

**CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD**

**REPORT TO SUBCOUNCIL 01**

---

**1 ITEM NUMBER 01SUB 15/01/2021**

**2 SUBJECT**

**PROPOSED LEASE OF A PORTION OF CITY OWNED LAND, BEING A PORTION OF ERF 800 BIG BAY (A PUBLIC PLACE), SITUATED OFF HANG TEN DRIVE, BIG BAY FOR LIFE SAVING AND COMMUNITY SPORT PURPOSES: BIG BAY SURF AND LIFE SAVING CLUB**

**2 ONDERWERP**

**VOORGESTELDE VERHURING VAN 'N GEDEELTE GROND IN STADS BESIT, NAAMLIK 'N GEDEELTE VAN ERF 800 BIG BAY ('N OPENBARE PLEK), GELEË UIT HANG TEN-RYLAAN, BIG BAY VIR LEWENSREDDINGS- EN GEMEENSKAPSPORTDOELEINDE: BIG BAY SURF AND LIFE SAVING CLUB**

**2 ISIHLOKO**

**ISIPHAKAMISO SOKUQESHISA INXALENYE YOMHLABA WESIXEKO, OYINXALENYE YESIZA- 800 BIG BAY (INDAWO YOLUNTU), ESEKUPHUMENI KWE-HANG TEN DRIVE, IQESHISELWA INDAWO ESETYENZISELWA UKUSINDISA UBOMI KUNYE NEMIDLALO YOLUNTU: BIG BAY SURF AND LIFE SAVING CLUB**

**L3960**

**PTMS NO: 130003992**

**File Ref No: TYG14/3/6/1/2/800**

**(Category 5)**

**3 DELEGATED AUTHORITY**

- ☒ The report is for comment by Subcouncil 01 to the competent authority in terms of Part 24, Delegation 10(1).

"To comment to the competent authority on the granting of the rights to use, manage or control City immovable assets such as land, property and

**Making progress possible. Together.**

buildings and to recommend conditions of approval where deemed necessary.”

- ☒ In terms of delegation Part 27B paragraph 19(7), the following delegation was conferred upon the City Manager. The City Manager has sub- delegated this delegation to the Director: Property Management.

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

- ☐ In terms of delegation Part 27B paragraph 19(7), the following delegation was conferred upon the City Manager. The City Manager has sub- delegated this delegation to the Director: Property Management.

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

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

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

- ☐ Final decision lies with Director: Property Management.

#### 4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed lease of a portion of City owned land (a Public Place), being a portion of Erf 800 Big Bay to Big Bay Surf and Life Saving Club for life saving and community sport purposes.
Site extent	1 127 m <sup>2</sup>
Submission date	23-02-2018
Current zoning	Open Space 2: Public Open Space
Current usage	Life saving and sporting purposes
Proposed usage	Life saving and sporting purposes

WARD CLLR	DATE	WARD
N Grose	15-06-2020	23
Internal circulation date	02-07-2018	
Internal department comments	No objections were received from the internal branches, subject to the conditions contained in paragraph 5 below.	
Public participation outcome summary	<p>Advertised in the Cape Argus and Die Burger on 29-05-2020.</p> <p>One objection was received from Cllr Grose. This objection is further discussed under paragraph 6 of this report.</p> <p>Alternative proposals were also simultaneously called for. No alternative proposals were received.</p>	
Viable	Yes	X
	No	
	During the public participation process, alternative proposals were called for. No alternative proposals were received.	
Recommended decision	Approval	X
	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority after 21 June 2018	
Factors motivating recommendation:	<ul style="list-style-type: none"> <li>• The leasing of the land will relieve Council of the maintenance and security burden</li> <li>• An income will be generated</li> <li>• The applicant has been providing the life saving and community sporting service to the local community for the past 12 years from this property in terms of a lease agreement with the City</li> <li>• The current use of the property and service to the community will continue</li> </ul>	
Strategic intent	<b>SFA 1 : an OPPORTUNITY City of Cape Town</b>	
	Objective 1.1	Positioning Cape Town as forward looking globally competitive City
	Programme 1.1(g)	Leveraging the City's assets

