

CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO SUBCOUNCIL 15

LC 23763

1 ITEM NUMBER **15 SUB.39/11/19**

2 SUBJECT

PROPOSED LEASE OF A PORTION OF RAILWAY RESERVE, PORTION OF ERF 24192 CAPE TOWN, MORNINGSIDE AND BAYETTE ROADS, NDABENI FOR PARKING, LOADING AND OFF- LOADING PURPOSES: SS SUNRISE BUILDING (THE NEW CLOTHING CORPORATION)

ONDERWERP

VOORGESTELDE VERHURING VAN 'N GEDEELTE SPOORWEGRESERWE, GEDEELTE VAN ERF 24192 KAAPSTAD, MORNINGSIDE- EN BAYETTEWEG, NDABENI VIR PARKEER-, OP- EN AFLAIDOELEINDES: SS SUNRISE BUILDING (THE NEW CLOTHING CORPORATION)

ISIHLOKO

ISIPHAKAMISO SENGQESHISO NGESIQEPHU SOMHLABA OBEKELWE WAKA-RAILWAY, ISIQEPHU SESIZA 24192, ESISE- MORNINGSIDE NASE- BAYETTE ROADS, ENDABENI KULUNNGISELELWA IMIBANDELA YOKUPAKA, UKULAYISHA KUNYE NOKOTHULA IMITHWALO: KWI- SS SUNRISE BUILDING (THE NEW CLOTHING CORPORATION)

L0861

PTMS NO: 130002967

File Ref No: CT 14/3/6/1/2/1725/A00

Category 1

3 DELEGATED AUTHORITY

- ☒ The report is for comment by Subcouncil 15 to the competent authority in terms of Part 24, Delegation 10(1).

"To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings and to recommend conditions of approval where deemed necessary."

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11/11

- ☐ In terms of delegation Part 42 paragraph 1 (4), the following delegation was conferred upon the Immovable Property Adjudication Committee.

(4) To approve or not approve transfer of ownership or disposal or granting of rights to use, control or manage non-exempted immovable capital assets provided that:

- a) Public participation process has been conducted (where necessary);
- b) S14 MFMA determinations (where applicable); and
- c) Approval in principle in terms of the Municipal Asset Transfer Regulations or approval by the decision making authority at the time prior to the Municipal Asset Transfer Regulations has been completed and subject to the final approval not being materially or significantly different from in principle approval by the relevant decision-making authority.

- ☐ Final decision lies with Immovable Property Adjudication Committee.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider proposed lease for parking, loading and off- loading purposes.			
Site extent	802m ² in total			
Submission date	11 December 2017			
Current zoning	General Industrial 2			
Current usage	Parking, loading and off- loading			
Proposed usage	Parking, loading and off- loading			
WARD CLLR	NOTICE DATE		WARD	
Cllr Brian Watkyns	8 July 2019		53	
Internal circulation date	19 July 2018			
Internal department comments	Branch comments received and no objections were received.			
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on 5 th July 2019 No objections were received.			
Viable	Yes		No	X
	The subject property is regarded as non-viable land which only has value to the abutting landowners in light of the fact that it cannot be developed or function as a separate entity. This property transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process			
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"> • The leasing of the land will relieve Council of the maintenance burden. • A market related rental income will be generated. • Better utilization of City land 	
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town	
	Objective 1.1	Positioning Cape Town as forward globally competitive City
	Programme 1.1(g)	Leveraging the City's assets

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of portion of railway reserve, portion of erf 24192 Cape Town, Morningside and Bayette Roads, Ndabeni shown hatched and lettered ABCDEFG on the attached sketch STC 3283 marked annexure A, in extent approximately 802m² in total, to SS Sunrise Building (The New Clothing Corporation), owner of Erf 25138 – Cape Town or their successors in title, be approved subject to inter alia the following conditions, that:

