Richmond
Local Municipality

Draft Asset Disposal Policy – Immovables
2026/27

Contents

Key Definitions

Accounting Officer

Means the Municipal Manager

Asset

Resources controlled by a municipality because of past events and from which future economic benefits or service potential are expected to flow to the municipality.

Chief Financial Officer

Means a person designated in terms of section 80(2) (a) of the MFMA

Financial year

Means a twelve-month period commencing on 1 July and ending on 30 June each year

GRAP 17

The accounting standards applicable to municipalities GRAP – Generally Recognised Accounting Practice

Municipal council or **Council**

Means the council of a municipality referred to in section 18 of the Municipal Structures Act; (refer to the MSA for definition).

Land

Means any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such land; or unregistered land where the ownership can be determined.

Lease

Means the letting of Municipal land/Immovable Property/buildings in terms of which the use and enjoyment of the land/property/building is granted for a specified period exceeding 1 month without ceding legal ownership in the asset or any form of land availability agreement in respect of Immovable Property and letting have a corresponding meaning.

Lease agreement

Means a written agreement entered into between the Municipality and the lessee specifying rights and duties pertaining to the exclusive use of Immovable Property for a continuous period of time longer than thirty (30) calendar days, and which sets forth the terms and conditions of the use, management and control of the Immovable Property.

Local Black people

Means Africans, Coloured and Indians, as referred to in the B-BBEE Act, No. 53 of 2005, who normally resides within the municipal area of Richmond Municipality.

MATR

Means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA and published in *Government Gazette* No. 31346 of 22 August 2008.

Transfer

In relation to a capital or subsidiary asset, means transfer of ownership in the asset because of a sale or other transaction.

Basic municipal service

Means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health, safety, or the environment.

Capital assets

In terms of this policy, means land and other immovable capital assets which vests in the Municipality.

Constitution

Means the Constitution of the Republic of South Africa, 1996

Contract

Means a deed of alienation under which land is sold against payment by the purchaser to, or to any person on behalf of the seller, deed of donation and exchange agreement.

Fair market value

In relation to a capital asset, means the value at which a knowledgeable willing buyer and a knowledgeable willing seller would sell the capital asset in an arm's length transaction.

Immovable capital asset

Means any immovable asset such as land, asset, or building.

Integrated Development Plan (IDP)

Means the Integrated Development Plan of the Municipality as envisaged in section 25 of the Municipal Systems Act (Act No. 32 of 2000).

Abbreviations

BAC – Bid Adjudication Committee

MSA – Municipal Structures Act

MFMA – Municipal Finance Management Act

HDI – Historical Disadvantaged Individuals

SDF – Spatial Development Framework

1 Introduction

The purpose of the Asset Disposal Policy is to provide a framework for the disposal of the municipality's assets that are not needed to provide the minimum level of basic municipal services and that are surplus to the municipality's requirements.

Sections 14 and 90 of the MFMA deal with the disposal of capital assets. These prescribe that, prior to transfer or disposal of a capital asset, council in an open meeting must decide that the asset is not needed to provide the minimum level of basic municipal services, and must have considered the fair value for the asset and the economic community value to be received in exchange for the asset.

The Accounting Officer must ensure that:

- Immovable property is sold at market-related prices, except when the public interest or plight of the poor demands otherwise.

2 Objective

The objectives of this policy are to ensure that assets:

- Disposal and transfer of ownership of any fixed asset shall be fair, equitable, transparent, competitive, and consistent with the Supply Chain Management Policy.
- That only asset that do not provide the minimum level of basic municipal services are disposed of.
- Ensure that assets are not disposed when the disposal of the asset or the terms of the disposal of the asset could disadvantage the municipality or community financially or otherwise.

3 Legislative Framework

In applying this policy, the Municipality will adhere to:

- Municipal Finance Management Act (Act no. 56 of 2003).
- Municipal Systems Act no 32 of 2000 as amended.
- Municipal Structures Act no 117 of 1998.
- Municipal Property Rates Act 2004
- Broad Based Black Economic Empowerment Act (Act No. 53 of 2003).
- Constitution of the Republic of South Africa, 1996.
- Development Facilitation Act (Act No. 67 of 1995).
- Extension of Security of Tenure Act (Act No. 62 of 1997).

- Municipal Asset Transfer Regulations (GN R878 in GG 31346 of 2008) (hereafter referred to as the Regulations).