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

5.1 It is recommended that the lease of a portion of City owned land (a Public Place), being a portion of Erf 800 Big Bay, situated off Hang Ten Drive, Big Bay, as shown hatched and lettered ABCDEFGH on the Plan No TA 942v1 attached and marked **Annexure A**, in extent approximately 1 127 m<sup>2</sup>, to Big Bay Surf and Life Saving Club, or its successors in title, be approved subject to inter alia the following conditions, that:

- a) A tariff rental of R966,09 per annum excluding VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- b) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- c) The lease will endure for a period of ten years;
- d) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- e) Subject to compliance with any other statutory requirements;
- f) The property may only be used for life saving and community sport purposes and for no other purpose whatsoever;
- g) No compensation will be payable for any improvement made to the property;
- h) No permanent structures will be permitted on the property;
- i) The above rental assumes that the Lessee is responsible for all maintenance & repairs. The roles and responsibilities to be stipulated in the lease agreement regarding internal and external maintenance and repair;
- j) The above rental excludes any operational costs i.e. electricity, cleaning, security, water, insurance, etc;
- k) The submission of financial statements and copies of annual AGM reports to be provided to the City on a yearly basis;
- l) Subletting, fundraising activities, bar and food sales or any other ad hoc activities aimed at generating an income must be declared in the financial statements of the club. The funds must be accounted for, reflected and used for the operating and maintenance of managing the facility, including sports development. Financial statements must be made available upon request by the City;

- m) Sub-leases or any agreements must be submitted to and approved by the City;
- n) Consent must be obtained from the City of Cape Town for any extensions, improvements and any commercial activities on the property, in such instance, the rental to be reviewed;
- o) The applicant must continue to provide adequate voluntary lifesaving services to the Council in the Small Bay and Big Bay areas over weekends and on public holiday seasons free of charge and such service must conform to the rules and conditions of the SA Life Saving Association and its representatives, the Western Province Lifesaving Association;
- p) The applicant will be required to abate driftsand nuisance or other nuisance resulting from driftsands on the leased premises and on the windward and leeward side of any fence or structure on the premises which must include the removal of accumulated sand over and above the natural ground level against walls and fences surrounding the leased area and immediately outside the leased area.
- q) The fire equipment is to be provided and maintenance by the applicant;
- r) The City of Cape Town has the right to construct and/or erect and lay such poles, stays, cables, wires or appurtenances aforesaid. This includes the right to bring machinery onto the property and to carry out excavations;
- s) The City of Cape Town has the right for any employee or servant or contractor of the City of Cape Town to enter and be upon the property at any time in the exercise of the aforesaid rights;
- t) No building, containers or structure shall be erected within 3m of the electrical services;
- u) No excavation or filling shall be carried out within the leased area without the prior written consent of the director: Electricity Services via the wayleave approval /process. All excavations within 3m of the electrical services must be carried out under the direction of a representative of this Department. In this regard, please contact this Department's Drawing Office Manager Mr D. Smith on 021 4442146 or [davidb.smith@capetown.gov.za](mailto:davidb.smith@capetown.gov.za);
- v) No stakes, pegs or pins shall be driven into the ground within 1m of any part of the electricity services;
- w) No plant or material shall be stored within 1m of any part of the electricity services;
- x) No mechanical plant may be used within 3m of medium voltage cable or 5m of high voltage cable;

- y) The lessee shall be responsible at all times for the maintenance and good order of the land;
- z) The lease may be suspended at any time should the applicant not comply with the conditions;
- aa) On termination of the lease, the entire leased area must be reinstated at the Lessee's expense to a condition acceptable to the City.

5.2 For reasons set out in the report, the objections received against the proposed lease to Big Bay Surf and Life Saving Club **not** be upheld.

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

5.1 Daar word aanbeveel dat die verhuring van 'n gedeelte grond in Stadsbesit ('n openbare plek), naamlik 'n gedeelte van erf 800 Big Bay, geleë uit Hang Ten-rylaan, Big Bay, soos aangetoon deur arsering en die letters ABCDEFGH op plan no. TA 942v1 aangeheg en gemerk **bylae A**, ongeveer 1 127 m<sup>2</sup> groot, aan Big Bay Surf and Life Saving Club, of sy regsopvolgers, goedgekeur word onderworpe aan onder meer die volgende voorwaardes dat:

- a) Tariefhuur van R966,09 per jaar, BTW uitgesluit, bereken teen die tarief van toepassing ten tye van die transaksie betaalbaar is. Eiendomsbelasting is nie van toepassing nie;
- b) Die huurbedrag jaarliks aangepas word volgens die huurtariefstruktuur deur die Raad goedgekeur;
- c) Die verhuring wat vir 'n tydperk van tien jaar sal duur;
- d) Onderworpe aan enige verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê;
- e) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- f) Die eiendom slegs vir lewensredding- en gemeenskapsportdoeleindes gebruik mag word en vir hoegenaamd geen ander doel nie;
- g) Geen vergoeding betaalbaar is vir enige verbetering wat aan die eiendom gemaak word nie;
- h) Geen permanente strukture op die eiendom toegelaat sal word nie;
- i) Bogenoemde huurbedrag aanvaar dat die huurder vir alle instandhouding en herstelwerk verantwoordelik is. Die rolle en verantwoordelikhede ten opsigte van interne en eksterne instandhouding en herstelwerk moet in die

huurooreenkoms uiteengesit word;

- j) Bogenoemde huurbedrag sluit enige bedryfskoste uit, naamlik elektrisiteit, skoonmaakdienste, sekuriteit, water, versekering ens.;
- k) Finansiële state en afskrifte van algemene jaarverslae jaarliks aan die Stad voorgelê moet word;
- l) Onderverhuring, fondsinsamelingsbedrywighede, kroeg- en kosverkope of enige ander ad hoc-aktiwiteite wat op inkomstegenerering gerig is, in die klub se finansiële state verklaar moet word. Die fondse moet verreken, weerspieël en gebruik word vir die bedryf en instandhouding en bestuur van die fasiliteit, insluitende sportontwikkeling. Finansiële state moet op die Stad se versoek beskikbaar gestel word;
- m) Onderverhuring of enige ooreenkomste aan die Stad voorgelê en goedgekeur moet word;
- n) Toestemming van die Stad Kaapstad verkry moet word vir enige aanbouings, verbeterings en enige kommersiële aktiwiteite op die eiendom, in welke geval die huurbedrag hersien sal word;
- o) Die aansoeker moet voortgaan om voldoende vrywillige lewensreddingsdienste oor naweke en op openbare vakansiedae gratis aan die Raad te lewer in die Small Bay- en Big Bay-areas en die diens aan die reëls en voorwaardes van die SA Lewensreddingsvereniging en sy verteenwoordigers, die Westelike Provinsie Lewensreddingsvereniging, moet voldoen;
- p) Daar van die aansoeker verwag word om dryfsandsteurnisse of ander steurnisse wat deur dryfsand veroorsaak word op die verhuurde perseel en aan die windkant en aan die agterkant van enige heining of struktuur op die perseel te verwyder, wat die verwydering van die opgehoopte sand bo die natuurlike grondvlak teen mure en heinings rondom die verhuurde gebied en direk buite die verhuurde gebied insluit;
- q) Die brandtoerusting deur die aansoeker voorsien en in stand gehou moet word;
- r) Die Stad Kaapstad daarop geregtig is om enige pale, stutte, kabels, draad of toebehore daarby te bou, op te rig en te lê. Dit sluit die reg in om masjinerie op die eiendom te bring en uitgrawings te doen;
- s) Die Stad Kaapstad die reg het dat enige werknemer of amptenaar of kontrakteur van die Stad Kaapstad te enige tyd in die uitoefening van bogenoemde regte die eiendom mag betree of daarop te wees;
- t) Geen gebou, vraghouer of struktuur binne 3 m vanaf die elektriese dienste opgerig mag word nie;
- u) Deen uitgrawing of opvulling op die verhuurde gebied gedoen mag word sonder

die vooraf skriftelike toestemming van die direkteur: elektriese dienste deur middel van die goedkeuringsproses vir 'n deurgangsreg nie. Alle uitgrawings binne 3 m vanaf die elektriese dienste moet onder leiding van 'n verteenwoordiger van hierdie departement uigevoer word. In hierdie verband, kontak asseblief hierdie departement se tekenkantoorbestuurder, mnr. D. Smith, by 021 444 2146 of [davidb.smith@capetown.gov.za](mailto:davidb.smith@capetown.gov.za);