- A market rental of R 9,600.00 per month inclusive of rates and excluding VAT calculated at the rate applicable at the time of transaction be payable.
- The monthly rental is to be adjusted on the basis of 8% per annum compounded annually. The rental is to be reviewed after 5 years. Beneficial occupation of R9,600.00 per month (inclusive of rates and exclusive of VAT) is payable as from 2019-02-01 until date the lease contract is signed by Council.
- The lease will endure for a period of ten (10) years , with a five (5) year rental review.
- The property be used for parking, loading and off- loading purposes only;
- Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- Subject to compliance with any other statutory requirements;
- No compensation will be payable for any improvement made to the property.
- All outstanding accounts with the City of Cape Town must be settled

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AMH

AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van 'n gedeelte spoorwegreserwe, gedeelte van erf 24192 Kaapstad, Morningside- en Bayetteweg, Ndabeni, gearseer en aangetoon deur die letters ABCDEFG op die aangehegte skets STC 3283 gemerk bylae A, ongeveer 802 m² groot in totaal, aan SS Sunrise Building (The New Clothing Corporation), eienaar van erf 25138 – Kaapstad of hulle regsopvolgers, goedgekeur word onderworpe aan onder meer die volgende voorwaardes dat:

- a) Markverwante huurgeld van R 9 600 per maand, eiendomsbelasting ingesluit maar BTW uitgesluit, bereken teen die koers wat ten tye van die transaksie heers, betaalbaar is;
- b) Die maandelikse huurgeld aangepas word teen 8% per jaar, jaarliks saamgestel. Die huur na 5 jaar hersien word. Okkupasiehuur van R9 600 per maand (eiendomsbelasting ingesluit maar BTW uitgesluit) betaalbaar is vanaf 1 Februarie 2019 tot die datum waarop die huurkontrak deur die Raad onderteken word;
- c) Die huurooreenkoms vir 'n tydperk van tien (10) jaar geld, met 'n huurhersiëning na vyf (5) jaar;
- d) Die eiendom slegs vir parkeer-, op- en aflaaidoeleindes gebruik word;
- e) Onderworpe aan enige verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê;
- f) Onderworpe aan nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding vir enige verbeteringe wat aan die eiendom gemaak word, betaalbaar sal wees nie;
- h) Alle uitstaande rekeninge by die Stad Kaapstad vereffen moet wees.

IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ingqeshiso yesiqephu somhlaba obekelwe bucala wakwa-railway, isiqephu sesiza 24192 eKapa, esise-Morningside nase-Bayette Roads, eNdabeni esibonakaliswe ngemigca ekrweliweyo noonobumba ABCDEFG kumzobo oqhotyoshelweyo ongu-STC 3283 esiphawulwe njengesihlomelo A, esibukhulu bumalunga ne-802m², kwi-SS Sunrise Building (The New Clothing Corporation), abanini besiza-25138-eKapa okanye abangena

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JMH

ezihlanguwini zabo ngokwetayitile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo, yokuba:

- a) Makuhlawulwe ixabiso lerenti elihambelana nelemakethe elingama-9,600.00 ngenyanga kuqukwa iintlawulo zobuhlali ngaphandle kweRhafu-ntengo elibalwe ngokwexabiso elisetyenziswayo ngexesha lonaniselwano.
- b) Irenti yenyanga izakulungelelaniswa ngomyinge we-8% ngonyaka xa iqukaniswe ngonyaka. Ixabiso lerenti eli liyakuthi liphengululwe/lihlenga-hlengiswe emva kweminyaka emihlanu. Makuhlawulwe uxhamlo lokuhlala olungama-R9,600.00 ngenyanga (oluquka iintlawulo zobuhlali ngaphandle kwerhafu-ntengo) ukususela ngowo-1 kweyoMdumba 2019 kude kufike ilixa lokutyikitywa kwengqeshiso liBhunga.
- c) Inggqeshiso iya kuhlala isithuba seminyaka elishumi kwaye irenti iyakuhlolwa emva kweminyaka emihlanu.
- d) Ipropati iyakuthi isetyenziselwe imibandela yokupaka, ukulayisha kunye nokothula imithwalo kuphela;
- e) Ngokuxhomekeke kweminye imiqathango eyongeziweyo eyakuthi inyanzeliswe nguMlawuli: woLawulo lweePropati ngokwamagunya akhe awagunyaziselweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- g) Akusayi kuhlululwa mbuyekezo ngophuculo oluthe lwenziwa kwipropati.
- h) Makuhlawulwe onke amatyala asileleyo kwiSixeko saseKapa.

