        : 59  
Abstentions : 2

The recommendation as per the agenda was carried.

**RESOLVED** that:

- (a) in terms of section 28 of the Municipal Finance Management Act (MFMA), Act 56 of 2003, Council adopts the amendments proposed for incorporation into the 2022/23 Adjustments Budget (August 2022), as contained in Annexure A to the report on the agenda;

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- (b) ongoing contractually committed projects funded from national- and provincial allocations, for which approval of unspent 2021/22 budgetary allocations is awaited, be continued via interim funding from internal resources until the outcome of such rollover application is appropriated into the 2022/23 budget via the January 2023 Adjustments Budget;
- (c) an amount of R43,8 million from accumulated surpluses be set aside to establish a 'Capital Replacement Reserve: Capital Grants and Donations: Roll-overs', which will be used to provisionally fund contractually committed, ongoing conditional grant-funded projects until the national- and provincial roll-overs are appropriated into the 2022/23 budget via the January 2023 Adjustments Budget;
- (d) in the event of specific conditional grant-funded projects' roll-overs not being approved by National- or Provincial Treasury, the City continues funding such projects, which are contractually committed, from the 'Capital Replacement Reserve: Capital Grants and Donations: Roll-overs'.

**ACTION: C STROUD, N ISHMAIL, K JACOBY**

**C 05/08/22**

**TRANSFER OF CERTAIN ROADS CLASSIFIED AS DIVISIONAL, FORMER DIVISIONAL AND MINOR ROADS FROM THE WESTERN CAPE GOVERNMENT TO THE CITY OF CAPE TOWN**

**RESOLVED** that:

- (a) consent to the finalisation of the process to de-proclaim and/or declassify certain roads in a phased approach and approve the transfer of roads contained in Annexures A1, A2, B and C to the report on the agenda, following such process
- (b) the Executive Director: Urban Mobility be authorised to sign the MOA in accordance with Part 28 clause 1(2) of the Council System of Delegations and approve that the City assume all the roles, responsibilities and functions of a road authority as it relates to the roads contained in Annexures A1, A2, B and C to the report on the agenda.
- (c) it be noted that upon conclusion of the de-proclamation and/or declassification process the roads contained in the Annexures to the report on the agenda, shall become a public place (public street) and such roads shall be transferred to the City's asset register in line with Section 3(1) of the Immoveable Property By-law, 2015 and shall be vested in the City.

**ACTION: J OLIVER, H SCHOLTZ, D CAMPBELL**

**C 06/08/22**

**AWARDING OF CONTRACT WHICH WILL INCUR FINANCIAL OBLIGATIONS BEYOND THE BUDGET CYCLE: TENDER NO. 109C/2020/21: PROVISION OF PROFESSIONAL SERVICES IN SUPPORT OF THE UNDERTAKING OF VARIOUS PROJECTS BY THE DEPARTMENT OF PUBLIC HOUSING, AS GUIDED BY ITS ASSET MANAGEMENT PLAN**

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**RESOLVED** that:

- (a) Council determined that the City of Cape Town will derive a significant financial economic benefit from the contract, enabling efficient service delivery;
- (b) the entire contract exactly as it is to be executed incurring a financial obligation not exceeding five (5) financial years and in the estimated amount of R138 000 000.00 (Incl VAT) be approved; and
- (c) the City Manager, or his nominee, be authorised to sign the above contract(s).

**[The EFF and GOOD recorded their votes against the above decision.]**

**ACTION: S VERHOOG, S SEPTEMBER, N GQIBA, S ABEL**

**C 07/08/22**

**AWARDING OF CONTRACT WHICH WILL INCUR FINANCIAL OBLIGATIONS BEYOND THE BUDGET CYCLE: (FROM 2022/2023 - 2027/2028) TENDER NO. 370C/2020/21: PROVISION OF PROFESSIONAL SERVICES IN THE APPOINTMENT OF A LEGAL PANEL FOR THE PROVISION OF LEGAL SERVICES FOR THE COLLECTION OF DEBTS OWED TO THE CITY OF CAPE TOWN**

**RESOLVED** that:

- (a) Council determined that the City of Cape Town will secure a significant financial benefit from the contract.
- (b) the entire contract exactly as it is to be executed incurring a financial obligation from date of commencement of contract to 30 June 2028 for the financial years 2022/2023, 2023/2024, 2024/2025, 2025/2026, 2026/2027 and 2027/2028 in the estimated amount of R111 499 726.00 (OPEX) (excl. VAT) be approved; and
- (c) the City Manager, or his nominee, be authorised to sign the above contract(s).

**[The ANC, AJ, CCC and GOOD recorded their votes against the above decision.]**

**ACTION: T BLAKE, K JACOBY, S ABEL**

**C 08/08/22**

**AWARDING OF CONTRACT WHICH WILL INCUR FINANCIAL OBLIGATIONS BEYOND THE BUDGET CYCLE: TENDER NO. DP6916Q/2021/22 THE REPAIRS AND MAINTENANCE OF THE LIFTS AT CAPE TOWN CIVIC CENTRE**

**RESOLVED** that:

## **COUNCIL MINUTES: 18 AUGUST 2022**

- (a) Council determined that the City of Cape Town will secure a significant financial economic benefit from the contract through proactive maintenance, reducing breakdowns, down-time and repair costs;
- (b) the entire contract exactly as it is to be executed incurring a financial obligation for a period not exceeding ten (10) financial years (2022/23 – 2031/32) and in the estimated amount of R40 346 800 including VAT apportionment and Contract Price Adjustment (CPA) as confirmed in financial footnote attached to the report on the agenda, be approved;
- (c) the City Manager, or his nominee, be authorised to sign the above contract.

**ACTION: K SMITH, M ISMAIL, W TALIEP, E SASS, S ABEL**

**C 09/08/22      PROPOSED CLOSURE OF PUBLIC PLACE, ERF 55677, A PORTION OF  
REMAINDER ERF 54376-RE, SITUATED AT NTLOLOKSHANE STREET,  
KHAYELITSHA**

The ANC and EFF stated that the land should be given for free to the Old Apostolic Church for a place of worship.

**RESOLVED** that, in terms of Section 4(2)(f) of the City of Cape Town Immovable Property By-law 2015, approval be granted for the closure of registered Erf 55677, a portion of Remainder Erf 54376, situated in Ntlolokoshane Street, Khayelitsha, being a Public Place.

**[The CCC, EFF and PAC recorded their votes against the above decision.]**

**ACTION: H DAVIDS, S MUKORI, M SIMS, R GELDERBLOEM**

**C 10/08/22      CONSENT OF COUNCIL TO ENABLE A FULL-TIME COUNCILLOR TO  
UNDERTAKE OTHER PAID WORK – ALD G TWIGG**

**RESOLVED** that the request received from Alderman Grant Twigg, to undertake other paid work, be approved.

**[The EFF recorded their vote against the above decision.]**

**ACTION: J VAN AS, R RAZACK, E SASS**

**C 11/08/22      CONSENT OF COUNCIL TO ENABLE A FULL-TIME COUNCILLOR TO  
UNDERTAKE OTHER PAID WORK – CLLR E ANSTEY**

**RESOLVED** that the request received from Councillor Errol Anstey, to undertake other paid work, be approved.

**[The EFF recorded their vote against the above decision.]**

**ACTION: J VAN AS, R RAZACK, E SASS**

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### **C 12/08/22 CONSENT OF COUNCIL TO ENABLE A FULL-TIME COUNCILLOR TO UNDERTAKE OTHER PAID WORK – CLLR M BOOI**

**RESOLVED** that the request received from Councillor Malusi Booi, to undertake other paid work, be approved.

**[The EFF recorded their vote against the above decision.]**

**ACTION: J VAN AS, R RAZACK, E SASS**

### **C 13/08/22 MYCITY BUSINESS PLAN UPDATE 2022 – 2036 WITH A FOCUS ON PHASE 1, IN THE CONTEXT OF PHASE 2A AND N2 EXPRESS SERVICES**

**RESOLVED** that:

- (a) the MyCiTi Business Plan Update 2022 – 2036, attached as Annexure A to the report on the agenda, be approved;
- (b) Scenario 2 as described in the MyCiTi Business Plan Update 2022 – 2036 document be adopted as the basis for implementing the IPTN going forward, thereby superseding scenario 1 approved as part of MYFIN 2022;
- (c) in this context, the detailed conclusions and recommendations contained in Chapter 18 of the MyCiTi Business Plan Update 2022 – 2036 document, be noted specifically.

**ACTION: V KRABA, P PILLAY, H SCHOLTZ, D CAMPBELL**

### **C 14/08/22 MYCITI PHASE 1 SYSTEM PLAN UPDATE 2021 - 2035**

**RESOLVED** that:

- (a) the MyCiTi Phase 1 System Plan Update be approved as the basis for the optimisation and expansion of the existing Phase 1 network;
- (b) the MyCiTi Phase 1 System Plan Update form the basis of the Phase 1 Business Plan.

**ACTION: K SINGH, N SLINGERS, D CAMPBELL**

### **C 15/08/22 PROPOSED APPROVAL FOR THE GRANTING OF RIGHTS TO USE, CONTROL AND / OR MANAGE FOR BUSINESS PURPOSES, A VACANT CITY-OWNED ERF 2189 SITUATED AT GRANGER BAY BOULEVARD, GREEN POINT FOR A PERIOD OF UP TO 99 YEARS, ZONED GENERAL BUSINESS 5**

**RESOLVED** that:

- (a) in terms of Chapters 2 and 4, of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008:



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- (i) It be resolved and reaffirmed that Erf 2189 situated at Granger Bay Boulevard, Green Point measuring approximately 7 175 m<sup>2</sup>, shown lettered ABCDEFGH on Plan LIS 2021 attached as Annexure A to the report on the agenda, is not required for the provision of the minimum level of basic municipal services;
  - (ii) It be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- (b) in terms of the MATR, approval be granted for the rights to use, manage and/or control Erf 2189 situated at Granger Bay Boulevard, Green Point as described in (a)(i) to Devmark Commercial (Pty) Ltd in the amount of One Million Three Hundred Thousand Rand (R1 300 000.00) (excluding VAT) per month, for the initial period of 40 (forty) years with the first option to renew for thirty (30) years and further second option to renew for twenty-nine (29) years.
  - (c) the rental shall be subject to five (5%) percent per annum escalation of the then current rental during the first ten (10) years of the lease initial period, on each anniversary of the commencement date.
  - (d) for the remainder of the initial period, at each review date being 10<sup>th</sup>, 20<sup>th</sup> and 30<sup>th</sup> anniversaries of the commencement date, the rental shall escalate annually at the market escalation rate every year for the 10 (ten) years following such review date.
  - (e) the rental shall exclude property rates, consumption charges (such as electricity and water), taxes and other fees and charges to be levied on the Lessee.
  - (f) in terms of Regulation 45 of the MATR, the Director: Property Management in the exercise of the delegated authority finalise the terms and conditions, as set out in the lease agreement and to effect the lease.
  - (g) the comments and recommendations provided by Western Cape Provincial Treasury, be noted.