4 Policy Principles

4.1 Utilization of land and other immovable assets is guided by the Municipality' Integrated Development Plan (IDP), the Spatial Development Framework and the Asset Management Strategy.

4.2 Council may acquire, use, or dispose of any capital assets owned by the Municipality, unless it is precluded from so doing by law or the conditions under which such immovable assets were acquired by the Municipality.

4.3 The disposal of land and other immovable capital assets is subject to the following:

a) Preference for the disposal of land and other immovable capital assets will be given to HDI's, i.e. designated groups: youth, women, and people with disabilities, in accordance with the Supply Chain Management Policy of the Municipality.

b) The disposal of municipal land (particularly industrial and commercial) will be biased towards the HDI's. This is applicable in terms of both quantity (including size) and the value of land acquisition and alienation. This is subject to the following conditions:

   i. Any disposal of municipal capital assets shall not unfairly discriminate against individuals not defined as HDIs.

   ii. In a bid for municipal land or other immovable capital assets, where bidders are equally competitive; preference will be given to HDIs, in accordance with the Supply Chain Management Policy of the Municipality.

   iii. Special affirmative measures towards HDI's may be applied by the Municipality to ensure fairness in the disposal process of land or other immovable capital assets in accordance with the Preferential Procurement Regulations.

c) Preference will be given to bids that support economic development initiatives on a macro scale, including tourism initiatives.

d) Land for residential purposes will be alienated, whilst land for non-residential purposes such as commercial and industrial erven may be leased or sold at the discretion of the council.

e) Land may be disposed of as collateral for major development investment in pursuance of Public-Private Partnerships (PPPs) as envisaged in section 120 of the MFMA.

f) Council will set aside some parcels of land to be utilized at its own discretion, and the rest may be alienated to the public.
g) Council reserves the right not to dispose of any portion of land.

4.4 The implementation of these policy principles will be used to enhance and not stifle economic development.

4.5 The Council may dispose of land or other immovable capital assets only once it is satisfied that such an asset is not needed to provide the minimum level of basic municipal service, in accordance with section 14(1)(a) of the MFMA and Council has complied with subsections (2) to (6) thereof.

4.6 A decision by the Council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the Municipality after that asset has been sold, transferred or otherwise disposed of.

4.7 Council reserves the right to limit the number of acquisitions per bidder in the disposal process.

4.8 Unless otherwise expressly provided for in any other law and whereas, various legislation provide for the disposal of land at market related prices, land or other immovable capital assets can only be disposed of at less than the market related value, subject to approval by Council upon consideration of the following factors:

a) Whether the immovable capital asset is surplus to requirements and may not be needed for its own requirements at a later date.
b) The envisaged purpose or use of the capital assets.
c) Current market value (details of how arrived at) and the value to be received in exchange for the disposal.
d) Comparison of disposal methods.
e) Examination of costs and benefits of each disposal method and
f) If disposal is envisaged by way of an offer to purchase, all documentation (including minutes of meeting/s held) pertaining to said offer must be submitted to Council prior to conclusion of such an offer.

4.9 Should Council consider it desirable not to accept the highest bid or decide to accept a particular development proposal in which the amount of the bid is not the highest offer, the reasons for this decision must be fully set out and recorded in the minutes of the Council meeting in question. Such a decision must be consistent with paragraph 13(2) of the Regulations.

4.10 In assessing bids, Council may take cognizance of the total cash and developmental value of the packages offered by the bidders where such packages are permissible in terms of the conditions of the bid

4.11 The Municipality may elect to link the sale or development of land within a single transaction to the development of municipal infrastructure or any other

5 Methods of Disposal of Immovable Capital Assets

5.1 After consideration of the availability of land for disposal as guided by the (IDP), Spatial Development Framework (SDF) and/or KZN Planning and Development Act (PDA) and the Asset Management Strategy, the Council must make the determination that such an asset is not needed to provide a minimum level of service delivery in accordance with paragraph 4.5 of this Policy.

5.2 Any disposal of capital assets shall be subject to a public participation process envisaged in paragraph 7 of this Policy. Such a public participation process shall be conditional on the high value of the capital assets as resolved by Council.

5.3 The Municipality may grant a right to use, control or manage a capital asset (i.e. a leasing, caretaker-ship, renting or hiring out arrangement) this can be done at the discretion of the Municipal Manager or the delegated Accounting Officer if the value of the property is less than R10 million.