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

SS Sunrise Building (the applicant), owner of Erf 25138 Cape Town, Morningside and Bayette Roads, Ndabeni applied to lease a portion of Erf 24192 Cape Town for parking, loading and off- loading purposes for a ten (10) year period.

The proposal was circulated to all relevant Branches for comment. No objections were raised by the Branches to the proposed lease of the subject property.

This is non-viable City land and is not required for any basic municipal services. During the currency of the lease period the agreement of lease will contain a clause that in the event that Council does require the land, a two months' cancellation period will be applied.

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6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

Transport and Urban Development Authority have no objection subject to the following conditions:

- Railway siding entrance starts from the South, between Erven 15542/24187 and 99997.
- Six (6) meter wide vehicle service gates must be installed in both fences (at points A-G and D-E as per sketch) to allow neighbouring businesses at their side to receive rail services if required.
- All tenants, neighbouring the lease applicant, must give written consent.
- Should a need arise to lift and replace the existing rail track, a written request or application to do so must be made to the City of Cape Town to verify, prior to Transnet's approval. Additionally, the lessor (Owner of Erf 25138-RE) will be liable for any cost incurred in that instance and the old tracks must be handled over to Transnet.
- Railway blocks (according to Transnet specification) need to be installed at rail tracks where the area is going to be used for storage and parking.
- No permanent structures within the leased area shall be permitted.
- Any form of filling and / or surfacing proposed within the leased area shall be at the approval of the Director: TDA Planning.
- The lease shall remain in force at Council's discretion and may be terminated at any time (should the need arise)
- The lease area shall be restored to its original condition, to the satisfaction of the Director: TDA Planning, upon termination.
- No compensation will be payable for any improvements made to the property, with or without the consent of the Council, should the lease be terminated for any reason whatsoever.

6.3 VALUATION

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The City's Professional Valuers on 31st January 2019 assessed the rental value of the Subject Property at R 9,600.00 (exclusive of VAT and inclusive of rates). The valuation synopsis is attached to the report as Annexure B. Beneficial occupation of R9,600.00 per month (inclusive of rates and exclusive of VAT) is payable as from 2019-02-01 until date the lease contract is signed by Council.

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.

6.4.2 Chapter C of Council's policy entitled 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.

The price will be adjusted by the percentage (%) determined by the City Valuer compounded annually on a pro-rata bases which will commence at a particular date until registration of transfer and which adjustment shall be consistent with open market parameters and norms

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 who's 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.

Applicant has complied. See Tax Clearance Certificate attached hereto as Annexure C

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 ☒ Yes ☐

6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

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

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

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

Extent to which any compensation to be received, estimated value of improvements or enhancements to property 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 market related rental

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 5th July 2019. Closing dates for objections were 5th August 2019. Copies of the advertisement were sent to the Ward Councillor, Manager

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and Chairperson of the relevant Sub-Council and registered local community organisations. No objections received.

Views from National and Provincial Treasury

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

Compliance with Immovable Property Adjudication Committee Delegation

- a) A Public Participation process has been conducted;
- b) Approval in principle in terms of the Municipal Asset Transfer Regulations has been completed and the final approval by the Immovable Property Adjudication Committee (IPAC) will not be materially or significantly different from in principle approval by the relevant decision-making authority.