**[The CCC, EFF, GOOD and PAC recorded their votes against the above decision.]**

**ACTION: S HLENGWA, T LEWIS, M SIMS, R GELDERBLOEM**

**C 16/08/22 TO REVIEW AND RESCIND PREVIOUS COUNCIL RESOLUTION C19/08/19 AND PROPOSED APPROVAL FOR THE TRANSFER OF ERF 179717 (PORTION OF REGISTERED REMAINDER OF ERF 48536) CAPE TOWN, SITUATED AT 57 PALMBOOM ROAD, NEULANDS, ZONED SINGLE RESIDENTIAL 1 (SRI) TO THE JACQUAR TRUST**

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### **RESOLVED** that:

- (a) Council review and rescind its previous resolution C19/08/19 in terms the transfer of Erf 179717 (Portion of registered remainder of Erf 48536) Cape Town, in extent approximately 1 690 m<sup>2</sup>, zoned Single Residential 1 (SR1), to Mr & Mrs Heath, in the amount of Nine Million Eight Hundred Thousand Rand (R9 800 000.00), excluding VAT.
- (b) in terms of section 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - (i) It be resolved and reaffirmed that Erf 179717 (Portion of registered remainder of Erf 48536) Cape Town, situated at 57 Palmboom Road, Newlands, in extent approximately 1 690 m<sup>2</sup>, shown lettered ABCDEFGH on Plan LIS 1287 attached as Annexure A to the report on the agenda, zoned Single Residential 1 (SR1), is not required for the provision of the minimum level of basic municipal services;
  - (ii) It be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset have been considered.
- (c) in terms of Regulation 5(1) of the Municipal Assets Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, approval be granted for the transfer of Erf 179717 (Portion of registered remainder of Erf 48536) Cape Town, in extent approximately 1 690 m<sup>2</sup>, zoned Single Residential 1 (SR1), to The Jaquar Trust, IT 182/2008, in the amount of Ten Million Rand (R10 000 000.00), excluding VAT.
- (d) the purchase price shall escalate at 5% per annum compounded annually on a pro-rata basis commencing 6 months after date of auction (i.e. from 2022-08-11) until date of registration.
- (e) the purchase price shall be subject to review in the event that the property has not been transferred within 36 months from the date of Valuation (i.e. from 2024-10-01).
- (f) in terms of Regulation 17 of the MATR, the Director: Property Management in the exercise of her delegated authority finalise the terms and conditions, as set out in the sale agreement and to effect the transfer.

**[The CCC, EFF, GOOD and PAC recorded their votes against the above decision.]**

**ACTION: M VISAGIE, T LEWIS, M SIMS, R GELDERBLOEM**

**C 17/08/22**

**REQUEST FOR AN EXEMPTION TO THE SEWER PORTION OF THE DEVELOPMENT CHARGE (DC) IN LINE WITH THE CITY'S DEVELOPMENT CONTRIBUTION POLICY, IN APPROVED APPLICATIONS FOR TEMPORARY PACKAGE PLANTS AS A CONDITION**

**OF DEVELOPMENT IN THE CATCHMENTS OF WASTEWATER TREATMENT WORKS CURRENTLY AT CAPACITY**

Ald I Neilson proposed that the subject report be referred to the Water and Sanitation Portfolio Committee for consideration.

The proposal was duly supported.

**RESOLVED** that the report on the request for an exemption to the sewer portion of the development charge (dc) in line with the City's Development Contribution Policy, be referred to the Water and Sanitation Portfolio Committee for consideration.

**ACTION: N MEISSENHEIMER, J DE BRUYN, Z BASHOLO, S BASHE, M WEBSTER**

**C 18/08/22      PROPOSED TRANSFER OF A PORTION OF ERF 56833 CAPE TOWN: DR RM ADAM**  
**PROPOSED CLOSURE OF A PORTION PUBLIC STREET, A PORTION OF ERF 56833 CAPE TOWN**

**RESOLVED** that:

- (a) in terms of section 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - (i) It be resolved that the subject property, being a portion of Erf 56833 Cape Town, situated off Edinburgh Drive, Claremont, in extent approximately 77 m<sup>2</sup> as shown cross-hatched and lettered ABCD on Plan STC 3136 attached as Annexure A to the report on the agenda, is not required for the provision of the minimum level of basic municipal services;
  - (ii) It be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- (b) in terms of Regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, in-principle approval be granted for the transfer of a portion of Erf 56833 Cape Town, situated off Edinburgh Drive, Claremont, in extent approximately 77 m<sup>2</sup> as shown cross-hatched and lettered ABCD on Plan STC 3136 attached as Annexure A to the report on the agenda.
- (c) in terms of Section 4 of the City of Cape Town Immovable Property By-law, 2015, approval be granted for the closure of the subject property being, a Portion of Erf 56833 Cape Town, in extent approximately 77 m<sup>2</sup> as shown cross-hatched and lettered ABCD on Plan STC 3136 attached as Annexure A to the report on the agenda.

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- (d) the transfer of a portion of Erf 56833 Cape Town, in extent approximately 77 m<sup>2</sup> as shown cross-hatched and lettered ABCD on Plan STC 3136 attached as Annexure A to the report on the agenda, to Dr Robert Martin Adam, or his successor(s) in title, be approved, subject to the following conditions, that:
- (i) A purchase price of R150 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 from 1 December 2018 until 31 March 2020, thereafter it will further escalate at 5% per annum until date of registration;
  - (iii) An occupational rental of R750 per month excluding VAT, is payable as from 1 December 2018 escalating at 8% until 31 March 2020. Thereafter the escalated occupational rental will furthermore escalate at 6% until date of registration;
  - (iv) The valuation is to be reviewed if not implemented within 24 months from date of current valuation, i.e. by 30 November 2022;
  - (v) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including inter alia the following:
    - (aa) that all further statutory and land use requirements be complied with;
    - (bb) that the subject portion of Erf 56833 Cape Town be consolidated with the purchaser's Erf 56834 Cape Town;
    - (cc) the use of the subject property to be limited to gardening and parking purposes only and such limitations should be reflected as a title deed condition;
    - (dd) the current lease agreement be terminated on date of registration;
    - (ee) that all costs related and incidental to the transaction be borne by the purchaser.

**[The EFF recorded their vote against the above decision.]**

**ACTION: M CARELSE, C DAVIS, R SCHNACKENBERG, M SIMS, F SHARIFF, R GELDERBLOEM**

**C 19/08/22 PROPOSED LEASE OF PORTION OF PUBLIC STREET, PORTION OF REMAINDER OF ERF 87 GREEN POINT, BETWEEN HIGH LEVEL ROAD AND JOUBERT STREET (JOUBERT STEPS), GREEN POINT FOR**

**PARKING AND GARDENING PURPOSES: MAZOLI COURT BODY CORPORATE**

**RESOLVED** that the lease of portion of Public Street, being a portion of Remainder Erf 87, Green Point situated between High Level Road and Joubert Street (Joubert Steps), Green Point shown hatched and lettered ABCDEFG on Plan STC 1925v1 attached as Annexure A to the report on the agenda, in extent approximately 156 m<sup>2</sup>, be leased to Mazoli Court Body Corporate, owner of Remainder Erf 85 Green Point, or it's successors-in-title, be approved subject to *inter alia* the following conditions:

- (a) A market rental of R1 700.00 per month inclusive of rates and excluding VAT calculated at the rate applicable at the time of transaction be payable. The rental is effective and payable as from 1 January 2019;
- (b) The monthly rental to be adjusted on the basis of 8% per annum compounded annually on a pro-rata basis commencing from 1 January 2019 until 31 March 2020. Thereafter the escalated rental amount will escalate at 6% per annum;
- (c) The lease will endure for a period of ten (10) years, subject to a rental review after 5 years;
- (d) The property be used for gardening and parking purposes only;
- (e) Subject to such further conditions to be imposed by the Director: Property Management in terms of his/her delegated authority;
- (f) Subject to compliance with any other statutory requirements;
- (g) The objection not be upheld.

**ACTION: D FRANKEN, C DAVIS, R SCHNACKENBERG, M SIMS, R GELDERBLOEM**

**C 20/08/22**

**PROPOSED LEASE OF PUBLIC STREET, A PORTION OF PUBLIC STREET, ERF 97 TAMBOERSKLOOF, DEVONPORT ROAD, TAMBOERSKLOOF FOR ACCESS/DRIVEWAY, SECURITY AND GARDENING PURPOSES: CECILE BALKEMA AND MARK MARSHALL**

**RESOLVED** that the lease of a portion of Public Street, being Erf 97 Tamboerskloof, situated at Devonport Road, Tamboerskloof, shown hatched and lettered ABCD on Plan 130002635 attached as Annexure A to the report on the agenda, in extent approximately 71 m<sup>2</sup>, to Cecile Balkema and Mark Marshall, or their successors-in-title, be approved, subject to *inter alia* the following conditions:

- (a) A market rental of R2 100.00 per month inclusive of rates and excluding VAT calculated at the rate applicable at the time of transaction be payable.

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- (b) The monthly rental to be adjusted on the basis of 6% per annum compounded annually commencing 2 months from date of valuation, i.e. as from 2022-02-01. Accordingly, the above recommended rental is effective and payable as from the date of lease agreement signature.
- (c) The lease will endure for a period of ten (10) years. The rental to be reviewed after a period of five (5) years.
- (d) The property to be used for access/driveway, security and gardening purposes.
- (e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her/his delegated authority.
- (f) Subject to compliance with any other statutory requirements.
- (g) No compensation will be payable for any improvement made to the property.

**ACTION: M TAYLOR, C DAVIS, R SCHNACKENBERG, M SIMS, F SHARIFF, R GELDERBLOEM**

**C 21/08/22**

**PROPOSED LEASE OF CITY LAND, BEING A PORTION OF REMAINDER ERF 32588 CAPE TOWN, SITUATED AT PACKER AVENUE, CAPE TOWN, EPPING INDUSTRIA: DHVDM INVESTMENTS (PTY) LTD**

**RESOLVED** that the lease of a portion of City land, being a portion of Remainder Erf 32588 Cape Town situated at Packer Avenue, Epping Industria, shown hatched and lettered ABCDEFG on Plan 130006089 attached as Annexure A to the report on the agenda, in extent approximately 870 m<sup>2</sup>, to DHVDM Investments (Pty) Ltd, owner of Erf 104757 Cape Town, or its successor in title, be approved subject, to inter alia the following conditions, that:

- (a) A market rental of R11 800 per month inclusive of rates and excluding VAT calculated at the rate applicable at the time of transaction be payable.
- (b) The monthly rental is to escalate at 6% per annum compounded annually commencing 2 months from date of valuation. Accordingly, the above rental is to be effective and payable as from 2022-01-01 (notwithstanding that the lease agreement might not be in place).
- (c) The lease will endure for a period of 10 years, subject to a review after 5 years.
- (d) The property be used for excess parking and/or storage purposes only.
- (e) Subject to such further conditions imposed by the Director: Property Management in terms of her delegated authority.

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- (f) Subject to compliance with any other statutory requirements.
- (g) No compensation will be payable for any improvement made to the property.