5.4 Upon conclusion of the public participation process the Council may approve that a capital asset may be disposed of, in accordance with conditions provided for in paragraphs 7 and 17.10 of this Policy.

5.5 Such a public participation process shall include notification that an applicant intends purchasing, leasing, or swapping a capital asset for another. Where there is more than one applicant, the Municipality must initiate a bidding process as laid out in the Municipality's Supply Chain Management Policy.

5.6 Where the property is marketed as part of the auction process, the floor price or minimum compensation for the asset must be determined by the municipal valuer who should certify that it corresponds with a reasonable market value.

5.7 The Municipality reserves the right to prescribe that not more than one erf may be disposed to any single purchaser if it is sold out-of-hand.

5.8 Capital assets may be sold or leased out-of-hand in exceptional cases where Council is of the opinion that public competition would not serve a useful purpose or that it is in the interest of the community, and this must be accompanied by a Council resolution authorising same.

5.9 In such cases Council is required to record in the minutes of the Council meeting concerned stating their full reasons for preferring such out-of-hand disposal to those by public competition.

5.10 Such disposal of capital assets must not conflict with any other relevant legal requirements such as town planning requirements or conditions of title.

5.11 Process of exchange, this is where a disposal and an acquisition take place simultaneously, in which event the rules of both disposal and acquisition apply, and where an exchange of ownership of the respective immovable assets occur, provided that in the event that one immovable asset is of a higher monetary value than the other, a cash payment equivalent to the shortfall must be made by the party whose asset is of lesser value; and the municipal valuer must determine the value of both assets. Where the process is initiated by the Applicant, the Applicant will be liable for all costs where applicable, viz. transfer, rezoning, and sub-division costs.

5.12 Council hereby delegates its powers to the municipal manager to lease land which is less than 3 years with a value below R 10 000 000 (ten million rand). The procedure to dispose of and let land be regulated by the Municipal Finance Management Act, the Asset Transfer Regulations, the Supply Chain Management Policy and Council's Asset Disposal Policy and utilising the "High Value" principle.

6 Transfer of Non-Exempted Capital Assets: Decision Making Process

6.1 The Municipality may dispose of a capital asset if it is less than R 10 million without holding a public participation:

a) such a capital asset is not needed to provide the minimum level of basic municipal services.
b) fair market value of the asset and the economic and community value to be received in exchange for the asset has been considered; and
c) as consequence of (a) and (b), had approved in principle that the capital asset may be transferred or disposed of.

6.2 A request to Council to authorize the public participation process must be accompanied by an information statement stating:

a) the valuation of the capital asset to be transferred or disposed of and the method used to determine that valuation.
b) the reasons for the proposal to transfer or dispose of the capital asset.
c) any expected benefits to the Municipality that may result from the transfer or disposal.
d) any expected proceeds to be received by the Municipality from the transfer or disposal; and
e) any expected gain or loss that will be realised or incurred by the Municipality arising from the transfer or disposal.

7 Public Participation Process

7.1 If the Council has authorized the Accounting Officer to conduct a public participation process for land that is worth more than R 10 million, the Accounting Officer must allow at least 60 days before the Council meeting at which determinations referred to in section 6.1 (a) and (b) of this Policy are to be considered in accordance with Section 21A of the Municipal Systems Act:

a) advertise in a local or other newspaper the proposal to transfer or dispose of the capital asset together with the information statement in accordance with 6.3 of this Policy.

b) invite the local community and other interested persons to submit comments or representations in respect of the proposed transfer or disposal of the capital asset; and

c) solicit the views and recommendations of National Treasury and the relevant provincial treasury on the matter (this is applicable only if the immovable capital is of high value).

8 Consideration to transfer or dispose of Non-exempted Capital Assets

8.1 The Council must, when considering any proposed transfer or disposal of a non-exempted capital asset, consider –

a) whether the capital asset may be required for the Municipality's own use at a later date.

b) the expected loss or gain that is expected to result from the proposed transfer or disposal

c) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the Municipality.

d) the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the Municipality's interests.

e) the effect that the proposed transfer or disposal will have on the rating of the Municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow.

f) any limitations or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions.

g) the estimated cost of the proposed transfer or disposal.

h) the transfer of any liabilities and reserve funds associated with the capital asset.

i) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons.

j) any written views and recommendations on the proposed transfer or disposal of by National Treasury and the relevant provincial treasury

k) the interests of the affected organ of state, the Municipality's own strategic, legal, and economic interests, and the interests of the local community; and

l) compliance with the legislative regime applicable to the proposed transfer or disposal.