- v) Geen bakenpenne, penne of paaltjies binne 1 m vanaf enige deel van die elektrisiteitsdienste ingeslaan mag word nie;
- w) Geen aanleg of materiaal binne 1 m vanaf enige deel van die elektrisiteitsdienste gestoor mag word nie;
- x) Geen meganiese aanleg binne 3 m vanaf mediumspanningskabel of 5 m vanaf hoogspanningskabel gebruik mag word nie;
- y) Die huurder te alle tye verantwoordelik is vir die instandhouding en goeie toestand van die grond;
- z) Die huurooreenkoms te enige tyd beëindig kan word indien die aansoeker nie die voorwaardes nakom nie;
- aa) By beëindiging van die huurooreenkoms, die hele verhuurde gebied op die huurder se onkoste herstel moet word tot 'n toestand wat vir die Stad aanvaarbaar is.

5.2 Om die redes in die verslag uiteengesit, die besware wat teen die voorgestelde verhuring aan Big Bay Surf and Lifesaving Club ontvang is, **nie** gehandhaaf word nie.

## **5 IZINDULULO EMAZITHATHELWE INGQALELO ZE KUNIKWE IZIMVO LIBHUNGANA ELICHAPHAZELEKAYO**

5.1 Kundululwa ukuba ukuqeshisa inxalenye yomhaba wesixeko (indawo yoluntu), oyinxalenye yeSiza- 800 Big Bay, osekuphumeni kwe-Hang Ten Drive, Big Bay, njengoko kubonisiwe kumzobo waza waphwulwa ABCDEFGH kwiPlani engu- TA 942v1 edityanisiwe yaphuwulwa kwiSihlomelo A, ubukhulu bumalunga nama - 1 127 m<sup>2</sup>, kuqheshiselwe i-Big Bay Surf and Life Saving Club, okanye abalandelayo kwitayitile, ukuba yamkelwe ngokudibeneyo phantsi, kwezi meko zilandelayo, phakathi kwezinye izinto:

- a) Intlawulo yerenti engama-R966,09 ngonyaka, ngaphandle kwe-VAT, ebalwe ngexabiso elisebenzayo ngexesha lokuqeshiselana kufuneka ihlawulwe. Amaxabiso awasebenzi;



- b) Imali yengqesho iyakuhlenga-hlengiswa rhoqo ngonyaka ngokwexabiso lemo yentlawulo yokurenta ngoko kuphunyezwa kwayo liBhunga;
- c) Isivumelwano sokuqesha siyakuhlala isithuba seminyaka elishumi;
- d) Ngokuxhomekeke kwimigaqo eyongezelekileyo eluhlobo oluthile ezakumiselwa nguMlawuli: uLawulo lwePropathi phantsi kweelgunya alinikiweyo;
- e) Ngokuxhomekeke ekuthobeleni naziphi na ezinye iimfuno ezisemthethweni;
- f) Ipropathi inokusetyenziselwa kuphela iinjongo yokusindisa ubomi kunye nemidlalo yoluntu kwaye ingena kiusetyenziselwa nayiphina enye into;
- g) Akukho mbuyekezo iya kuhlawulelwa nakuphi na ukuphuculwa okwenziwe kwipropathi;
- h) Akukho zakhiwo ezisisigxina ziya kuvunyelwa kwipropathi;
- i) Olu qeshiso lungentla luthatha ukuba umqeshi unoxanduva lokunakekela nokulungisa. Indima noxanduva olubhekiselele kulondolozo lomphakathi nomphandle luyakuchazwa kwisivumelwano sokuqeshisa;
- j) Olu qeshiso lungentla alubandakanyi naziphi na iindleko zokusebenza oko kukuthi umbane, ukucoca, ukhuseleko, amanzi, i-inshorensi, njalo njalo;
- k) Ukungeniswa kwengxelo-mali kunye neekopi zeengxelo zonyaka ze-AGM kufuneka zingeniswe kwiSixeko rhoqo ngonyaka;
- l) Ukuphinda uqeshise uqeshile, imisebenzi yokunyusa ingxowa-mali, ukuthengisa ukutya notywala nazo naziphi ezinye izinto ezijolise ekwenzeni ingeniso-mali kufuneka ibhengezwe kwengxelo-mali yeklabhu. Ingeniso-mali kufuneka ichazwe, ibonakalisiwe kwaye isetyenziselwe ukusebenza kunye nokunakekela ulawulo lweziko, kubandakanywa nophuhliso lwezemidlalo. Iingxelo zemali kufuneka zingeniswe xa zithe zacelelwa siSixeko;
- m) Uqeshiso ngabaqeshi okanye naziphi na izivumelwano kufuneka zingeniswe kwaye ziphunyezwe siSixeko;
- n) Imvume kufuneka ifunyanwe kwiSixeko saseKapa ngalo naluphi na ulwandiso, ukuphuculwa kunye nayo nayiphi na imisebenzi yezorhwebo kwipropathi, kwimeko enjalo, ukuqeshiswa kuya kuhlaziywa;
- o) Umfaki-sicelo kufuneka aqhubeke nokunikezela ngeenkonzo engesosinyazeliso yokusindisa ubomi kwiBhunga elikwimimandla ye- Small Bay kunye neBig Bay ngeempela-veki nangexesha leholide zikawonke-