**ACTION: P VAN SITBERT, R SCHNACKENBERG, M SIMS, L GREYLING, R GELDERBLOEM**

**C 22/08/22**

**GRANTING OF IN-PRINCIPLE APPROVAL: PROPOSED GRANTING OF RIGHT TO USE, CONTROL OR MANAGE MUNICIPAL CAPITAL ASSETS: GRANTING OF A BUILDING RIGHTS SERVITUDE (UNDERGROUND PARKING) OVER A PORTION OF ERF 55128 CAPE TOWN (OSBORNE ROAD, CLAREMONT), IN FAVOUR OF ERF 55125 CAPE TOWN**

**PROPOSED GRANTING OF RIGHT TO USE, CONTROL OR MANAGE MUNICIPAL CAPITAL ASSETS: GRANTING OF A BUILDING RIGHTS SERVITUDE (UNDERGROUND PARKING) OVER A PORTION OF ERF 55128 CAPE TOWN (OSBORNE ROAD, CLAREMONT), IN FAVOUR OF ERF 55125 CAPE TOWN: PORT WILD PROPS 33 (PTY) LTD**

**RESOLVED** that:

- (a) in terms of section 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - (i) It be resolved that the subject property being a portion of Erf 55128 Cape Town (Public Street), situated at Osborne Road, Claremont, in extent approximately 97 m<sup>2</sup> (a total of 485 m<sup>2</sup> over 5 levels) and shown by the hatched figure lettered ABCD on Plan 130008295 attached as Annexure A to the report on the agenda, is not required for the provision of the minimum level of basic municipal services;
  - (ii) It be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- (b) in terms of Regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, in-principle approval be granted for the rights to use, control and manage a municipal capital asset by way of granting a building rights servitude over a portion of Erf 55128 Cape Town (Public Street), situated at Osborne Road, Claremont, in extent approximately 97 m<sup>2</sup> (a total of 485 m<sup>2</sup> over 5 levels) and shown by the hatched figure lettered ABCD on Plan 130008295 attached as Annexure A to the report on the agenda, which represents 5 levels of underground parking.
- (c) the granting of rights to use and control or manage municipal capital assets by way of granting a building rights servitude over a portion of Erf 55128 Cape Town (Public Street), situated at Osborne Road, Claremont, in extent approximately 97 m<sup>2</sup> (a total of 485 m<sup>2</sup> over 5 levels) and shown by the hatched figure lettered ABCD on Plan 130008295 attached as

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Annexure A to the report on the agenda, in favour of Erf 55125 Cape Town, currently owned by Port Wild Props 33 (Pty) Ltd, or the successors-in-title, be approved, subject to the following conditions, that:

- (i) A compensation amount of R1 300 000, excluding VAT be payable;
- (ii) The compensation amount shall escalate at 5% per annum compounded annually on a pro-rata basis, and commencing 6 months from date of valuation, i.e. from 1 December 2021 until date of servitude registration;
- (iii) No development is to be allowed above ground and the footprint of each of the 5 levels of underground parking is to be limited to 97 m<sup>2</sup> per floor (development envelope of 485 m<sup>2</sup>);
- (iv) Occupational rental of R9 750 (excluding VAT) per month, escalating at 6% per annum, shall be payable by the applicant from date of occupation, being 3 September 2021 until date of registration;
- (v) In addition, a rental of R3 200 per month (excluding VAT), and escalating at 6% per annum, shall be payable by the applicant as from 1 June 2021 in respect of the area to be used for site office and hoarding purposes only. Should the applicant be in possession of a valid hoarding permit for the additional portion of land no rental will be applicable for this component;
- (vi) That the market value be reassessed if the transaction is not approved within 36 months from date of valuation, i.e. 31 May 2024;
- (vii) Rates and municipal charges, if applicable, be levied;
- (viii) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including inter alia the following:
  - (aa) that all further statutory and land use requirements be complied with;
  - (bb) that all costs related and incidental to the transaction be borne by the grantee.

**[The EFF and PAC recorded their votes against the above decision.]**

**ACTION: M CARELSE, C DAVIS, R SCHNACKENBERG, M SIMS, L GREYLING, R GELDERBLOEM**

**C 23/08/22**

**GRANTING OF IN-PRINCIPLE APPROVAL: PROPOSED TRANSFER OF PORTIONS OF ERVEN 9558 AND 9557 MILNERTON TO OWNER OF ADJACENT ERF 9559 MILNERTON**



**PROPOSED CLOSURE OF A PORTION OF PUBLIC PLACE, BEING A PORTION OF ERF 9558 MILNERTON**

**PROPOSED TRANSFER OF PORTIONS OF ERVEN 9558 AND 9557 MILNERTON TO OWNER OF ADJACENT ERF 9559 MILNERTON: SHARP MOVE TRADING 70 (PTY) LTD**

**RESOLVED** that:

- (a) in terms of section 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - (i) It be resolved that the subject property, being portions of Erven 9557 and 9558 Milnerton, situated at Circle Road, in extent 1 320 m<sup>2</sup> and as shown hatched and lettered ABCDEFG on Plan TA 896v1 attached as Annexure A to the report on the agenda, is not required for the provision of the minimum level of basic municipal services;
  - (ii) It be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- (b) in terms of Regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, in-principle approval be granted for the transfer of portions of Erven 9557 and 9558 Milnerton, situated at Circle Road, in extent 1 320 m<sup>2</sup> and as shown hatched and lettered ABCDEFG on Plan TA 896v1 attached as Annexure A to the report on the agenda.
- (c) in terms of Section 4 of the City of Cape Town Immovable Property By-law, 2015, approval be granted for the closure of a Public Place, being a portion of Erf 9558 Milnerton, as shown hatched and lettered ACDEFG on Plan TA 12116v1 attached as Annexure A to the report on the agenda.
- (d) the transfer of portions of Erven 9557 and 9558 Milnerton, in extent 1 320 m<sup>2</sup> and as shown hatched and lettered ABCDEFG on Plan TA 896v1 attached as Annexure A to the report on the agenda, to Sharp Move Trading 70 (Pty) Ltd, or their successor(s) in title, be approved subject to the following conditions:
  - (i) A purchase price of R2 380 000, excluding VAT, will be payable;
  - (ii) The purchase price is to be escalated by 5% per annum compounded annually on a pro-rata basis, commencing from 1 March 2022 until date of registration;
  - (iii) Occupational rental in the amount of R6 800 per month (excluding VAT) shall be payable for the period 2019-06-01 until 2020-03-31. Thereafter, a rental of R3 400 per month (excluding VAT) shall be payable from 2020-04-01 until 2022-02-28. As from 2022-03-01, a

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rental of R7 600 per month (excluding VAT) will be applicable, escalating at 6% per annum until date of registration.

- (iv) Rates and municipal charges, if applicable, be levied; and
- (v) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including inter alia the following:
  - (aa) That all further statutory and land use requirements be complied with, including the consolidation of the subject properties with the applicant's Erf 9559 Milnerton;
  - (bb) The existing ficus tree, affected by the proposed disposal, shall be protected and may not be removed;
  - (cc) That all costs related and incidental to the transaction be borne by the purchaser; and
  - (dd) The applicant will contribute towards the upgrade of the community park on remainder of Erf 9558 and a portion of Erf 9557 Milnerton, in accordance with the approved landscape plan attached as Annexure B to the report on the agenda, and to the satisfaction of the Director: Recreation and Parks.

**[The EFFand PAC recorded their votes against the above decision.]**

**ACTION: P STRUMPHER, R SCHNACKENBERG, M SIMS, L GREYLING, R GELDERBLOEM**

**C 24/08/22**

**GRANTING OF IN-PRINCIPLE APPROVAL FOR THE PROPOSED LEASE OF CITY LAND BEING PORTIONS OF REMAINDER ERF 38295 AND ERF 38296 MILNERTON, SITUATED AT POTSDAM ROAD, KILLARNEY GARDENS, MILNERTON: WESTERN PROVINCE MOTOR CLUB (T/A KILLARNEY INTERNATIONAL RACEWAY)**

**PROPOSED LEASE OF CITY LAND BEING PORTIONS OF REMAINDER ERF 38295 AND ERF 38296 MILNERTON, SITUATED AT POTSDAM ROAD, KILLARNEY GARDENS, MILNERTON: WESTERN PROVINCE MOTOR CLUB (T/A KILLARNEY INTERNATIONAL RACEWAY)**

**RESOLVED** that:

- (a) in terms of Regulation 34(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, in-principle approval be granted for the lease of portions of Remainder Erf 38295 and Erf 38296 Milnerton, situated at Potsdam Road, Killarney Gardens, Milnerton, in total extent approximately 513 130 m<sup>2</sup> as shown lettered ABCDEFGHJKL on the sketch plan attached as Annexure A to the report

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on the agenda, to Western Province Motor Club (t/a Killarney International Raceway) or its successors in title.

- (b) Council approval be granted for the lease of portions of Remainder Erf 38295 and Erf 38296 Milnerton, situated at Potsdam Road, Killarney Gardens, Milnerton, in total extent approximately 513 130 m<sup>2</sup> as shown lettered ABCDEFGHJKL on the sketch plan attached as Annexure A to the report on the agenda, to Western Province Motor Club (t/a Killarney International Raceway) or its successors in title, subject to inter alia the following conditions, that:
- (i) A below market related rental of R68 600 per month exclusive of rates and VAT calculated at the rate applicable at the time of transaction be payable;
  - (ii) The monthly rental shall escalate at 8% per annum commencing from date of expiry of the existing lease agreement, i.e. as from 2023-01-01;
  - (iii) The lease will endure for a period of 15 years, subject to a rental review after 5 years, **with the option to renew for 15 years;**
  - (iv) The property be used for a motor vehicle race track, sport and recreational purposes **and ancillary purposes;**
  - (v) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
  - (vi) Subject to compliance with any other statutory requirements;
  - (vii) No compensation will be payable for any improvements made to the property;
  - (viii) The objections submitted by the Environmental and Heritage Management Branch and the Water & Sanitation Department not be upheld.

**ACTION: P VAN SITPERT, R SCHNACKENBERG, M SIMS, R GELDERBLOEM**

### **C 25/08/22 PROPOSED TRANSFER OF CITY-OWNED LAND BEING ERF 41136 MHLOPHE CRESCENT, UMRHABULO TRIANGLE, KHAYELITSHA, FOR COMMUNITY PURPOSES**

The ANC stated that the land should be given for free of charge to the Redemption Fire Ministry or their successor(s).

**RESOLVED** that the transfer Erf 41136 Mhlophe Crescent, Umrhabulo Triangle, Khayelitsha, zoned Community zoning one (CO1) with extent approximately 1000 m<sup>2</sup>, as shown on Plan LIS2006 attached as Annexure A

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to the report on the agenda, to The Redemption Fire Ministry or their successor(s) in title, be approved, subject to the following conditions, that:

- (a) A discounted purchase price of R57 500 excluding VAT be payable;
- (b) The purchase price is to be escalated by 5% per annum compounded annually on a pro-rata basis, commencing 6 months from date of valuation, i.e. from 2020-11-01 until date of registration;
- (c) The valuation is to be reviewed if not implemented within 24 months from date of valuation, i.e. by 2022-04-30;
- (d) Rates and municipal charges be levied;
- (e) Subject to such further conditions imposed by the Director: Property Management in terms of her delegated authority, including inter alia the following:
  - (i) that all further statutory and land use requirements be complied with;
  - (ii) that a reversionary clause in favour of the City of Cape Town be registered against the title of the property limiting the use of the subject property to Community use;
  - (iii) that all costs related and incidental to the transaction be borne by the purchaser.

