



## MEMORANDUM

DATE : 27 JULY 2021  
TO : ACTING DIRECTOR: PROPERTY MANAGEMENT  
ATTENTION : MICHAEL SIMS

**AUTHORISATION TO INITIATE THE TRANSACTION, THE PUBLIC PARTICIPATION PROCESS AND TO APPROVE  
IN-PRINCIPLE THE GRANTING OF RIGHTS TO USE, CONTROL OR MANAGE CAPITAL ASSET  
MATR Regulation 34(1)(b)**

**Transaction:**

Property description:	Erf ST 952-4
Physical address:	Bosasa Informal Settlement, Old Faure Road & Spine Road Ext, Mfuleni
Zoning:	See schedule below
Current Use:	ECD Centre
Applicant:	See schedule below

### 1 PURPOSE

In terms of the provisions of the Municipal Asset Transfer Regulations issued in terms of the Local Government Municipal Finance Management Act in Government Gazette No. 31346 dated 22 August 2008 read with the approved City's System of Delegations and the relevant subdelegation, approval is hereby sought to initiate the transaction, authorise the public participation process and approve in-principle the granting of the rights to use, control or manage this capital asset for the abovementioned transaction.

### 2 BACKGROUND

The SDECD Department constructs new ECD Centres on Council owned land and maintain the existing Council owned ECD Centres. The Department also constructs different typologies of ECD centres depending on the yield of the portion of the land available. Recently the department decided to move away from brick and mortar to prefab structures in order to have greater reach and ensure ECD Services to more children.

In line with the provisions of the Municipal Finance Management Act (MFMA), upon the completion of an open public participation process, SDECD concludes Facility Management Agreements with appointed registered ECD NGOs to operate from Council owned ECD Facility.

In 2019 SDECD completed the construction of a prefab ECD Centre in the Bosasa Informal Settlement. Following various meetings with the community leaders of Bosasa informal Settlement, the ward councillor, sub council officials and Public Participation Unit, SDECD then advertised for an ECD Centre operator for the new ECD Centre.

SDECD ran an open, competitive process for procuring an Operator for the ECD Centre. Three (3) applications were received and the applications were scored according to a set of criteria based on various legislation. Based on the adjudicators' score, **Kingdom Kids (NPO: 106 - 220)** was selected as the successful operator. SDECD will therefore be entering into a two (2) years and 11- month Facility Management Agreement (FMA) with **Kingdom Kids (NPO: 106 - 220)** and therefore the request for the granting of rights.

### 3 DELEGATED POWERS

In terms of the Council's System of Delegations, the relevant subdelegation, approval is hereby sought to initiate the transaction, authorise the public participation process and approve in principle the granting of the rights to use, control or manage this capital asset for the abovementioned transaction.

- Part 27B, Subdelegation 22(5) To authorise the public participation process for the granting of rights to use, control or manage capital assets for the following categories listed:
  - i) capital assets less than R10 mil, longer than 3 years (<R10m and >3 yrs)
  - ii) capital assets more than R10 mil, not longer than 3 years (>R10m and <3 yrs)
  - iii) Capital assets less than R10 mil, not longer than 3 years (<R10m and <3 yrs)
- Part 27B, Subdelegation 22(7) To approve in principle the rights to use, control or manage the capital asset in terms of regulation 34(1)(b) of the MATR, excluding capital assets of a value in excess of R10 million and for a period longer than 3 years.
- Part 34, Paragraph 2(4) To initiate all property transactions.

### 4 APPLICABLE LEGISLATION AND POLICY

- 4.1 Chapter C of Council's policy relating to the Management of Certain of the City of Cape Town's Immovable Property (MC 54/08/10), permits the granting of property rights;
- 4.2 Regulation 34 (3) (b) of the MATR states that Council must when considering a request to authorise a public participation process in respect of any proposed granting of a right to use, control or manage a capital asset, in terms of regulation 34 (1) (b) of the MATR must be take into account:

#### 4.2.1 The reason for the proposal to grant right to use, control or manage the relevant asset:

Early Childhood Development services that are rendered in a secure and nurturing environment offer comfort and support to parents, who are then able to actively participate in the economy. Women in particular, benefit from safe, secure and well run ECD centres as it allows them to seek employment, and to accept opportunities in the job market.

In addition, operating an ECD service within a community provides income-generating opportunities for most women, especially in communities within the lower socio-economic index.

Many unregistered sites are located in in houses, garages and backyard structures. This poses a challenge for improvements to be made to infrastructure. These unregistered ECD Centres fail to meet the infrastructure requirements such as health and safety as set out in the Children's Act No 38, 2005 (as amended).

Therefore, it becomes important that City facilities used for ECD services be accessible in all areas in order to enable communities and its children to get the proper access to quality education in terms of the requirements of the Children's Act.

**4.2.2 Any expected benefit to the municipality that may result from the granting of the right:**

There will be an increase in the number of children that are able access to registered ECD Centres, which are compliant with safety, health requirements and meet the educational development needs of a child. In this way the, the City will contribute towards the development of a firm education foundation for children that enter the formal schooling system.

**4.2.3 Any expected proceeds to be received by the Municipality resulting from the granting of the right:**

The ECD Centre will pay a nominal rental equal to the tariff rental for social facilities of R 966, 09 per annum excl. VAT. This nominal rental equal to the tariff rental for social facilities will be subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time.

**4.2.4 Any expected gain or loss that will be realised or incurred by the Municipality arising from the granting of right.**

No loss will be incurred by the City arising from the granting of right.

- 4.3 In terms of Reg. 36 of the Municipal Asset Transfer Regulations (R.878) (MATR), Council must, when considering approval for the granting of a right to use, control or manage a capital asset, take the following factors into account:

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

The Council's service branches have confirmed that the property will not be required for the municipality's own use during the period for which the right is to be granted.

**4.3.2 The extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality;**

The ECD Centre will pay a nominal rental equal to the tariff rental for social facilities of R 966, 09 per annum excl. VAT. This nominal rental equal to the tariff rental for social facilities will be subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time.

**4.3.3 The risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;**

It is expected that the security of a management agreement will lead to an upgrade of the site. The lessee will be responsible for the upkeep and repairs and maintenance of the property to the satisfaction of the City;

**4.3.4 Any comments or representations on the proposed granting of the right received from the local community and other interested persons;**

None

**4.3.5 Any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant Provincial Treasury;**

None.

**4.3.6 The interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community;**

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

**4.3.7 Compliance with the legislative regime applicable to the proposed granting of the right;**

Granting the right to use, control or manage the asset is compliant with the Municipal Asset Transfer Regulations, R.878, promulgated on 22 August 2008 and Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (2010).

## **5 RECOMMENDATION**

It is recommended that approval be granted to initiate the transaction, authorise the public participation process and approve in-principle the granting of rights to use, control or manage this capital asset for the abovementioned transaction.

## **6 ANNEXURES**

NA

☐
**RECOMMENDED**
☐
**NOT RECOMMENDED**

<b>Director: SDEC</b>	<b>Alfonso Sauls</b>	<b>Comments</b>
<b>Signature</b>		
<b>Date</b>		

☐
**APPROVED**
☐
**NOT APPROVED**

<b>Acting Director: Property Management</b>	<b>Michael Sims</b>	<b>Comments</b>
<b>Signature</b>		
<b>Date</b>		