wonke, simahla, kwaye inkonzo elolo hlobo kufuneka ithobele imithetho kunye neemigaqo yeNtlanganisela yokuSindisa uBomi wase-SA kunye nabameli bayo, iNtlanganisela yokuSindisa ubomi yePhondo leNtshona Koloni;

- p) Umfaki-sicelo kuyakufuneka ukuba athothise ingxaki yesanti eza nomoya okanye ingxaki edalwa yisanti eza nomoya kwisakhiwo esiqeshisayo nakwicala ozangakulo nelo likhuselekileyo emoyeni lalo naliphina ucingo okanye isakhiwo kwiziko nokuyakuthi kubandakanye ukuthuthwa kwesanti eqokeleleneyo kulo nangaphezulu komhlaba wendalo, owoyame iindonga neengcingo ezijikeleze indawo eqeshisiweyo kananjalo nommandla ongaphandle nje kwendawo eqheshisiweyo;
- q) Izixhobo zocimo-mlilo ziya kubonelelwa kwaye zinakekelwe ngumfaki-sicelo;
- r) ISixeko saseKapa sinelungelo lokwakha kunye / okanye lokumisa, nokubeka ipali, iintambo zombane, iingcingo okanye izinto zokusebenza esezichazwe ngaphambili. Oku kubandakanya ilungelo lokuzisa oomatshini kwipropati kunye nomsebenzi wokomba;
- s) ISixeko saseKapa sinelungelo lokuba nawuphina umqashwa okanye umsebenzi okanye ikontraki yeSixeko saseKapa singene kwaye sibekho kwipropati nangaliphi na ixesha kusetyenziswa amalungelo achaziweyo ngaphambili;
- t) Akukho sakhiwo, iikhonteyina okanye izinto eziya kumiswa kumgama izimitha e-3m ukusuka kwiinkonzo zonikezelo lombane;
- u) Akukho kumba okanye ukugcwalisa kuya kuqhutywa ngaphakathi kwindawo eqeshisiweyo ngaphandle kwemvume ebhaliweyo yomlawuli: linkonzo zoMbane ngokusebenzisa inkqubo/imvume ebizwa wayleave. Wonke umsebenzi wokomba ukumgama ozimitha e-3m ukusuka kwiinkonzo zombane kufuneka kuqhutywe phantsi kolawulo lommeli weliSebe. Ngokumalunga noku, nceda uqhagamshelane noMphathi weOfisi yeMizobo yeSebe Mnu D. Smith kule nombolo ye-021 4442146 okanye [davidb.smith@capetown.gov.za](mailto:davidb.smith@capetown.gov.za);
- v) Akukho zibonda, izikhonkwane okanye iipini ziya kubethelelwa emhlabeni kumgama ongange -1m yayo nayiphi na ixalenye yenkonzo zombane;
- w) Akukho matshini okanye zixhobo ziya kugcinwa kwindawo ekumgama we-1m yenxalenye yeenkozo zombane;
- x) Akukho buxhakaxhaka bomatshini unokusetyenziswa kumgama ozi-3m zentambo zamandla ombane ophakathi okanye i-5m yentambo zamandla aphezulu ombane;

- y) Umqeshi uya kuba noxanduva ngalo lonke ixesha lokulondoloza kunye nocwangco olululo komhlaba;
- z) Uqeshiso lunokunqunyanyiswa nangaliphi na ixesha ukuba lowo ufake isicelo akathobeli imiqathango;
- aa) Ukupheliswa koqeshiso, indawo yonke eqeshisiweyo kufuneka ibuyiselwe ngenkcitho yomqeshi, kwimeko eyamkelekileyo kwiSixeko.