**[The EFF and PAC recorded their votes against the above decision.]**

**ACTION: A MADDY, C EASTLAND, C DAVIS, R SCHNACKENBERG, M SIMS, D BORAIN, R GELDERBLOEM**

**C 26/08/22 PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE OF ERF 61061, MITCHELLS PLAIN SITUATED AT 12 LONGWOOD ROAD, HARMONY VILLAGE, MITCHELLS PLAIN VIA A COMPETITIVE PROCESS**

**RESOLVED** that:

- (a) in terms of section 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - (i) It be resolved that Erf 61061, situated at 12 Longwood Road, Harmony Village in Mitchells Plain, approximately 1 647 m<sup>2</sup> in extent and zoned Community 1, shown lettered ABCDEFGHJ on Plan LIS 2470 attached as Annexure A to the report on the agenda, is not required for the provision of the minimum level of basic municipal services;

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- (ii) It be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- (b) it be confirmed that in terms of Sections 15.1, 15.2 and 15.3 of Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (2010), read in conjunction with Regulation 13(2) of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, the proposed sale and transfer of Erf 61061, as described in (a)(i) above, at less than fair market value and thus for R250 000.00 (Two Hundred and Fifty Thousand Rand) exclusive of VAT, has been considered.
- (c) in terms of Regulation 5(1)(b) of the MATR, in-principle approval be granted for the disposal of Erf 61061, Mitchells Plain as described in (a)(i) above; and
- (d) notwithstanding the fact that a desktop valuation was undertaken for indicative purposes, the market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 24 months from date of valuation (i.e. by 2023-03-31).

**[The ANC, CCC, EFF and PAC recorded their votes against the above decision.]**

**ACTION: T MADIKANE, T LEWIS, M SIMS, R GELDERBLOEM**

**C 27/08/22**

**GRANTING OF IN-PRINCIPLE APPROVAL FOR THE PROPOSED LEASE OF CITY LAND BEING REMAINDER PORTION 4 AND PORTION 5 OF THE FARM NO. 32 CAPE, SITUATED OFF NEIL HARE ROAD, ATLANTIS INDUSTRIAL, CAPE FARMS, ATLANTIS: ATLANTIS FOUNDRIES (PTY) LTD**

**PROPOSED LEASE OF CITY LAND BEING REMAINDER PORTION 4 AND PORTION 5 OF THE FARM NO. 32 CAPE, SITUATED OFF NEIL HARE ROAD, ATLANTIS INDUSTRIAL, CAPE FARMS, ATLANTIS: ATLANTIS FOUNDRIES (PTY) LTD**

**RESOLVED** that:

- (a) in terms of Regulation 34(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878, promulgated on 22 August 2008, in-principle approval be granted for the lease of Remainder Portion 4 and Portion 5 of the Farm No. 32 Cape, situated off Neil Hare Road, Atlantis Industrial, Cape Farms, in total extent approximately 291.2223 ha as shown lettered ABCDEF on Plan 130008078v1 attached as Annexure A to the report on the agenda, to Atlantis Foundries (Pty) Ltd, or its successors-in-title.
- (b) Council approval be granted for the lease of Remainder Portion 4 and Portion 5 of the Farm No. 32 Cape, situated off Neil Hare Road, Atlantis

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Industrial, Cape Farms, in total extent approximately 291.2223 ha as shown lettered ABCDEF on Plan 130008078v1 attached as Annexure A to the report on the agenda, to Atlantis Foundries (Pty) Ltd, or its successors-in-title, subject to inter alia the following conditions, that:

- (i) A market rental of R68 450 per month exclusive of rates and VAT calculated at the rate applicable at the time of transaction be payable;
- (ii) The monthly rental shall escalate at 6% per annum compounded annually commencing 6 months from date of valuation, i.e. as from 2021-11-01;
- (iii) The lease will endure for a period of 30 years, subject to a rental review every 10 years;
- (iv) The property be used for sand mining purposes only;
- (v) No sub-leases will be permitted without the City's consent;
- (vi) The above rental excludes all municipal costs;
- (vii) The land to be rehabilitated at the Lessee's costs;
- (viii) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- (ix) Subject to compliance with any other statutory requirements;
- (x) No compensation will be payable for any improvements made to the property.

**[The CCC, GOOD and PAC recorded their votes against the above decision.]**

**ACTION: P VAN SITTERT, B MALI-SWELINDAWO, R SCHNACKENBERG, M SIMS, R GELDERBLOEM**

### **C 28/08/22 REPORT IN TERMS OF SUPPLY CHAIN MANAGEMENT REGULATIONS, REGULATION 36, AND THE SUPPLY CHAIN MANAGEMENT POLICY, CLAUSE 330, FOR THE PERIOD 14 JULY 2022 TO 3 AUGUST 2022: FOR INFORMATION PURPOSES**

**RESOLVED** that the Supply Chain Management deviations as authorised by the City Manager in terms of the Supply Chain Management Regulations, regulation 36, and the Supply Chain Management Policy, clause 330, for the period 14 July 2022 to 3 August 2022, attached as annexure A, be noted and be disclosed as a note to the Council's annual financial statements.

**ACTION: G POSTINGS, L MBANDAZAYO**

**C 29/08/22 RESOLUTIONS TAKEN BY THE EXECUTIVE MAYOR IN TERMS OF DELEGATED POWERS AND DECISIONS TAKEN TOGETHER WITH THE MEMBERS OF THE MAYORAL COMMITTEE: FROM MAY TO AUGUST 2022**

**RESOLVED** that the resolutions taken by the Executive Mayor in terms of delegated powers and decisions taken together with the members of the Mayoral Committee for the period May to August 2022, be noted.

**ACTION: C KNOTT, OFFICE OF THE EXECUTIVE MAYOR**

**ADDITIONAL ITEMS:**

The following resolutions of items **CIC 06/08/22 to CIC 28/08/22** related to the **Municipal Public Accounts Committee** matters were moved to the open agenda, at conclusion of the discussion of these items in the confidential meeting.

The resolutions are however recorded as Items **C 30/08/22 to C 52/08/22**.

**C 30/08/22 2019/20: COMAF 23: QUOTATION NOT APPROVED BY DELEGATED AUTHORITY (IRREGULAR EXPENDITURE: R13 031 207)**

**RESOLVED** that:

- (a) the irregular expenditure of R13 031 206,85 (thirteen million and thirty one thousand two hundred and six rand and eighty-five cents) (excluding VAT), related to a failure to adhere to the SCM delegations where the approval of purchase orders by the SCM Buyer exceeded the authority threshold of R1 to R100 000 (including VAT), be certified as irrecoverable and the claim be written off as the City was enriched by the goods and services.

**NO ACTION OWNER**

- (b) it be **NOTED** that the following corrective and improvement actions have been implemented by the Supply Chain Management (SCM) department:
  - (i) The release authority in the SAP system was corrected on 13 December 2020, i.e. system enhancements, and subsequently amended in February 2021 to amend the SCM Buyers' delegation from R100 000 to R10 000.
  - (ii) The SAP system was enhanced by the automated controls and the manual records were amended to include VAT implications.
  - (iii) The SCM delegations have been amended (in respect of manual and SAP delegated approvals) and reinforced through training.
  - (iv) SCM procurement staff have been trained on the authorisation thresholds.
  - (v) Management control reports have been made available for review in respect of monitoring of delegations.
  - (vi) A proactive assessment for 2020/21 was completed from April 2021. Consequence management was not deemed necessary as the root

cause was a system configuration anomaly which has been corrected.

**ACTION: B CHINASAMY, K JACOBY**

**C 31/08/22 2019/20: COMAF 24: SPLITTING OF GOODS AND SERVICES (IRREGULAR EXPENDITURE: R2 394 983)**

**RESOLVED** that:

- (a) the irregular expenditure of R2 394 983 (two million three hundred and ninety-four thousand nine hundred and eighty-three rand) (excluding VAT), related to the procurement of goods and services where the purchase orders were split to avoid the tender process, be certified as irrecoverable and the claim be written-off as the City received the services.

**NO ACTION OWNER**

- (b) it be **NOTED** that the following corrective and improvement actions have been implemented by the Finance: Supply Chain Management (SCM) department:
  - (i) The SCM roles and responsibility document was updated, revisited and re-iterated during the 2020/21 financial year.
  - (ii) Procurement Guidelines were updated and emphasis was placed on the need for demand planning processes to be practiced.
  - (iii) An external service provider was appointed to train the SCM staff on how to recognise splitting of orders, through examples to illustrate typical scenarios.
  - (iv) Controls were enhanced with the inclusion of the Senior Professional Officers in the quotation specification and evaluation processes.
  - (v) As a proactive measure, there is a dedicated SCM team to detect and identify parcelling, splitting or orders and other SCM practice anomalies.
  - (vi) Procurement demand plan has been used to identify recurring procurement to determine if anomalies exist.
  - (vii) A proactive assessment for the 2020/21 financial year was completed from April 2021.
  - (viii) Consequence management action was taken against the SCM Buyer and other SCM officials to ensure a change in behaviour.
  - (ix) An Internal Audit review has been requested on the review of similar awards to the same vendor to test for potential conflicts. The outcome which will be acted on when completed.
  - (x) A Forensic investigation is also underway and the outcomes will be addressed.

**ACTION: B CHINASAMY, K JACOBY**



C 32/08/22 2019/20: COMAF 36: CONTRACT 85Q/2017/18: WOODEN BRIDGE RESTORATION: EXPENDITURE INCURRED AFTER THE CONTRACT EXPIRED (IRREGULAR EXPENDITURE: R11 802 307)

**RESOLVED** that:

- (a) the irregular expenditure of R 11 802 307, 11 (eleven million eight hundred and two thousand three hundred and seven rand and eleven cents), for the construction contract for the restoration of the historic wooden pedestrian bridge at Woodbridge Island after the contract had expired and exceeding the original contract value, should be certified as irrecoverable and the claim be written off as the City was enriched by the services rendered.

**NO ACTION OWNER**

- (b) it be **NOTED** that the following control improvements were implemented by the Urban Mobility directorate:
  - (i) The variation of time approvals to extend the contract period were approved in terms of the City's MFMA Section 116(3) Guideline document, but was done after the contract expiry date. Corporate processes have now been put in place to ensure that no expenditure is processed beyond the expiry date of contracts.
  - (ii) The City's Consequence Management Standard Operating Procedure was considered and the Urban Mobility directorate is satisfied that no consequence management actions are required. See paragraph 3(b) below.
  - (iii) Awareness in terms of the expiry of contracts has been enhanced via:
    - (aa) Compulsory PMBOK training which all project managers are required to attend where, *inter alia*, contract variations, expansions and amendments and the need to address such before expiry of a contract is covered.
    - (bb) Guidelines for the implementation of MFMA sections 33 and 116(3) which were developed by SCM.
    - (cc) Contract management framework and guidelines which are available for Citywide application.
  - (iv) The line department has since strengthened oversight mechanisms to improve cost control on complex projects and has put systems in place to ensure that the expiry of contracts is closely monitored and reported to the Executive Director on a monthly basis.
- (c) It be further **NOTED** that:
  - (i) In terms of the National Heritage Resources Act the pedestrian bridge is a provincial heritage site and should be preserved by the City.
  - (ii) Forensic Services investigated a complaint from one of the unsuccessful bidders. The report was issued on 7 December 2021 and consequence management actions were recommended.