6.10 STAFF IMPLICATION

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

No ☒

Yes ☐

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ANNEXURES

Annexure A: Sketch Plan – STC 3283
Annexure B: Valuation Synopsis
Annexure C: SARS Tax Clearance Certificate

JMA

NAME	DEON FRANKEN
CONTACT NUMBERS	(021) 400 3118
E-MAIL ADDRESS	DEON.FRANKEN@CAPETOWN.GOV.ZA
DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT
FILE REF NO	CT 14/3/6/1/2/1725/A00
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	Schnackenberg 16-10-2019

Ruby Gelderbloem
 DIRECTOR : PROPERTY MANAGEMENT IN HER
 CAPACITY AS EXECUTIVE DIRECTOR : ECONOMIC
 OPPORTUNITIES & ASSET MANAGEMENT NOMINEE

NAME RUBY GELDERBLOEM

DATE 2019.10.24

Comment:

Joan-Mari Holt
 LEGAL COMPLIANCE

NAME

Joan-Mari Holt

TEL

021 400 2753

DATE

05/11/2019

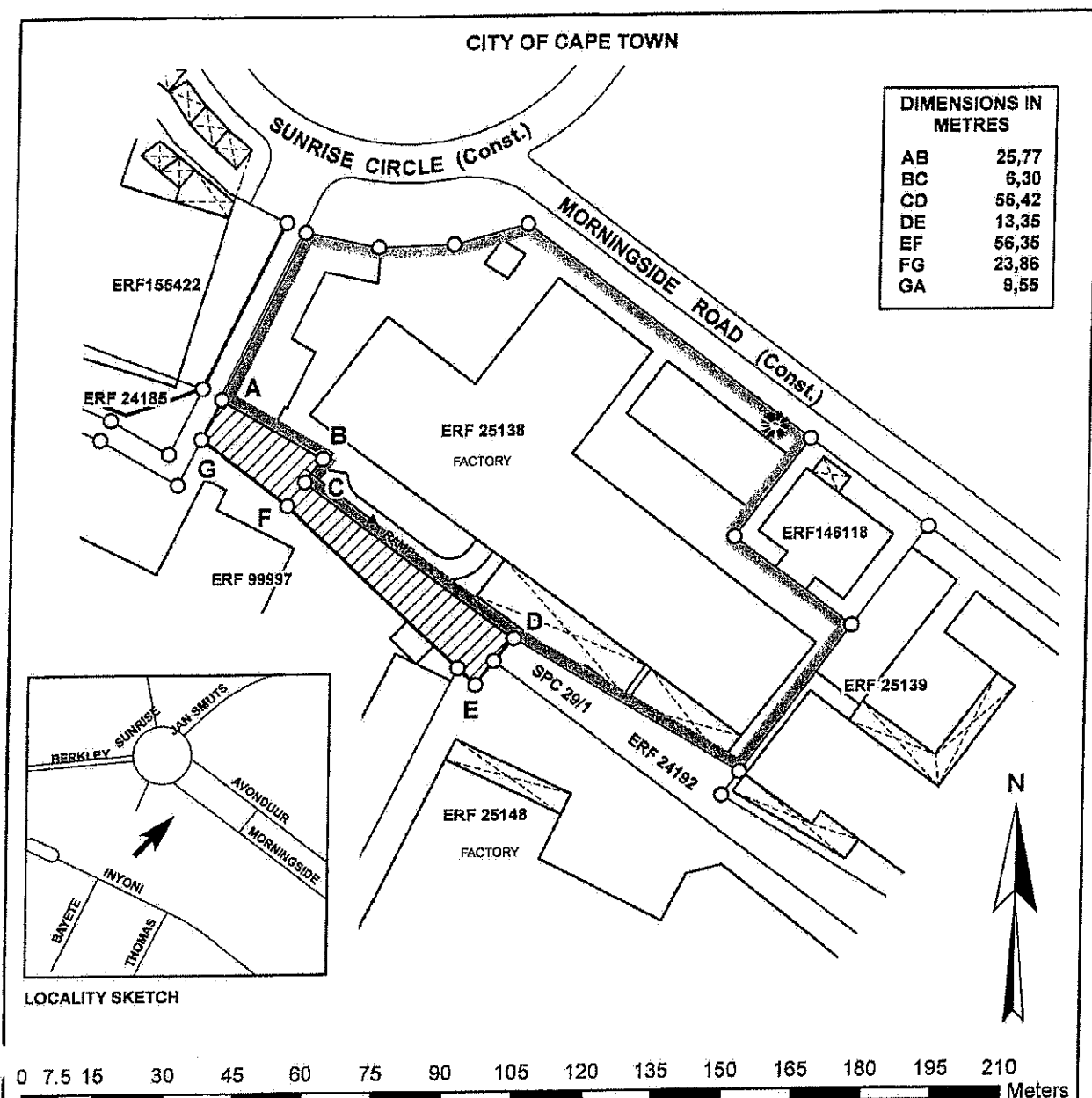
☒ REPORT COMPLIANT WITH THE PROVISIONS OF
 COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS
 AND ALL LEGISLATION RELATING TO THE MATTER
 UNDER CONSIDERATION.