5.2 Ukuba ngenxa yezizathu ezikhankanywe kwingxelo, mazingaxhaswa izichaso ezifunyenweyo ezichaseneyo nesiphakamiso sengqeshiso kwabe-Big Bay Surf and Lifesaving Club.

## **6. DISCUSSION/CONTENTS**

### **6.1 BACKGROUND:**

Big Bay Surf and Life Saving Club submitted an application to lease the subject property from the City of Cape Town for the purpose of continuation of their operation of life saving and community sport activities from the said property.

The applicant has been operating the club from the subject property since April 2008 in terms of a lease agreement with the City of Cape Town. This lease agreement has now expired and the Club has submitted an application for a new lease in order to continue their use of the property. While the new lease is being considered, the lease is continuing on a month to month basis in order for billing to continue as the applicant is still in occupation of the property.

The objectives of the Club is to organize an efficient lifesaving patrol of the Big Bay beach area and any other bathing area when called upon to do so for the benefit of the community. They also co-ordinate, promote and organize lifesaving events within its jurisdiction. The applicant thus operates as a community sporting facility and is a sport organization not for profit.

The club has been providing a free life-saving service to the City of Cape Town in the Small Bay and Big Bay areas during the currency of their previous lease and will continue to do so in terms of a new lease, should this be approved.

During the public participation process, a call was made for alternative proposals for the use of the property. No alternative proposals were received.

During the public participation period, an objection was received from Councillor Grose. The main reasons for this objection can be summarised as follows:

- a) The applicant leases the entire property despite the fact that the entire property is not used by the applicant. Many organizations require space for

their operations and the possibility must be explored to share the facility.

- b) The applicant has allowed a private individual to operate a business in the pub and clubhouse area of the property, without the City deriving any income from this arrangement.
- c) The applicant has not been forthcoming with financial statements in respect of the income derived from the activities on the property.

In order to address the concerns raised by Councillor Grose, a request was submitted to the Valuations section of the City in order to obtain a professional rental determination based upon the concerns so raised. During this exercise copies were also obtained from the applicant of their audited financial statements for the previous and current financial years. After scrutiny of all appropriate factors the Professional Valuers concluded that they recommend that the rental to be offered to the applicant be determined in accordance with the tariff structure of the City, currently being R920,00 per annum, excluding VAT and with rates not being applicable.

In consultation with the City Valuers as well as other City departments, the concerns raised by Cllr Grose will further be addressed by the addition of specific special conditions in the lease agreement, should this application be approved by the delegated authority.

In light of the above, the responses to the objections raised can be summarized as follows, each discussed in relation to the corresponding objection summarized above:

- a) During the internal circulation process no requests were received from any other department for the use of the property. Although a call was made for alternative proposals to be submitted during the public participation process, no alternative proposals were received.
- b) The applicant has indicated to the City Valuer that they have given notice to the operator who managed the pub and clubhouse area of the property and will manage these facilities themselves going forward. In order to regulate this, the lease agreement will contain specific special conditions to limit the use of the property, such special conditions being set out in paragraph 5(l), (m) and (n) above.
- c) The lease agreement will contain a special condition in terms of which the submission of financial statements and copies of annual AGM reports to the City on a yearly basis will be required.

During the currency of the lease period the agreement of lease will contain a clause that, in the event that Council requires the land for the provision of basic municipal services, a notice period of two months will apply.

The property is registered in the name of the name of Jonga Ntabeni Property Investments (Pty) Ltd in terms of Deed of Transfer No 75161/2005 and vests in the City of Cape Town as a Public Place. The property is zoned as open Space 2: Public Open Space..

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

The various Council Departments were consulted and have no objection to the lease subject to conditions set out in Paragraph 5 above which will form part of the lease agreement:

## **6.3 VALUATION**

In order to ensure that a tariff rental is still applicable in respect of the continued use of the subject property by the applicant, the application was referred to the City's Professional Valuers for a rental determination. They concluded that the application category fits within the tariff structure of the City approved on 29 May 2019.