9 Conditional Approval of Transfer or Disposal of Non-exempted Capital Assets

9.1 An approval in terms of paragraph 5(1)(b)(ii) of the Regulations and paragraph 6.1 (c) of this Policy, that a non-exempted capital asset may be transferred or disposed of, may be given subject to any conditions, including conditions specifying:

a) the way in which the capital asset is to be sold or disposed of.

b) a floor price or minimum compensation for the capital asset.

c) whether the capital asset may be transferred or disposed of for less than its fair market value, in which case the Council must first consider the criteria set out in paragraph 12 of this Policy.

d) a framework within which direct negotiations for the transfer or disposal of the capital assets must be conducted with another person, if transfer or disposal is subject to direct negotiations.14 (e)the effect that the proposed transfer or disposal will have on the rating of the Municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;

e) any limitations or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions.

f) the estimated cost of the proposed transfer or disposal.

g) the transfer of any liabilities and reserve funds associated with the capital asset.

h) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons.

i) any written views and recommendations on the proposed transfer or disposal of by National Treasury and the relevant provincial treasury.

j) the interests of the affected organ of state, the Municipality's own strategic, legal, and economic interests, and the interests of the local community; and

k) compliance with the legislative regime applicable to the proposed transfer or disposal.

10 Transfer or Disposal of Non-exempted Capital Assets in accordance with Disposal Management System

10.1 If approval has been given in terms 5(1)(b)(ii) of the Regulations that a non-exempted capital asset may be transferred or disposed of, the Municipality may transfer or dispose of the asset only in accordance with its disposal management system irrespective of:

a) the value of the capital asset; or

b) whether the capital asset is to be transferred to a private sector party or an organ of state.

10.2 The disposal management system of a Municipality does not apply to the Transfer of a non-exempted capital asset if - the Municipality:

a) reviews in terms of chapter 8 of the Municipal Systems Act its service delivery mechanisms for the performance of a municipal service.

b) appoints a private sector party through a competitive bidding process as the service provider for the performance of that municipal service; and

c) transfers the capital asset as an integral component of the performance of that municipal service to that service provider; or

i. the Municipality appoints a private sector party or organ of state through a competitive bidding process as the service provider for the performance of that commercial service; and

ii. transfers the capital asset as an integral component of the performance of that commercial service to that service provider; or

10.3 The Municipality may negotiate directly with the selected service provider regarding the transfer of the capital asset.

10.4 The Municipality may not commence with negotiations referred to in 10.3, unless approval in principle has been given that the relevant capital asset may be transferred or disposed of, in terms of paragraph 9 of this Policy.

10.5 In applying the process referred to in section 10.1 or conducting negotiations referred to in 10.3, the Municipality must consider the gain or loss that will:

a) result from the transfer or the disposal of the relevant capital asset.

b) be recorded in the accounting records of the Municipality

11 Compensation for Transfer of Non-exempted Capital Assets

11.1 The compensation payable to the Municipality for the transfer of a non-exempted capital asset must, subject to 11.2, –

a) be consistent with criteria applicable for compensation set out in the disposal management system of the Municipality.

b) reflect fair market value.

11.2 If the Municipality on account of the public interest, in particular in relation to the plight of the poor, intends to transfer a non-exempted immovable capital asset for less than its fair market value or donate, the Municipality must, when considering the proposed transfer, take into account –

a) the interests of

i. the State; and

ii. the local community.

b) the strategic and economic interests of the Municipality, including the long-term effect of the decision on the Municipality.

c) the constitutional rights and legal interests of all affected parties.

d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and

e) whether the local community would be better served if the capital asset is transferred at less than its fair market value or donated, as opposed to a transfer of the asset at fair market value.

12 Circumstances in which the Transfer of Municipal Assets to Organs of State is exempted from Sections 14 & 90 of MFMA

12.1 Section 14(1) to (5) and section 90(1) to (5) of the MFMA do not apply if the Municipality transfers a capital asset to an organ of state in any of the in paragraph 20(1)(f)(ii)(aa) to (jj) of the Regulations.

12.2 Any transfer of a capital asset to an organ of state may be effected only in accordance with circumstances described in chapter 3 (20) of the Regulations and any other legislation specifically regulating the transfer of assets, but in the event of any inconsistency between a provision of chapter 3 of the regulations and such other legislation, that other legislation prevails.