☐ NON-COMPLIANT

Comment:

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

*Note: Compliance with IPAC's
 delegation reflected on pg 9
 is premature at this stage as
 this report is for Subcouncil's
 comment. JMH.*



SCALE 1:1 250

LEASE OF A RAILWAY RESERVE - MORNINGSIDE AND BAYETTE ROADS - NDABENI

The figure ABCDEFG shown hatched represents City Land (Railway Reserve), portion of Erf 24192 Cape Town in extent $\pm 802\text{m}^2$ available for lease to

SS SUNRISE BUILDING

Property of above bordered grey and zoned: General Industrial
(D/T SS SUNRISE BUILDING 303 of 1998)

City Land Zoned: General Industrial

Note: Erf 24192 Cape Town is registered in name of the City of Cape Town by D/T 9975 dated 1948-05-12.

WARD 53 SUBCOUNCIL 15

SUPERSEDES SZC 1139/1

REFER TO	Roll 24; SG SHT 1052; M1478/3	PROPERTY HOLDING AREA 1	SURVEYOR	N. NDINGANE
CASE NO.	130002957		GIS OPERATOR	S. ABRAHAMS (2018/09/12)
PROP REF	EN 24A 30, 31		CHECKED	<i>Ho Gaele</i> 2018/9/14
FILE/REC.	CT14/3/6/12/1725/A00		STC 3283	
MEMO				

Mariette Griessel

MANAGER: SUBCOUNCIL 15
MARIETTE GRIESSEL

TEL No 021 444-9797

DATE 14 NOVEMBER 2019

Brian Watkyns

CHAIRPERSON: SUBCOUNCIL 15
ALDERMAN BRIAN WATKYNs

TEL No 021 444-9798

DATE 14 NOVEMBER 2019

Annexure

VALUATION SYNOPSIS: MARKET VALUATION OF PROPOSED LEASE OF PORTION OF ERF 24192 CAPE TOWN, MORNINGSIDE ROAD, NDABENI: SS SUNRISE BUILDING (THE NEW CLOTHING CORPORATION)

BACKGROUND

The City's Professional Valuer on 2019-01-31 assessed a market rental of the subject property, being portion of Erf 24192, Cape Town (hereafter 'the subject property') at R9 600 per month including rates and excluding VAT (if applicable). The subject property measures ±802m² in extent and is to be leased to Sunrise Building (The New Clothing Corporation).

DETAILS OF SUBJECT PROPERTY

Description	Portion of Erf 24192, Cape Town
Plan	STC 3283
Usage	Parking and loading purposes
Extent	802m ²
GV 2015	R1 000
Current rental	No lease in place
Branch comments	No pertinent comments that will impact on the valuation.
Zoning	General Industrial 2
Improvements	Tarred surface that has been enclosed with the applicant's property and allows access to a storage facility and to a vehicular ramp.