As a result, the City's Professional Valuers on 30 April 2020 assessed the rental value of the Subject Property at R920,00 per annum excluding VAT, rates not applicable. This rental determination was done by the Valuers prior to the approval of the new tariff structure for the City by Council on 27 May 2020. The valuation synopsis is attached to the report as **Annexure B**.

As the new tariff structure has since been approved by Council on 27 May 2020, the current applicable tariff rental will be R966,09 per annum excluding VAT, rates not applicable.

## **6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS**

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

## **6.5 FINANCIAL IMPLICATIONS**

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

## **6.6 TAX COMPLIANCE**

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

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

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

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

## 6.7 FINANCIAL DUE DILIGENCE

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

## 6.8 SUSTAINABILITY IMPLICATIONS

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

## 6.9 LEGAL IMPLICATIONS

### Regulation 36 of the MATR

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

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

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

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

Council will receive a financial benefit in the form of a tariff rental to the amount of R966,09 per annum, excluding VAT calculated at the rate applicable at the time of transaction. Rates not applicable.

### **Management of Risk**

No operational or control risk to the City.

### **Stakeholder comments and recommendations**

The Director: Property Management, in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Argus and Die Burger on 29-05-2020. Closing dates for objections were 30-06-2020. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organizations. One objection was received, as discussed under paragraph 6 of this report.

### **Views from National and Provincial Treasury**

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

### **Strategic, Legal and Economic Interests**

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

### **Compliance with Legislative Regime that is Applicable to Proposed Granting of Rights**

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

#### **6.9.2 Section 12.5 of the Management of Certain of the City of Cape Town's immovable property Policy**

In accordance with the above, alternative proposals were called for during the public participation process. No alternative proposals were received.

The applicant operates as a community sporting facility and has been providing life-saving services and sporting opportunities to the community since 2008. The

Club operates as a sport organization not for profit, a fact which was confirmed by the City Valuers after scrutinizing the audited financial statements of the Club.

When an application for an unsolicited property transaction is received in respect of a community sporting facility property, the following factors may be taken into account in order to justify not following a competitive process:

**Whether the applicant has historically enjoyed a Property Right granted by the City and, if so, for how long**

The applicant has been in occupation of the property since 2008 in terms of a lease agreement with the City.

**The terms and conditions of such use**

The property may be used for life saving and community sporting purposes only and for no other purpose. The maintenance of the property will be the responsibility of the applicant.

**The exact nature of the social care or community purpose**

The facility is used to provide life saving services to the City in the Small Bay and Big Bay areas as well as for sporting purposes.

**Whether the applicant in the past made improvements to the Property and, if so, the value of such improvements**

The applicant has not made improvements to the property but has been responsible for the maintenance of the property for the duration of their lease period. Whether or not the City is satisfied with the manner in which the applicant gives effect to the social care purpose

The City is satisfied with the manner in which the applicant gives effect to the services permitted on the property.

## 6.10 STAFF IMPLICATIONS

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

No ☒

Yes ☐



## **ANNEXURES**

Annexure A: Plan No TA 942v1

Annexure B: Valuation Report

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	GERDA DU PLESSIS <i>males</i> 13-10-2020
<b>CONTACT NUMBERS</b>	021 444 4985
<b>E-MAIL ADDRESS</b>	SUSARAH.DUPLESSIS@CAPETOWN.GOV.ZA
<b>DIRECTORATE</b>	ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT
<b>FILE REF NO</b>	TYG14/3/6/1/2/800
<b>MANAGER: PROPERTY HOLDING</b> RACHEL SCHNACKENBERG	Rachel Schnackenberg Digitally signed by Rachel Schnackenberg Date: 2020.10.14 07:44:48 +02'00'

*Gelderbloem*  
Digitally signed by  
Ruby Gelderbloem  
Date: 2020.10.15  
11:46:54 +02'00'

Comment:

**DIRECTOR : PROPERTY MANAGEMENT IN HER  
CAPACITY AS EXECUTIVE DIRECTOR : ECONOMIC  
OPPORTUNITIES AND ASSET MANAGEMENT  
NOMINEE**

NAME RUBY GELDERBLOEM

DATE

Jason Sam  
Liebenberg  
g  
Digitally signed  
by Jason Sam  
Liebenberg  
Date: 2020.10.19  
20:15:43 +02'00'