**ACTION: D CAMPBELL**

**C 33/08/22 2019/20: COMAF 68: CIVIL ENGINEERING SERVICES TO IMIZAMO YETHU INFORMAL SETTLEMENT (IRREGULAR EXPENDITURE: R26 989 984)**

**RESOLVED that:**

- (a) the irregular expenditure of R26 989 984,45 (twenty-six million nine hundred and eighty-nine thousand nine hundred and eighty-four rand and forty-five cents), for work that continued after the contract expired, be certified as irrecoverable and the claim be written off as the City was enriched in terms of the services rendered and no negligence could be attributed to any official.

**NO ACTION OWNER**

- (b) it be **NOTED** that:
- (i) The line department should have followed an MFMA section 116(3) process. This was, however, not done due to misinterpretation of legislation at the time, but this has since been remedied by means of SCM interventions, training and the introduction of corporate guidelines. Further controls regarding contract and project management have been communicated and implemented.
- (ii) The irregular expenditure of R16 498 848,93 recorded in the UIFW register should be aligned with the actual expenditure incurred of R9 802 684,53.

**ACTION: N GQIBA**

**C 34/08/22 ALLEGED UNFAIR SUSPENSION OF A STAFF MEMBER IN THE SAFETY & SECURITY DIRECTORATE (IRREGULAR EXPENDITURE: R252 684)**

**RESOLVED that:**

- (a) the fruitless and wasteful expenditure of R252 683,92 (two hundred and fifty-two thousand six hundred and eighty-three rand and ninety-two cents), related to the payment of an official's salary during his six-month's suspension, where he was found not guilty after the disciplinary hearing, be certified as irrecoverable and the claim be written-off, given the nature of the incident, and based on:
- (i) An external legal opinion obtained.
- (ii) The fact that both the firefighter and the Executive Director: Safety & Security have left the services of the City.
- (iii) The matter being delayed as a result of:
- The employee being sick based on the two certificates provided.
  - The initial guilty outcome of the disciplinary being appealed.
  - The non-cooperation of the firefighter, i.e. not opening the door when line management visited his residence, not responding

to WhatsApp messages, not answering phone calls, etc. could not be substantiated and no proof was available. The lack of information and the value impacted the financial viability of further action based on Regulation 74(1) (c) of the MFMA: Municipal Budget and Reporting Regulations, therefore no recovery could be made.

- (iv) This was an exceptional circumstance as the Employee Relations Unit provided insights into cases with not guilty outcomes, and where employees were suspended for longer than three months only this case of alleged intoxication was listed.
- (v) Employee Relations provided insights into precautionary suspension (suspected issue with staff) vs formal suspension (evidenced). It was determined during the appeal process that the case had shortcomings.

**NO ACTION OWNER**

- (b) the Human Resources Department should:
  - (i) Ensure that due processes are applied and line departments must consult with the Human Resources department to obtain advice on dealing with disciplinary matters.
  - (ii) Provide change management training and development to reiterate City policies related to disciplinary action to ensure application, monitoring, reporting and record keeping.

**ACTION OWNER: E SASS**

- (c) all Executive Directors must act on MPAC recommendations and respond to requests for information timeously.

**ACTION OWNER: L MBANDAZAYO**

- (d) the Safety and Security Directorate: Fire Services department implements the following additional control measures:
  - (i) Adequate evidence should be provided by line management to motivate suspension and the Human Resource department should ensure the City's case is motivated, substantiated and expeditiously completed.
  - (ii) Officials, accused of substance abuse should to be tested by the City's Employee Assistance Programme and Wellness branch, and the necessary support is available if, the test outcomes are positive.
  - (iii) The City's Substance Abuse System and Procedure should be appropriately applied.
  - (iv) Disciplinary process advice must be obtained from subject experts, i.e. Employee Relations at the outset to ensure case success, consistency in action and due processes are followed, i.e. labour law and related agreements.
  - (v) Suspension cases must be concluded expeditiously, as payment in these cases must be curtailed.

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- (vi) A case file for each staff member must be maintained and archived for retrieval purposes.

### **ACTION OWNER: V BOTTO**

(e) it be **NOTED** that:

- (i) the following corrective and improvement actions haven implemented:
- (aa) As per the delegation of the Executive Director: Safety and Security, the staff member was suspended due to the risks as intoxication on the job is a risk to the public, City and other staff.
- (bb) The department further actioned the following:
- The departmental procedures were reiterated.
  - During testing two persons must be present to ensure due process is followed, including a second test, if necessary.
  - The suspension period where positive test outcomes are identified is based on the evidence secured.
  - Disciplinary processes must be completed within a 90-day period.
- (cc) The Employee Relations Unit assisted the directorate and others to reduce the suspension timeframes.
- (dd) The Suspension Notice of employee was signed by the Executive Director: Safety & Security and was served on the firefighter by the Chief: Fire Services.
- (ee) The charge sheet was prepared, in consultation with the Employee Relations branch, and served on the firefighter by the line department.
- (ff) A more robust approach is being applied within the Safety & Security directorate, such as alternative work activities as opposed to the normal job function to ensure limited wastage.
- (ii) MPAC's view differed to that of the City Manager and MPAC requested a legal opinion. Senior Counsel advised that:
- (aa) The City Manager has power to refer matters to MPAC and the view of the City Manager should be given to MPAC.
- (bb) The MPAC advice may differ to the City Manager's and MPAC's recommendations are to be reported to Council.
- (cc) Council, as the supreme decision body, will conclude accordingly.

### **ACTION: V BOTTO, L MBANDAZAYO**

**C 35/08/22      2019/20: COMAF 28: PROFESSIONAL SERVICES PROVIDERS - UPGRADING OF STOCK ROAD BETWEEN THE R300 AND LANSDOWNE (NOW GOVAN MBEKI) ROAD (IRREGULAR EXPENDITURE: R5 906 589)**

**RESOLVED** that:

- (a) the irregular expenditure of R5 906 588.91 (R5 136 164.26 for costs related to the contract expiry tenure plus R770 424.63 due to timing

difference), be written off as the City was enriched by the professional services received.

**NO ACTION OWNER**

- (b) the Urban Mobility Directorate implement the following further actions:
  - (i) Contract management measures must be applied and consequence measures must be actioned for any repeat offences.
  - (ii) Reports must be submitted timeously to MPAC.

**ACTION OWNER: D CAMPBELL**

- (c) it be **NOTED** that the following control improvements were implemented by the Urban Mobility Directorate:
  - (i) The contract clean-up exercise was completed and a few more reports with sections 33 and 116(3) contraventions must still serve at MPAC.
  - (ii) The construction works were completed and the project is finished.
  - (iii) Training, education and adherence to contract management principles and practices have improved.
  - (iv) Professional service provider completed works in the deviation appointment period.
  - (v) Consequence management action has been applied, but for this case the awareness, training and change in behaviour was applied.
  - (vi) The Professional Service Provider costs were based on construction costs and has since changed to align with Cost Containment Regulations and City Policy.
  - (vii) Comparative measures were applied, and the costs were considerably lower, confirming economy in costs.

**ACTION: D CAMPBELL**

**C 36/08/22 APPOINTMENT OF LEGAL SERVICE PROVIDERS (IRREGULAR EXPENDITURE: R214 863 AND R56 001 AND R390 904)**

**RESOLVED** that:

- (a) the irregular expenditure, for the appointment of attorneys without following due processes in terms of the City's Supply Chain Management (SCM) Policy relating to:
  - (i) Disciplinary action against a Director where an external Initiator and Chairperson was required for R214 862,86 (two hundred and fourteen thousand eight hundred sixty-two rand and eighty-six cents);
  - (ii) A High Court matter where land was occupied and a legal service provider was appointed without authority for R56 001 (fifty-six thousand and one rand); and
  - (iii) Four matter where services were rendered by a service provider without them being on the legal services panel due to an administrative error for R390 904,17 (three hundred and ninety

thousand nine hundred and four rand and seventeen cents) be certified as irrecoverable and the claim be written off as the City was enriched by the legal professional services rendered.

**NO ACTION OWNER**

- (b) the Legal Services Department:
  - (i) Manage attorney fees as costs are extremely high, including negotiation and cost curtailment.
  - (ii) Take appropriate action when administrative errors are made as due care is expected in a professional service function and reconciliation processes should be applied and reviewed.
  - (iii) Consolidate, as far as possible, historic matters still to serve at MPAC.
  - (iv) Expedite the legal professional services tender via section 33 of the MFMA (anticipated commencement 1 June 2022).

**ACTION OWNER: R SAYED**

- (c) It be **NOTED** that:
  - (i) The following corrective and improvement actions were implemented by the Legal Services Department:
    - (aa) The transactions were authorised via a condonation and deviation.
    - (bb) The City Manager approved a deviation for further appointments of legal service providers via a panel until 30 May 2022.
    - (cc) The legal service providers have been informed of the changes in the City's processes.
    - (dd) The legal service provider rates was compared with DPSA rates, AGSA rates and the City's Legal Fee Structure in terms of the Cost Containment Regulation and City Policies.
    - (ee) Given the nature of the legal works and processes, rates are being applied as opposed to a fixed value.
    - (ff) Measures have been implemented to ensure invoices are received monthly, and as soon as possible after work is completed.
    - (gg) Legal delegated authorities are clear and known, including the current subdelegation from City Manager for the appointment of an attorney from the appointed panel of legal professional service providers.
    - (hh) Legal firms which were evaluated and omitted from the panel of legal service providers were subsequently added and available for use.
  - (ii) The approved panel of service providers was reviewed and confirmed to the evaluation list.
  - (jj) Templates (letters etc.) and standard reporting processes have been implemented.

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- (ii) Legal Services are a unique service and legal costs are difficult to forecast. As the case unfolds the expenditure increases, but this is being managed, i.e. cost increments and rate negotiations, as appointments are rates based and for the duration of the case.
- (iii) In 2018/19 the AGSA identified that the City's legal professional appointments were not in accordance with legislation and corrective measures were taken as a part of the management action plan in a phased approach, i.e. Request for Quotation, deviation process for a panel and tender award.