13 Circumstances in which Transfer of Municipal Capital Assets to Organs of State is not exempted

13.1 Sections 14(1) to (5) and 90(1) to (5) of the MFMA and chapter 2 of these Regulations must be applied if the Municipality transfers a capital asset to an organ of state when none of the circumstances mentioned in regulation apply, including when the asset is transferred in the course of an ordinary commercial transaction between the Municipality and the organ of state.

14 Transfer of Exempted Capital Assets needed to improve minimum level of Basic Municipal Service

14.1 If the Municipality transfers to an organ of state an exempted capital asset needed to provide the minimum level of basic municipal services, such transfer may only be affected on condition that -

a) ownership in the capital asset must immediately revert to the Municipality should the organ of state for any reason cease to render the service or is unable to render the service; and

b) the organ of state may not without the written approval of the Municipality -

i. transfer the capital asset to another person.

ii. dispose of the capital asset.

iii. grant a right to another person to use, control or manage the capital asset; or

iv. encumber the capital asset in any way.

14.2 Before transferring an exempted capital asset needed to provide the minimum level of basic municipal services, the Municipality must be satisfied that the organ of state to which the asset is to be transferred can be demonstrate the ability to adequately maintain and safeguard the asset.

14.3 The transfer agreement, service delivery or other agreement between the Municipality and the organ of state to whom the asset is to be transferred must reflect the conditions set out in sub-paragraph 14.1 of this Policy.

14.4 If the organ of state replaces, upgrades or improves the capital asset transferred to it, the conditions set out in sub-paragraph 14.1 remain applicable to the new, upgraded or improved capital asset as if it were the original capital asset.

14.5 This Policy does not apply to a capital asset needed to provide the minimum level of basic municipal services which is transferred to an organ of state in the circumstances referred to in paragraphs 20(1)(c) or (d) of the Regulations.

15 Transfer or Borrowings and Staff

15.1 If the Municipality transfers an exempted capital asset to an organ of state, any borrowings or other amounts owed by the Municipality specifically associated with the asset being transferred, or with its acquisition, operation or maintenance, must also be transferred to the organ of state. This must be applied in addition to paragraphs 26(2) to (7) of the Regulations.

15.2 If the Municipality transfers an exempted capital asset to an organ of state and the transfer of that asset gives rise to the transfer to the organ of state of staff associated with the asset; the staff transfer must be consistent with legislation regulating staff transfers in those circumstances, including any applicable labour legislation and legislation regulating the transfer of liabilities associated with such staff.

16 Compensation and Other matters relating to the Transfer of Capital Assets

16.1 The Municipality must receive compensation for the value of those assets when transferring an exempted capital asset and any subsidiary assets to an organ of state, as may be agreed upon with the organ of state.

16.2 The value of an asset must, for purposes of sub-paragraph 16.1 be determined in accordance with the valuation of assets in terms of paragraph 29 of the Regulations.

16.3 Such transfer of assets must be made in accordance with paragraph 30 of the Regulations which provide that a Municipality may transfer assets and liabilities to an organ of state only in accordance with a written transfer agreement concluded between the Municipality and the organ of state. Such a transfer agreement must be made in terms of paragraphs 30(2) to (3) of the Regulations.

16.4 Before entering into a transfer agreement in terms of paragraph 30 of the Regulations, the Municipality must consider the effect that the transfer of an asset will have on -

a) its credit rating and ability to raise long-term or short-term funds in the future; and
b) its financial position and cash flow.

16.5 Paragraph 16.4 does not apply if the asset is transferred to an organ of state in the circumstances referred to in paragraphs 20(1)(c), (d) or (e) of the Regulations.

16.6 Before entering into a transfer agreement in terms of paragraph 30 of the Regulations, the organ of state to whom a capital asset is to be transferred must undertake and document a due diligence review on the asset and any liabilities transferred to it and the results of the due diligence must be taken into account in any decision to transfer a capital asset in terms of chapter 3 of the Regulations.

17 Granting of Rights to Use, Control or Manage Municipal Capital Assets

17.1 The Municipality shall regulate the granting of rights to use, control or manage immovable capital assets. This is applicable where the granting of such rights does not amount to the transfer or permanent disposal of the immovable capital asset, for example when a right is acquired through caretaker-ship, leasing, letting, or hiring out arrangement.