BENEFIT DERIVED FROM THE SUBJECT PROPERTY

In principle the rental for a portion of non-viable land such as this is aimed at reflecting the enhancement which the portion brings to the property with which it is to be consolidated. On the basis that the extent of the applicant's property covers a high percentage of the site and that the additional land allows additional storage space and access to the ramp and storage unit, it is considered that the leased area offers a high utility.

RENTAL DETERMINATION APPROACH

We have been tasked with determining the **market rental** of the subject property, which, is defined by International Valuation Standards Committee (IVSC) as:

"The estimated amount which a property should be leased on the date of valuation, between a willing lessor and a willing lessee, in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion." (IVSC).

MARKET RESEARCH

The following City-owned properties have recently been assessed for parking and storage purposes:

- Portion Erf 24195 Cape Town, Sunrise Circle, Ndabeni, measuring 310m² was valued for storage purposes at **R12.50/m²**. Applicant accepted the rental. This property abuts the subject property. **Valuation date: 2017-08-31.**
- Portion Erf 24912 Cape Town, Morningside Road, Ndabeni, measuring 346m² in extent was valued for at **R12.50/m²**. Applicant accepted the rental. This property is situated metres from the subject property. **Valuation date: 2018-11-30.**

VALUATION CALCULATION AND CONCLUSION

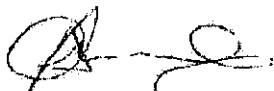
Based on the above market information and taking into account the location and extent, a rental of **R12.00/m²** is considered fair and not unreasonable to apply. The rental is therefore calculated as follows:

$$802\text{m}^2 \quad \times \quad \text{R}12.00/\text{m}^2 \quad \approx \quad \text{R}9\,600$$

RECOMMENDATION

It is recommended that the City land, being Portion Erf 24192 Cape Town, shown hatched by the figure ABCDEFG on plan STC 3283 (refer **Annexure A**), measuring in extent approximately 802m², be leased to SS Sunrise Building (The New Clothing Corporation) for an amount of **R9 600 (including rates and exclusive of VAT)** per month for a period of 10 years, subject to:

- i) The rental to be reviewed after 5 years.
- ii) The monthly rental is to be adjusted on the basis of 8% per annum compounded annually commencing from date of this valuation. Accordingly, the above recommended rental is effective and payable as from 2019-02-01.
- iii) Beneficial occupation of **R9 600 per month** (inclusive of rates and exclusive of VAT) is payable as from 2019-02-01 until date the lease contract is signed by Council.



Aneesah Abrahams
Professional Valuer (Reg. no. 7367/1)



Rosanna Potgieter
Principal Professional Valuer

2019-01-24



Tax Clearance Certificate Number:

0700/2/2019/A003311267

Tax Clearance Certificate - Good Standing

Enquiries

0800 00 SARS (7277)

Approved Date

2019-08-22

Expiry Date

2020-08-22

Company registration number 2009/157409/23

Income Tax 9284144145
THE NEW CLOTHING CORPORATION CC

VAT 4870192954
THE NEW CLOTHING CORPORATION CC

PAYE 7390739227
THE NEW CLOTHING CORPORATION CC

Trading Name THE NEW CLOTHING CORPORATION

It is hereby confirmed that, on the basis of the information at the disposal of the South African Revenue Service (SARS), the above-mentioned taxpayer has complied with the requirements as set out in the Tax Administration Act.

This certificate is valid until the expiry date reflected above, subject to the taxpayer's continued tax compliance. To verify the validity of this certificate, contact SARS through any of the following channels:

- via eFiling
- by calling the SARS Contact Centre
- at your nearest SARS branch

This certificate is issued in respect of the taxpayer's tax compliance status only, and does not address any other aspect of the taxpayer's affairs.

This certificate is issued free of charge by SARS