### ACTION: R SAYED

#### C 37/08/22 PROFESSIONAL ENGINEERING SERVICES: ZANDVLIET WASTEWATER TREATMENT WORKS (IRREGULAR EXPENDITURE: R76 718 847)

#### RESOLVED that:

- (a) the irregular expenditure of R76 718 846,59 (seventy-six million seven hundred and eighteen thousand eight hundred and forty-six rand and fifty-nine cents), related to expenditure incurred after the contract for the period 15 November 2018 to 30 June 2021 had expired, be certified as irrecoverable and the claim be written-off as:
  - (i) It was not financially viable for the City to appoint a new consultant.
  - (ii) The City was enriched in respect of services rendered.
  - (iii) No negligence by any City official was identified in respect of the management of the contract.
- (b) it be **NOTED** that the Executive Director: Water and Sanitation emphasised that the directorate considers these matters as serious, and while these are all legacy issues, a lot of work has been done to ensure compliance to sections 33 and 116(3) of the MFMA. The directorate has trained the staff to monitor contracts and to be more responsive, and registers have been implemented. The Directors, Managers and Heads are more observant, and even though there are more items to be investigated by MPAC, the directorate is doing significantly better as there has been a decrease in the last few years in respect of deviations and irregular expenditure. This is a priority for the directorate and systems are being put in place to prevent these types of irregular expenditure in the future.
- (c) it be further **NOTED** that:
  - (i) City-wide controls have been formalised by the Supply Chain Management (SCM) and Corporate Project, Programme and Portfolio Management (C3PM) departments, and includes guidelines for section 33, i.e. multi-year and outer year budget implications and section 116(3), i.e. contract variations, extensions

and amendments. These guidelines have been published on the SCM website.

- (ii) Misinterpretation and misunderstanding of contract and project management issues have been addressed through City-wide interventions, including Project Management Body of Knowledge (PMBOK) and contract management training for all relevant officials.

**ACTION: M WEBSTER**

**C 38/08/22 COMAF 69 (2019/20): BIASED BID SPECIFICATIONS AND BID EVALUATION (IRREGULAR EXPENDITURE: R92 260 AND R16 814 783)**

**RESOLVED** that:

- (a) the irregular expenditure of R92 260 (ninety two thousand two hundred and sixty rand) and R16 814 782,50 (sixteen million eight hundred and fourteen thousand seven hundred and eighty-two rand and fifty cents), incurred in the 2018/19 and 2019/20 financial years respectively, related to the AGSA finding as a result of non-compliance to section 27(2)(a) of the Supply Chain Management Regulations, be certified as irrecoverable and the claim be written off as the City received the consulting services.

**NO ACTION OWNER**

- (b) due processes be enforced by all Executive Directors to ensure that the City compliance requirements are not contravened and to avoid audit findings and unnecessary irregular expenditure, including consequence management.

**ACTION OWNER: L MBANDAZAYO**

- (c) it be **NOTED** that the Finance: Supply Chain Management (SCM) department has taken the following corrective actions:
  - (i) A memorandum was issued to SCM staff and Bid Committees by the Chief Financial Officer to provide guidance on corrective steps.
  - (ii) The Director: SCM issued a memo to the SCM staff to ensure compliance with SCM prescripts.
  - (iii) SCM templates were updated as the historic templates were in contravention of legislation.
  - (iv) A Tender Compliance office was established to ensure:
    - Adherence to compliance;
    - Tender clause contradictions were assessed and anomalies were corrected;
    - A checklist was designed and is being applied to ensure tender clauses do not contradict legislation;
    - The Head and Manager: Tenders and Contracts signs off the checklist; and
    - Tenders are monitored since 1 April 2021.



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- (v) AGSA was consulted to ensure appropriate understanding of the bias finding and due process to be followed.
- (vi) Refresher training was completed for the Project Managers during the Top 300 session.
- (vii) A clean-up project was undertaken and a compliance self-review of tenders awarded since 1 July 2020 was done.
- (viii) Consequence action was taken by SCM against the SCM: SPO.
- (ix) Tenderer appeals has since reduced, as fairness in the process has improved.

### **ACTION: B CHINASAMY, K JACOBY**

**C 39/08/22**

### **COMAF 42 (2019/20): FLEET ORDERS PLACED WITHOUT APPROVAL BY THE DELEGATED OFFICIAL (IRREGULAR EXPENDITURE: R693 415)**

#### **RESOLVED** that:

- (a) the irregular expenditure of R693 414,89 (six hundred and ninety three thousand four hundred and fourteen rand and eighty nine cents), related to the AGSA finding as a result of non-compliance with Municipal Supply Chain Management Regulation 36(2), be certified as irrecoverable and the claim be written off as the City received the services.

#### **NO ACTION OWNER**

- (b) it is further **RESOLVED** that:
  - (i) The Water & Sanitation Directorate takes consequence management action where officials failed to follow procurement processes related to fleet servicing, repairs and maintenance.

#### **ACTION OWNER: M WEBSTER**

- (ii) The Urban Waste Management Directorate takes consequence management action where officials failed to follow procurement processes related to fleet servicing, repairs and maintenance.

#### **ACTION OWNER: L MDUNYELWA**

- (iii) SCM deviations should be avoided and reduced, as a competitive process is required in terms of the South African Constitution.
- (iv) Appropriate fleet asset management must be exercised by the Corporate Services, Energy, Safety & Security, Community Services & Health, Water & Sanitation and Urban Waste Management directorates responsible for fleet.
- (v) The Executive Director: Corporate Services and Executive Director: Future Planning & Resilience mobilise interventions to address the

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Citywide culture and behaviour, including values, ethics and pride in the job.

- (vi) All Executive Directors must address the issue of staff accountability, responsibility and respect for the job and City assets.
- (vii) All Executive Directors must enforce due process to ensure that City compliance requirements are not contravened and to avoid audit findings and unnecessary irregular expenditure.

### **ACTION OWNER: L MBANDAZAYO**

- (c) it be **NOTED** that the Finance: Supply Chain Management (SCM) department has taken the following corrective actions:
  - (i) Framework tenders are being finalised to address the current strip and quote process, including MFMA section 33 processes.
  - (ii) Monitoring processes have improved in the line departments in terms of proof of authority to continue with works.
  - (iii) SCM training was provided to address the following:
    - Deviation approvals are reconciled to the Purchase Orders.
    - SCM Deviation Standard Operating Procedure was formalised and communicated during the Project Managers' session.
    - The Request for Quotation process will replace the deviation option.
  - (iv) Daily consolidated spreadsheet is signed off by the Director: SCM.
  - (v) Purchase Orders are only released after the SCM deviation is approved to ensure payments are processed after approval.
  - (vi) The past corporate practice of procuring fleet repairs has subsequently changed.
  - (vii) Framework tenders for fleet management are required, as per the City Manager's SCM Forum.
  - (viii) The Supply Chain Management Bid Adjudication Committee and City Manager would instruct the applicable Executive Directors to implement consequence management measures, as and when necessary, at the time of approving an SCM deviation.
  - (ix) The line department must confirm if the pricing is fair and reasonable, perform quality assurance. SCM Practitioners also check the reasonableness of the pricing.
  - (x) Disciplinary action was taken against the SCM staff for not following due process.

### **ACTION: B CHINASAMY, K JACOBY**

**C 40/08/22 COMAF 66 (2019/20): FUNCTIONALITY CRITERIA NOT OBJECTIVE / SPECIFIC (IRREGULAR EXPENDITURE: R2 182 724)**

**RESOLVED** that:

- (a) the irregular expenditure of R2 182 724,01 (two million one hundred and eighty-two thousand seven hundred and twenty four rand and one cent), related to the AGSA finding in respect of non-compliance with sections 5(2) and 5(3) of the Municipal Supply Chain Management Regulations

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(MSCMR), be certified as irrecoverable and the claim be written off as the City received the services in respect of the replacement of the crematorium chapel roof.

### **NO ACTION OWNER**

- (b) all Directorates adhere to Citywide instructions and directions such as supply chain management instructions and directives in the interest of the City and should be communicated by all Executive Directors and should be a repetitive process.

### **ACTION OWNER: L MBANDAZAYO**

- (c) it be **NOTED** that the Finance: SCM department has taken the following corrective actions:
- (i) Specifications are reviewed by SCM including the compliant checklist from the Compliance Office. The SCM Practitioner is present in the Bid Committees meetings.
  - (ii) The evaluation criteria is secured before advertising the tender.
  - (iii) Consequence management was taken and the SCM Practitioner was disciplined.
  - (iv) Training was completed with the SCM Practitioners and during the Top 300 sessions to ensure:
    - Accurate and fair criteria for tenders; and
    - Audit findings are reduced.
  - (v) A Tender Compliance Office was established.
  - (vi) Lessons learnt were documented and communicated to the greater organisation via memorandums, information briefings and other engagements.

### **ACTION: B CHINASAMY, K JACOBY**

**C 41/08/22      2019/20: COMPLIANCE SELF-REVIEW OUTCOME OF PROCUREMENT UNDER R200 000 (IRREGULAR EXPENDITURE: R14 207 472)**

**RESOLVED** that:

- (a) the irregular expenditure of R14 207 471,96 (fourteen million two hundred and seven thousand four hundred and seventy one rand and ninety six cents) (excluding VAT), based on the City's Supply Chain Management (SCM) department's self-review, where a list of non-compliance issues were identified and self-reported, be certified as irrecoverable and the claim be written off as the City received the services.

### **NO ACTION OWNER**

- (b) the Director: SCM maintain the self-review initiative for 2021/22, as the advantages, i.e. lessons learnt and continuous improvement, are applauded. The value contribution of the effort should be assessed annually to ensure sustainability.

**ACTION OWNER: B CHINASAMY, K JACOBY**

- (c) it be **NOTED** that:
- (i) The Finance: Supply Chain Management (SCM) department has taken the following remedial and corrective actions:
    - (aa) The procurement checklist was reinstated to ensure behaviour changes and compliance.
    - (bb) Lower levels of SCM staff have delegated authority for procurement awards.
    - (cc) A Tender Compliance office was establishment.
    - (dd) The Head and Manager: Tenders and Contracts is responsible for ensuring compliance with the relevant prescripts and SCM policies.
    - (ee) A Procurement Guideline was developed and implemented on 1 January 2021.
    - (ff) Five training sessions were held for all SCM staff with the assistance of external service providers.
    - (gg) Four senior procurement officers were appointed to ensure appropriate management and supervision.
    - (hh) Additional resources were also identified and the recruitment and selection is in progress.
    - (ii) Monthly compliance certificates are signed by the SCM Practitioners, Head: Procurement and Manager: Procurement.
    - (jj) Controls were reiterated and enforced.
    - (kk) An MFMA section 36 report is submitted monthly to Council.
    - (ll) Monthly reconciliations are performed of deviation transactions.
    - (mm) UIFW expenditure directive was issued by City Manager in April 2020.
    - (nn) Workshops, briefings on deviations and due SCM processes were held with the Top 300.
    - (oo) Citywide education in respect of general SCM principles and practices, including timely demand management planning is on-going.
    - (pp) Contract management is improved through training of staff and enforcing processes.
    - (qq) SAP system enhancements will limit the possibility of a recurrence.
    - (rr) Manager: Inventory and Stores left the City, but would have been disciplined if he/ she was still in the employment of the City.
    - (ss) Consequence management action was taken and warning letters and counselling was completed.
  - (ii) The SCM self-assessment review intervention has yielded a change in SCM business practices and behaviours and has resulted in a reduction in the irregular expenditure disclosure in the SCM environment.