17.2 The granting of such rights by the Municipality does not apply with regard to the granting of:

a) rights to use, control or manage capital assets in terms of public-private partnership agreements referred to in section 120 of the MFMA and the Municipal Public-Private Partnership Regulations published by the Government Notice No. R309 of 2005; or
b) rights on municipal land to housing for the poor to beneficiaries of such housing.

17.3 The granting by the Municipality of a right to use, control or manage a capital asset must be dealt with in terms of chapter 2 or 3 of the Regulations as if the granting of a right is a transfer within the meaning of those chapters, if the right:

a) is granted for an indefinite or undetermined period.
b) is granted for a period which exceeds:
   i. the useful life of the capital asset; or
   ii. the economic usefulness of the capital asset and which would require the asset, to remain economically useful, to be substantially upgraded, altered or replaced during the period which the rights is granted.
c) confers on the person to whom the right is granted:
   i. an option to buy or acquire ownership in the capital asset; or
   ii. the power to use, control or manage the capital asset as if that person is the beneficial (but not legal) owner of the asset.

17.4 The Municipality may grant a right to use, control or manage an immovable capital asset only after:

a) The Accounting Officer has conducted a public participation process regarding the proposed granting of the rights in terms of paragraph 35 of the Regulations, and
b) The Council has approved in principle that the right may be granted.

17.5 The public participation process envisaged in sub-paragraph 17.4 (a) above, need not be complied with if the value of the property is less than R 10 million

17.6 Only the Council may authorize the public participation process referred to in paragraph 17.4(a) of this Policy.

17.7 A request to the Council for authorisation of a public participation process must be accompanied by an information statement stating:

a) the reasons for the proposal to grant a right to use, control or manage the relevant capital asset.
b) any expected benefits to the Municipality that may result from the granting of the right.
c) any expected proceeds to be received by the Municipality from the granting of the right; and
d) any expected gain or loss that will be realised or incurred by the Municipality arising from the granting of the right.

17.8 The Council may delegate to the Accounting Officer its approval power referred to in 17.4(b) of this Policy in accordance with paragraph 34(1)(b) of the Regulations, excluding the power to grant long term rights to use, control or manage capital assets of a value in excess of R10 million.

17.9 If the Council authorized the Accounting Officer to conduct a public participation process in connection with any proposed granting of a long-term right to use, control or manage a capital asset, regardless of the value of such an asset, the Accounting Officer must at least 60 days before the meeting of the Council conduct a public participation process as provided for in paragraph 17.4 above.

17.10 The Council must, when considering any approval in terms of paragraph 34(1)(b) for any proposed granting of a right to use, control or manage a capital asset, take into account factors referred to in paragraph 36(a) to (g) of the Regulations.

17.11 Conditional approval in principle for the granting of rights to use, control or manage an immovable capital asset may be given subject to conditions stipulated in paragraph 40(a) to (c) of the Regulations.

17.12 If approval in principle has been given in terms of paragraph 17.10 above, that a right to use, control or manage an immovable capital asset may be granted, such a right may be granted only in accordance with the disposal management system of the Municipality, except under conditions envisaged in paragraph 41(1) to (4) of the Regulations.

17.13 If the Municipality grants a right to use, control or manage a capital asset used for in connection with a municipal service, the Municipality must take all reasonable steps to ensure that the granting of the right will result in the continuation of the service at the same or better level than would otherwise have been rendered by the Municipality had it not been granted.

17.14 The granting of rights to use, control or manage capital assets needed to provide minimum level of basic municipal services to any private sector party or organ of state must be in accordance with the conditions provided for in paragraph 44 of the Regulations.

17.15 The Municipality may grant a right to use, control or manage a capital asset to a private sector party or organ of state by way of a written agreement concluded between the Municipality and the private sector party or organ of state to whom the right is granted in accordance with paragraph 45 of the Regulations.

17.16 An agreement granting a right to use, control or manage a capital asset to a private sector party or organ of state:

a) must be made available in its entirety to the Council of the Municipality; and
b) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to information Act, 2000 (Act No. 2 of 2000).

17.17 Any gain that will be realised or any loss and all associated costs that will be incurred by the Municipality in respect of the transfer or disposal of, or the granting of a right to use, control or manage a capital asset, must be included in the next adjustments budget of the Municipality referred to in section 28 and 87 of the MFMA, respectively.