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

☐ NON-COMPLIANT

**LEGAL COMPLIANCE**

NAME

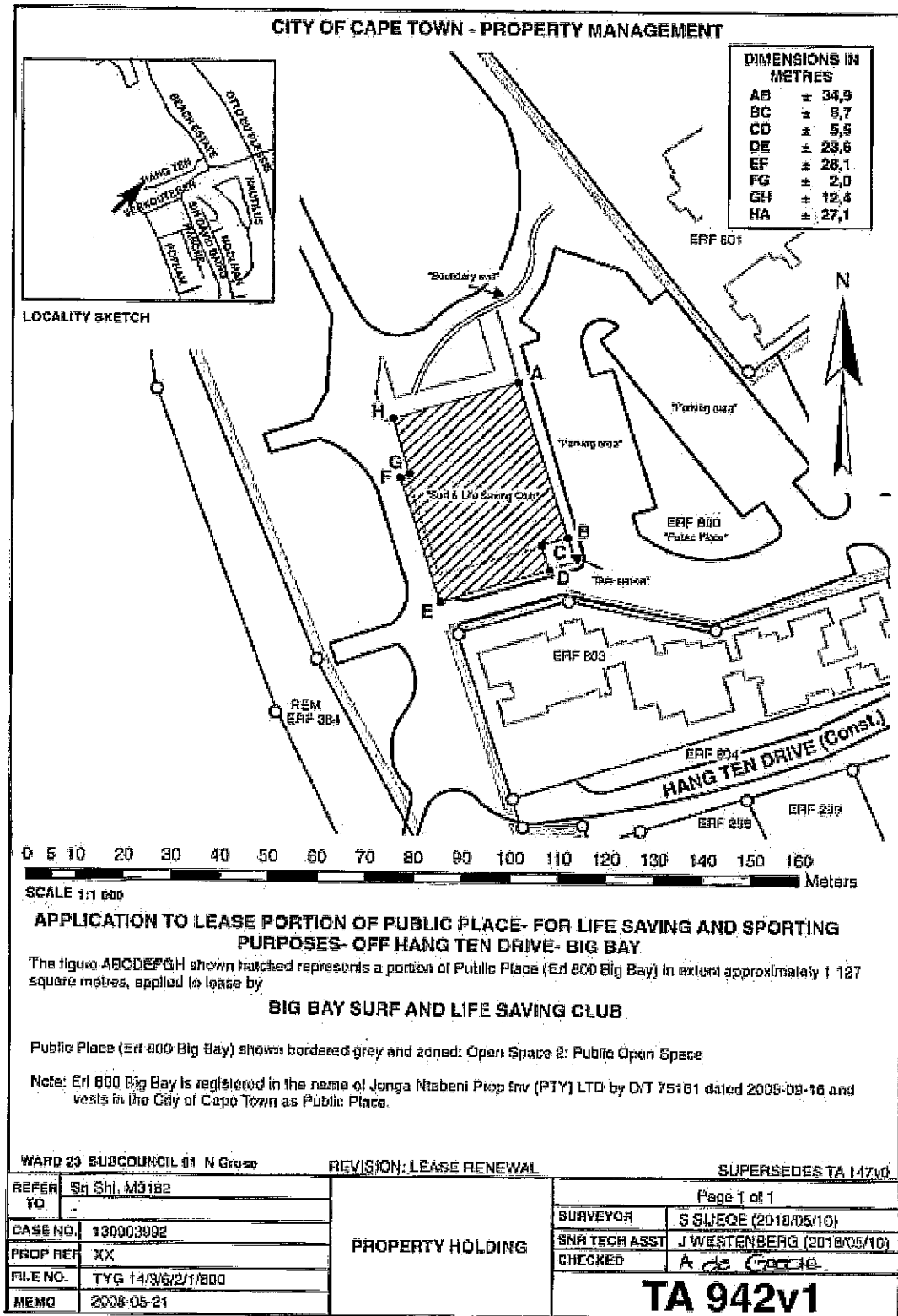
Comment:

TEL

Certified as legally compliant based on the contents of the report

DATE

# ANNEXURE A



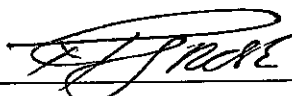


MR W V/D WESTHUIZEN  
Subcouncil 1 Manager

☐

DATE

11-01-2021



CLLR N GROSE  
Chairperson Subcouncil 1

☐

DATE

11-01-2021