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- (iii) The efforts to address National Treasury and other regulatory body requirements are resource demanding and takes time to comply, instil processes and apply good governance, such as the Department of Trade and Industry, local content requirements.

**ACTION: B CHINASAMY, K JACOBY**

**C 42/08/22 COMAFS 47 AND 59 OF 2018/19 (IRREGULAR EXPENDITURE: R8 775 389 AND R6 861 933)**

**RESOLVED** that:

- (a) the irregular expenditure of R8 775 388,61 (eight million seven hundred and seventy-five thousand three hundred and eighty-eight rand and sixty-one cents) for COMAF 47 and R6 861 933,48 (six million eight hundred and sixty-one thousand nine hundred and thirty-three rand and forty-eight cents) for COMAF 59, related to expenditure incurred after the relevant contracts had expired be written off as services had been rendered and critical services received.

**NO ACTION OWNER**

- (b) the Supply Chain Management Department further implement the following:
  - (i) Continue on the journey of changing behaviour in the City as the law prevails.
  - (ii) Consequence management action is critical to ensure process improvements.
  - (iii) Improvements and enhancements should be continuously addressed.

**ACTION OWNER: B CHINASAMY, K JACOBY**

- (c) it be **NOTED** that:
  - (i) The past practices in the City be acknowledged as a misinterpretation of the law. The City's legislative processes have since changed and are being remedied on a case-by-case basis.
  - (ii) Consequence management and related change management training, such as project management briefings, were held.
  - (iii) SCM made the following improvements to the SCM Policy, legislative frameworks and City-wide processes to prevent a recurrence:
    - (aa) Clauses 273 and 288 have been corrected or removed in the revised SCM Policy.
    - (bb) The need for a Contract Management Unit was identified and one was established.
    - (cc) Issuing of Directives 21 and 22 of 2018 and emphasising that the MFMA trumps other contract frameworks (e.g. GCC, Fedic, etc.)
    - (dd) The BAC closely reviews tenders to ensure MFMA compliance and have revised the resolutions.

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- (ee) Since 1 July 2020 there have been ongoing efforts to ensure compliance with sections 33 and 116(3) of the MFMA.
- (ff) Deviations are closely monitored.
- (gg) Project Management enhancements have been made.
- (hh) Tenders must be advertised 12 months in advance and there are triggers in place for the tender replacement process.
- (ii) The demand plan status is monitored via a dashboard to detect slippages.
- (jj) Matters are referred to the Municipal Public Accounts Committee for investigation
- (kk) Forensic reviews are requested if required.
- (ll) Contract extensions
- (mm) A Standard Operating Procedure had been compiled for Contingencies.
- (nn) Virements of the capital budget are monitored

### **ACTION: O NAIDOO, E SASS**

#### **C 43/08/22 COMAF 10 (2019/20): CONSTRUCTION OF PRIMARY TREATMENT AND SLUDGE HANDLING FACILITIES AT ZANDVLIET WASTEWATER TREATMENT WORKS (IRREGULAR EXPENDITURE: R1 421 224)**

#### **RESOLVED** that:

- (a) the VAT of R1 421 224,32 (one million four hundred twenty-one thousand two hundred and twenty-four rand and thirty-two cents) paid on an advance payment be noted as irregular expenditure and be certified as irrecoverable and the claim be written-off as the City claimed the VAT back from the South African Revenue Services (SARS).

#### **NO ACTION OWNER**

#### (b) it be **NOTED** that:

- (i) The Treasury department briefed the Finance Management Forum (attended by all Finance Managers), and the Director: Treasury informed the Administration in writing on the difference between a guarantee (which excludes VAT) and an advance payment for the procurement of services (which includes VAT) and that all contracts must state whether or not the guarantee or advance payment includes VAT or not.
- (ii) The Treasury department checks all guarantees before approving the payment.
- (iii) The line department has updated the checklist, which is completed for all contracts.
- (iv) Wider awareness was created in the directorate.

### **ACTION: M WEBSTER**

#### **C 44/08/22 URBAN MOBILITY DIRECTORATE: GENERAL CLEANING AND GARDENING SERVICES (IRREGULAR EXPENDITURE: R8 829 456)**

**RESOLVED** that:

- (a) the irregular expenditure of R8 829 455.55 (eight million eight hundred and twenty nine thousand four hundred and fifty-five rand and fifty-five cents), related to expenditure without a valid contract and not following due Supply Chain Management (SCM) processes be certified as irrecoverable and the claim be written off as the City received the cleaning services.

**NO ACTION OWNER**

- (b) it be **NOTED** that the Urban Mobility Directorate has implemented the following:
  - (i) The vendor was paid for services rendered and no interest was incurred due to the payment delays.
  - (ii) To ensure business continuity alternative procurement measures were sought but no alternative options were available.
  - (iii) A bridging deviation was requested and awarded in December 2020 as the new tender was not finalised in time due to an appeal.
  - (iv) The necessary transversal contract use forms were completed to use the new tender.
  - (v) Controls were improved and changed, i.e.:
    - (aa) Training interventions related to SCM and financial procedures, as well as contract and project management, were completed.
    - (bb) Processes for use of the transversal tender were improved based on the directions communicated by the contract management unit.
  - (vi) The line department confirmed that the rates were reasonable for the services rendered and the number of sites serviced.

**ACTION: D CAMPBELL**

**C 45/08/22 2019/20: COMAF 62: FUNCTIONALITY: SUB-CRITERIA REQUIRED MINIMUM SCORE NOT MET (IRREGULAR EXPENDITURE: R3 612 161)**

**RESOLVED** that:

- (a) the irregular expenditure of R3 612 161 (three million six hundred and twelve thousand one hundred and sixty one rand) (excluding VAT), related to the AGSA finding in respect of non-compliance with the Municipal Supply Chain Management Regulations (MSCMR) and SCM Policy in respect of the bid evaluation scoring, be certified as irrecoverable and the claim be written off as the City received the professional services.

**NO ACTION OWNER**

- (b) it be **NOTED** that the Finance: SCM department has taken the following remedial and corrective actions:

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- (i) A Tender Compliance Office was established in April 2021 to ensure adherence to the SCM Policy and legislative frameworks.
- (ii) To ensure compliance with the relevant prescripts and SCM policies, the Head/ Manager: Tenders and Contracts signs off the Compliant Checklist from the Compliance Tender Office.
- (iii) On 25 February 2020 a workshop was held and a memo detailing lessons learnt from prior year audit findings in respect of non-compliance was communicated with the SCM bid committee members and the Top 300 project managers.
- (iv) Workshops with the Top 300 are held at least quarterly.
- (v) Audit action plans are addressed by the SCM department.
- (vi) Consequence management action, in the form of counselling, was applied to the SCM officials involved.

**ACTION: B CHINASAMY, K JACOBY**

**C 46/08/22      2019/20: COMAF 54: SERVICE PROVIDER NOT TAX COMPLIANT (IRREGULAR EXPENDITURE: R6 809 285)**

**RESOLVED** that:

- (a) the irregular expenditure of R6 809 284.61 (six million, eight hundred and nine thousand two hundred and eighty-four rand and sixty-one cents) (excluding VAT), related to the AGSA finding in respect non-compliance with Municipal Supply Chain Management (SCM) Regulation (43)(1) and SCM Policy as a result of the service provider not being tax compliant, be certified as irrecoverable and the claim be written off as the City received the services.

**NO ACTION OWNER**

- (b) document submissions made to MPAC in respect of case background and insights be sufficient, clear, appropriately cross-referenced and self-explanatory. Submissions should not be an information overload to cloud the situation and create unnecessary work and effort.

**ACTION OWNER: L MBANDAZAYO**

- (c) it be **NOTED** that the Finance: SCM department has taken the following remedial and corrective actions:
  - (i) Access to the central supplier database (CSD) has been provided to two officials in the City Manager's office and training was received.
  - (ii) The CSD report is obtained on the day of the City Manager considering the deviation and the CSD report is sent to SCM with the SCM Deviation.
  - (iii) SCM will again confirm the tax compliance status after the final approved report is received from the City Manager office.

**ACTION: B CHINASAMY, K JACOBY**



**C 47/08/22 CONTRACT 134Q/2016/17: RECONSTRUCTION OF CONCRETE ROADS IN HANOVER PARK AREA 2 (IRREGULAR EXPENDITURE: R70 359)**

**RESOLVED** that:

- (a) the transaction related to interest paid of R70 358,57 (seventy thousand three hundred and fifty-eight rand and fifty-seven cents) should be certified as irrecoverable and written-off as all reasonable care and avenues have been exhausted. The investigation outcome is based on the Adjudicators ruling, which was beyond the control of the City and within the legal right of the Contractor.

**NO ACTION OWNER**

- (b) the Urban Mobility: Infrastructure Department further implement the following:
  - (i) The legal action to challenge the adjudicator's decision must be appropriately documented and that due regard should be taken of cost benefit and financial feasibility for such decisions.
  - (ii) Reasonable assessment of security needs, as defined by the contractor, are to be assessed by the City and the Agent/ Professional Service Provider / Consulting Engineer.
  - (iii) The consulting engineer is to exercise due care;, especially in circumstances where a second dispute raises, i.e. the first dispute should have been comprehensively addressed.
  - (iv) Risk insurance, related to contract management risks and issues, are to be considered and discussed Citywide to determine the necessity and viability.
  - (v) Lessons learnt from unrest, gang-related activities and community challenges affecting projects are to be assessed, including mitigation measures.
  - (vi) Project viability, given the community challenges, must be documented for a management decision on whether such projects are justifiable.

**ACTION OWNER: D CAMPBELL**

- (c) the Legal Services Department document the City's stance on what is viable in terms of the merits of the case, as other organisations challenge service providers, e.g. banking sector and other private sectors.

**ACTION OWNER: R SAYED**

- (d) it be **NOTED** that the following corrective and improvement actions have been implemented by the Urban Mobility: Infrastructure department:
  - (i) The City declared a dispute:
    - (aa) As the City was of the view that the gang-related violence in the area subsided and that the Contractor failed to take adequate measures to secure the safety of their staff.

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- (bb) The claim of the contractor was for work performed and an extension of time was claimed for work until the contract cancellation. This was part of the City's dispute.
- (ii) Two adjudicator processes were held and in July 2020 partial relief was awarded to the Contractor which was R405 000 less than claim.
- (iii) Claims and disputes were recognised as part of the contract management process.
- (iv) The directorate completed an internal investigation and, based on the outcome, no consequence management action was applied:
  - (aa) No irregularity or unauthorised conduct on the part of the City officials or the Professional Service Provider (PSP) could be identified in terms of their respective duties and mandate.
  - (bb) The expense arose from adherence to the contractual obligations.
  - (cc) The Contractor exercised their rights to claim.
- (v) Legal advice was sought and an external legal professional advised the City not to challenge the Adjudicator's outcome, as the decision is binding and must be challenged in a court of law. The merit in challenging the matter should be assessed and it would not be viable to challenge the Adjudicator's outcome.
- (vi) A new Contractor has been appointed to address the outstanding works and construction is underway. The contract is managed and monitored by the initial PSP.
- (vii) The City's shot spotter tool, used to identify high-risk activities, is utilised to determine hot-spot areas.
- (viii) Community Liaison, contractor introductions, project steering committee (including community members), court interdicts, SAPS assistance and other mechanisms are applied to manage the risk.