17.18 The transfer of an asset, or the granting of a right to use, control or manage an asset in terms of the Regulations does not affect any encumbrances, rights and servitudes attached to the asset.

17.19 The transfer or disposal of an asset or the granting of a right to use, control or manage an asset in terms of the Regulations must be given effect to and formalized in accordance with any legislation applicable to such transfers, disposals or granting of rights.

17.20 Exemptions with regard to the application of the Regulations must be in accordance with paragraph 50 of the Regulations.

18 Social Sites

18.1 Social care is defined as services provided by registered welfare, charitable, non-profit, cultural, and religious organizations and includes, but is not limited to, the following types of uses:

a) Place of worship to the degree and for that portion of a facility being used for spiritual gathering by, and social/pastoral/welfare caring and support to worshippers and the broader community.
b) Childcare facility insofar as it contributes to the function of multi-use childcare facility for early childhood development purposes and is operated on a non-profit basis.
c) Retirement villages for that portion of the building or facility available to public use at subsidized/nominal prices.
d) Schools or centres utilized as homes for the handicapped and disabled persons.
e) Non-profit rehabilitation centres; rehabilitation centres.
f) Home/ centres for indigent, battered or destitute persons.
g) Organisations for the homeless and elderly.
h) Youth activity centres.
i) Facilities for accommodation, care, and burial of animals; and
j) Cemeteries, non-profit funeral parlours and non-profit crematoria.

18.2 Immovable property may be alienated or let out –of hand to social care users in exceptional cases where the Council is of the opinion that public competition would not serve a useful purpose or that it is in the interest of the community and the Council, where none of the conditions as set out in this policy provides for such exception and where they are not in conflict with provision of the policy.

18.3 Council reserves the right to entertain unsolicited bids for the purchase or lease of viable immovable property for social care uses subject to Council's strategic objectives.

18.4 Ownership will be offered by means of a competitive bidding without limiting the municipality's power to consider an unsolicited bid.

18.5 Bidders will be subject to screening process that will take into account the needs of the community, nature of the organization and ability to discharge intention, and the following factors shall be considered relevant in the selection and allocation of immovable property to places of worship.

a) the size of congregation/membership.
b) availability of finance to acquire the site and develop same within one year.
c) whether or not such a denomination is already represented in the area.
d) whether or not welfare type facilities and activities will be in addition to religious activities.
e) whether or not the congregation/membership is drawn from the area in which a site is being applied for.
f) will be subject to a predetermined price that is market related, a discounted price subject to a revisionary provision.
g) will be subject to development clause to ensure discharge of intention.

19 Acquisition of Land and Other Immovable Capital Assets

19.1 In an event when there is a need to acquire additional land for development related activities, the Municipality will embark on a land acquisition programme in collaboration with the Department of Rural Development and Land Reform.

19.2 The Municipality may acquire additional land and other immovable capital assets only after the Council has made the determination that:

a) such a capital asset is needed to provide the minimum level of basic municipal services.

b) fair market value of the asset and the economic and community value to be received in exchange for the asset has been considered (where applicable); and

c) it is in the strategic and economic interest of the Municipality including its long-term requirements.

d) as consequence of (a), (b) and (c), had approved in principle that the capital asset may be acquired.

19.3 The land and other immovable capital assets acquired in terms of sub-paragraph 18.1 must be registered in the name of the Richmond Municipality.

20 Asset Disposal Committee

20.1 The Municipal Manager shall appoint Asset Disposal Management Committee whose primary function shall be:

a) to advise the Municipal Manager on all matters relating to the acquisition, maintenance or disposal of land and other immovable capital assets.

b) advise the committees of council on the acquisition, maintenance and disposal of land and other immovable capital assets and make recommendations to council on such matters in accordance with the Integrated Development Plan (IDP), the SDF and the Asset Management Strategy;

c) ensure that a Register of Land and Other Immovable Capital Assets is developed and regularly updated.

d) ensure that a monitoring and evaluation system is established to realize the policy principles, objectives and set targets of this policy.

e) conduct surveys of current undeveloped land to ascertain non-compliance to contracts’ obligations and ensure that in instances of non-compliance with such contractual obligations, such land reverts to the Municipality and.

f) ensure compliance with this Policy and relevant legislation.

21 Implementation and Review Process

21.1 This Policy:

a) shall come into effect on the date of the Council resolution.

b) may be reviewed annually and when required by way of Council resolution.