### **ACTION: D CAMPBELL**

**C 48/08/22      COMAF 40 (2019/20): LOURENS RIVER FLOOD ALLEVIATION PHASE 1H (IRREGULAR EXPENDITURE: R4 513 970)**

### **RESOLVED** that:

- (a) the irregular expenditure of R4 513 970,36 (four million five hundred and thirteen thousand nine hundred seventy rand and thirty-six cents) (excluding VAT), related to expenditure incurred during the period 1 July 2018 to 30 June 2019, after the contract expired and no extension of time was granted, be certified as irrecoverable and the claim be written-off as construction was completed.

### **NO ACTION OWNER**

- (b) the Water and Sanitation Directorate implement the following additional control measures:
  - (i) Ensure project management improvements are implemented.

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- (ii) All contract anomalies should be assessed and reported timeously to the relevant delegated authorities for corrective and remedial action.

### **ACTION OWNER: M WEBSTER**

- (c) it be **NOTED** that:
  - (i) Past practices of the City departments are acknowledged as a misinterpretation of the law (MFMA Sections 33 and 116), and the City's legislative processes have since changed. Contracts are being remedied on a case-by-case basis, and when this contract was identified the line department submitted a condonation report to the City Manager on 27 June 2019.
  - (ii) No interest was paid on the outstanding claim.
  - (iii) The following actions were implemented by the Water and Sanitation Directorate:
    - (aa) On 24 June 2019, prior to the AGSA finding (COMAF 40), the line department submitted a deviation/ condonation report to the Bid Adjudication Committee.
    - (bb) Consequence management actions include training and related change management initiatives, such as project management and contract management briefings.
    - (cc) All project managers must attend Project Management Body of Knowledge (PMBOK) training.
    - (dd) Condonation report was submitted but was referred back.
    - (ee) Construction project was completed successfully.
    - (ff) Payment was effected by Finance.
    - (gg) The original approved contract amount was not exceeded as the contract price adjustments were paid as per the contract terms.
    - (hh) An MFMA section 116 process was not followed before the contract expired.
    - (ii) The MFMA section 33 and 116 processes are now applied.
    - (jj) Lessons learnt sessions are held within the directorate to ensure collective value additions for all project managers and contract commencement dates are monitored to maximise the contract period.
    - (kk) From the 2019/20 financial year monthly reconciliations are completed, together with SCM, to ensure no matter is left unresolved.

### **ACTION: M WEBSTER**

**C 49/08/22      2019/20: COMAF 21: SPLITTING OF GOODS AND SERVICES (IRREGULAR EXPENDITURE: R986 240)**

#### **RESOLVED** that:

- (a) the irregular expenditure of R986 240, 19 (nine hundred and eighty six thousand two hundred and forty rand and nineteen cents) ( excluding

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VAT), related to the AGSA finding as a result of non-compliance with Municipal Supply Chain Management Regulation 12(3)(b) and SCM Policy for procuring as a single transaction, be certified as irrecoverable and the claim be written off as the City received the services.

### **NO ACTION OWNER**

(b) it be **NOTED** that:

- (i) The Finance: Supply Chain Management (SCM) Department has taken the following remedial and corrective actions:
  - (aa) Training was provided to all SCM staff where the Standard Operating Procedure of 2019 was reiterated and scenarios to look out for, when processing line requisitions, were provided.
  - (bb) Controls were further enhanced by allowing senior staff to scrutinise amounts over R10 000 (including VAT).
  - (cc) The 2020 Procurement guideline was re-enforced and the demand planning process was re-iterated, including deciding on the appropriate procurement strategy.
  - (dd) Exception reports will be closely monitored to act on non-compliance.
  - (ee) Procurement and demand planning forms part of the Chief Financial Officer's collaboration meetings.
  - (ff) Procurement reports are reviewed weekly by a dedicated official to detect splitting of orders.
  - (gg) To avoid being regarded as purposefully splitting orders, the line departments are consulted to change business practises.
  - (hh) Consequence management action will be taken against SCM officials whose actions result in irregular expenditure, e.g. failing to alert senior SCM officials of issues that warrant further action.
- (ii) This category of irregular expenditure was incorporated in the SCM selfreview assessment.
- (ii) The SCM Department assessed the splitting of orders finding and it was determined that the practice was not deliberate.

### **ACTION: B CHINASAMY, K JACOBY**

**C 50/08/22 2019/20: COMAF 45: LESS THAN THREE QUOTATIONS OBTAINED (IRREGULAR EXPENDITURE: R4 217 723)**

**RESOLVED** that:

- (a) the irregular expenditure of R4 217 722,87 (four million two hundred and seventeen thousand seven hundred and twenty two rand and eighty seven cents) (excluding VAT), related to the AGSA finding and SCM self-review as a result of non-compliance with Municipal Supply Chain Management Regulation 17(1)(c) (3 quotes to be obtained), be certified

as irrecoverable and the claim be written off as the City received the services.

**NO ACTION OWNER**

- (b) the Director: SCM maintain the self-review initiative for 2021/22, as the advantages, i.e. lessons learnt and continuous improvement, are applauded. The value contribution of the effort should be assessed annually to ensure sustainability.

**ACTION OWNER: B CHINASAMY, K JACOBY**

- (c) it be **NOTED** that the Finance: Supply Chain Management (SCM) Department has taken the following remedial and corrective actions:
  - (i) On a daily basis the Director: SCM approves cases where three quotes were not obtained and maintains a spreadsheet.
  - (ii) Training was provided to the SCM Practitioners.
  - (iii) Existing controls were re-enforced, including management oversight, monitoring and supervision.
  - (iv) To address inconsistencies in the application of controls an award checklist was developed which must be signed off before the Buyer processes the Purchase Order.
  - (v) The Procurement Guideline was documented to re-enforce existing controls and practices, including three quote process.
  - (vi) Delegations were reviewed, confirmed and communicated.
  - (vii) To ensure pride in the job, attention to detail and self-reviews have been emphasised.
  - (viii) SCM compliance self-reviews are performed since 22 April 2021 covering the period 1 July 2020 to date on which corrective steps will be taken, including consequence management.
  - (ix) Reconciliation is performed between SAP (automated checklist) and the daily approval spreadsheet to ensure alignment. This reconciliation is performed at the end of each day (detection control) and prevents Purchase Order from being generated if it does not reconcile.

**ACTION: B CHINASAMY, K JACOBY**

**C 51/08/22 COMAF 67 (2019/20): REASONS FOR DEVIATIONS NOT JUSTIFIABLE (IRREGULAR EXPENDITURE: R1 040 304)**

**RESOLVED** that:

- (a) the irregular expenditure of R1 040 304,43 (one million and forty thousand three hundred and four rand and forty three cents), related to the AGSA finding as a result of non-compliance with section 112 of the MFMA and sections 36(1) and 17(c) of the Municipal Supply Chain Management Regulation (MSCMR), be certified as irrecoverable and the claim be written off as the City received the fleet repair services.

**NO ACTION OWNER**

- (b) all Executive Directors who are using or managing fleet enforce due processes to ensure that:
  - (i) City SCM compliance requirements are met.
  - (ii) Audit findings related to non-compliance with SCM processes are reduced .
  - (iii) Unnecessary irregular expenditure is avoided.
  - (iv) Consequence management is applied where business processes are not followed.

**ACTION OWNER: L MBANDAZAYO**

- (c) it be **NOTED** that the Finance: Supply Chain Management (SCM) Department has taken the following corrective actions:
  - (i) Training has been completed.
  - (ii) Citywide correspondence on enhancing control over fleet deviations was approved in November 2020.
  - (iii) Four tenders are in the process of being finalised, approved and implemented to reduce the dependency on "strip and quote". SCM deviation processes are underway.
  - (iv) In the interim, a two-step process is applied for "strip and quote" deviation submissions. Vehicles first have to undergo a "strip and quote" process, and only after the quotation is validated and approved, can the vehicles be repaired.
  - (v) In 2020, the SCM Procurement Guideline for deviations was published on the SCM website.
  - (vi) Line departments were instructed to put formal framework tenders in place for vehicle maintenance and repairs.
  - (vii) The line departments are responsible for ensuring and confirming that the actual works were completed and value for money was received
  - (viii) Suppliers are registered with SCM and work is allocated on a rotation basis to ensure an equal spread of work.
  - (ix) SCM Practitioners are comprehensively vetting line department submissions before submitting to the Director: SCM (as the delegated authority).

**ACTION: B CHINASAMY, K JACOBY**

**C 52/08/22**

**APPOINTMENT OF LEGAL SERVICE PROVIDERS: HUMAN SETTLEMENTS DIRECTORATE (IRREGULAR EXPENDITURE: R926 903)**

**RESOLVED** that:

- (a) the irregular expenditure of R926 903,39 (R891 416,54 plus R35 486,85), for conveyancing specialist attorney services rendered in the 2020/21 financial year, related to the AGSA findings in respect of legal professional services transactions with regard to material non-compliance with section 217 of the Constitution and the Municipal Finance Management Act /

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Supply Chain Management processes, be written-off as the services were rendered.

**NO ACTION OWNER**

- (b) the following additional actions be implemented:
  - (i) Attorney services are to be closely managed and monitored as delays in transfers are unacceptable. The corporate social investment opportunity for attorney firms cannot delay transfers.
  - (ii) In the interim the Request for Quotation (RFQ) must be expedited, secured and utilised. The line department must request an appointment period suitable to secure a tender, including the necessary motivations and timelines to achieve the tender.
  - (iii) The tender for the appointment of the panel of legal services must be expedited, including securing funds and registration of a demand plan tender to be awarded in the 2023/24 financial year, including a section 33 process for a five year contractual arrangement. Due regard must be given to the corporate social investment opportunity for legal service providers.
  - (iv) In collaboration with the Legal Services department investigate and secure a separate Human Settlements panel.
  - (v) The report for the 2021/22 financial year must be expedited and finalised to be tabled at the September 2022 MPAC meeting.
  - (vi) The long-term solution is that a Legal Professional Services tender via section 33 of the Municipal Finance Management Act be expedited (demand plan registration for the 22/23 financial year).
  - (vii) The Executive Director: Human Settlements table this matter to the Human Settlements Portfolio Committee to monitor the implementation of the legal services panel via RFQ and tender to ensure that due processes are followed in the securing the services of conveyancing specialist attorneys. Spending, costs and rates for conveyancing specialist attorney services.

**ACTION OWNER: N GQIBA**

- (c) it be **NOTED** that the following corrective and improvement actions were implemented:
  - (i) SCM deviation approvals were obtained for further appointment, where work is in progress i.e. authority for past and future works.
  - (ii) In the interim the RFQ process are being applied.

**ACTION: N GQIBA**

**THE MEETING ENDED AT 13H25.**

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**ALD F PURCHASE  
SPEAKER**

.....  
**DATE**