

REPORT TO SUBCOUNCIL 04

LC13510

- 1. ITEM NUMBER
- 2. SUBJECT

PROPOSED LEASE OF PORTION OF CITY OWNED LAND, BEING A PORTION OF ERF 99949 CAPE TOWN, SITUATED OFF FITZMAURICE AVENUE, EPPING INDUSTRIA 2, CAPE TOWN: CAPITAL PROPFUND (PTY) LTD

2. ONDERWERP

VOORGESTELDE VERHURING VAN 'N GEDEELTE GROND IN STADSBESIT, 'N GEDEELTE VAN ERF 99949 KAAPSTAD, GELEË UIT FITZMAURICELAAN, EPPING INDUSTRIA, KAAPSTAD: CAPITAL PROPFUND (EDMS.) BPK.

2. ISIHLOKO

ISIPHAKAMISO SOKUQESHISWA KWESIQEPHU SOMHLABA WESIXEKO, OSISIQEPHU SESIZA-99949 ESISEKAPA, ESIKWI-FITZMAURICE AVENUE, EPPING INDUSTRIA CAPE TOWN: KWABAKWA- CAPITAL PROPFUND (PTY) LTD

L1200

PTMS NO: 130002837

File Ref No: TYG 14/3/6/1/2/99949/1

Category 1

3. DELEGATED AUTHORITY

\boxtimes	The report is for comment by	Subcouncil 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 buildings and to recommend conditions of approval where deemed necessary."

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

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- (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 delegation lies with Immovable Property Adjudication Committee.

4. EXECUTIVE SUMMARY

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PURPOSE OF REPORT	To consider an application by Capital Propfund (Pty)				
	Ltd to lease a portion of Erf 99949 Cape Town for				
	parking and storage purposes.				
Site extent	2 018 m ²				
Revaluation Submission	12-10-2018				
date					
Current zoning	Transport 1				
Current usage	Vacant				
Proposed usage	Parking and storage				
Internal department	The lease application was circulated to the				
comments	departments and no objections were received				
Public participation outcome	Advertised in the Cape Argus and Die Burge				
summary	06-2019. Closing date for objections was 22-07-20				
	No objections were received.	and the second second			
WARD CLLR	NOTICE DATE	WARD			
Charles Esau	25-06-2019				
	Yes No	Х			
	The subject Property is deemed non-viable owing to				
	urban planning, physical constraints or extent and				
	cannot be developed on its own or function as a				
Viable	separate entity and that can therefore become				
Viable	functional only if used by an adjoining owner (the				
	applicant) in conjunction with such owner's property.				
	Due to the fact that the property is a railway siding,				
	the nature of the property does not lend	itself to			
	development.				
Recommended decision	Approval X Refusal				
Regulation 34(1) In-principle	Granted by Director: Property Managment in				
approval delegated authority Part 27 (22)(7) after 25 May 2018					

Factors motivating recommendation:	maintenance butA market related	 The leasing of the land will relieve Council of the maintenance burden A market related rental income will be generated Benefitial utilization of non-viable City Land 			
Strategic intent	SFA 1: an OPPOR	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 a portion of City Land, being a portion of Erf 99949 Cape Town, situated off Fitzmaurice Avenue, Epping Industria 2, Cape Town and as shown hatched and lettered ABCDEFGHJKLMNPQSTUVWXYZA'B'C'D' on the Plan No TA 495V0 attached and marked **annexure A**, in extent approximately 2 018 m², to Capital Propfund (Pty) Ltd or its successor in title, be approved subject inter alia to the following conditions:

- a) A market rental of R20 200 per month exclusive of VAT and inclusive of rates be payable;
- b) The rental will escalate at 8% per annum;
- The lease will endure for a period of 10 years, subject to a review of the rental after a period of 5 years;
- d) The monthly rental is to be adjusted on the basis of 8% per annum compounded annually on a pro rata basis commencing 6 months from date of this valuation. Accordingly, the above recommended rental is to be adjusted as from 2019-06-01;
- e) The property be used for parking and storage purposes only:
- f) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- g) Subject to compliance with any other statutory requirements:
- h) No compensation will be payable for any improvement made to the property;
- i) No structures may be erected on the property;
- j) Gates must be installed in the fences as per point A and B and S and R as per Plan No TA 495v0, to ensure that the other companies along the track can still receive railfreight and that maintenance can be done in the rail reserve;

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- Should the tracks be lifted and replaced, this must be at the cost of the Lessee and the tracks need to be handed over to Transnet with notification in writing to the City of Cape Town prior to Transnet approval;
- Railway blocks (as per Transnet specifications) need to be installed at rail tracks if the area is going to be used for storage and parking:
- m) Any form of filling or surfacing proposed within the leased area must be to the approval of the City of Cape Town;
- n) The lease area must be restored to its original condition and to the satisfaction of the City of Cape Town upon termination of the lease.

5. AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van 'n gedeelte Stadsgrond, naamlik 'n gedeelte van erf 99949 Kaapstad, geleë uit Fitzmauricelaan, Epping Industria 2, Kaapstad, soos aangetoon deur arsering en die letters ABCDEFGHJKLMNPQSTUVWXYZA'B'C'D' op plan no. TA 495V0, aangeheg en gemerk **bylae A**, ongeveer 2 018 m² groot, aan Capital Propfund (Edms.) Bpk. of sy regsopvolgers, goedgekeur word, onderworpe aan onder meer die volgende voorwaardes:

- a) 'n Markhuurgeld van R20 200 per maand, eiendomsbelasting ingesluit en BTW uitgesluit, betaal moet word;
- b) Die huurbedrag jaarliks met 8% sal styg;
- c) Die huurooreenkoms vir 'n tydperk van tien jaar sal duur, onderworpe aan hersiening daarvan na 'n tydperk van vyf jaar;
- d) Die maandelikse huurgeld sal aangepas word teen 8% per jaar, jaarliks saamgesteld op 'n pro rata-grondslag, vanaf ses maande vanaf die datum van hierdie waardasie. Die bogenoemde aanbevole huurgeld sal dus vanaf 2019-06-01 aangepas word;
- e) Die eiendom slegs vir parkeer- en stoordoeleindes gebruik mag word;
- f) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid;
- g) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- h) Geen vergoeding betaal sal word vir enige verbetering wat aan die eiendom aangebring word nie;
- i) Geen permanente strukture op die eiendom opgerig mag word nie;

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- j) Hekke in die heinings aangebring moet word by punt A en B en S en R volgens plan no. TA 495v0 om te verseker dat die ander maatskappye langs die spoor steeds spoorvrag sal kan ontvang en dat instandhouding in die spoorreserwe gedoen kan word;
- k) Sou die spore opgetel en vervang word, dit op die huurder se onkoste gedoen moet word en die spore aan Transnet oorhandig word met skriftelike kennisgewing aan die Stad Kaapstad voor goedkeuring deur Transnet;
- Spoorwegblokke (volgens Transnet se spesifikasie) op die spore aangebring moet word as die gebied vir stoor of parkering gebruik sou gaan word:
- m) Enige vorm van opvulling of oppervlak wat binne die huurgebied voorgestel word, die goedkeuring van die Stad Kaapstad moet wegdra;
- n) Die huurgebied by die beëindiging van die huurkontrak tot sy oorspronklike toestand en tot bevrediging van die Stad Kaapstad herstel moet word.

5. IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ukuqeshiswa kwesiqephu soMhlaba weSixeko osisiqephu sesiza-99949 esiseKapa, kwi- Fitzmaurice Avenue, Epping Industria 2, Cape Town Nanjengoko kubonakaliswe ngomzobo nangoonobumba abakhulu u-ABCDEFGHJKLMNPQSTUVWXYZA'B'C'D' kwiplani engu-TA 495V0 eqhotysoshelwe kwisihlomelo-A, esibukhulu obumalunga nama- 2 018 m², kwabakwa-Capital Propfund (Pty) Ltd okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo:

- a) Makuhlawulwe ixabiso lerenti eliphathelene nelasemakethi elingama-R20 200 ngenyanga (ngaphandle kweRhafu-ntengo) kwaye kuquke iintlawulo zobuhlali;
- b) Irenti iyakuthi inyuke nge-8% ngonyaka;
- c) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka elishumi (10), ngokuxhomekeke kuphengululo lwerenti emva kweminyaka emihlanu;
- d) Ixabiso lerenti malilungelelaniswe ngokommiselo we-8% ngonyaka oqukaniswe rhoqo ngonyaka ngokwekota apho ithi iqalise iinyanga ezintandathu ukususela komhla wolu qingqo-maxabiso. Irenti le ingentla apha kufuneka ilungelelaniswe ngokufanelekileyo ukususela ngowo-1 kweyeSilimela 2019;
- e) Ipropati iyakuthi isetyenziselwe kuphela imibandela yokupaka isithuthi neyestora;
- f) Ngokuxhomekeke kweminye imiqathango eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;

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- g) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho;
- h) Akukho mbuyekezo iyakuthi yenziwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati;
- i) Akuvumelekanga ukuba kwakhiwe nasiphina isakheko kwipropati;
- j) Kufuneka kufakelelwe amasango kucingo olubiyeleyo ngokophawu-A no-B, u-S no-R ngokweplani engonomb. TA 495v0 ukuze kuqinisekiswe ukuba ezinye iinkampani kumzila zingafumana Umthwalo kumzila kaloliwe kwaye kungenziwa unonotshelo kumzila kaloliwe wabucala:
- k) Ukuba kufuneka imizila kaloliwe isusiwe kwaye itshintshwe, oku kufuneka ibeziindleko zoMqeshisi kwakhona imizila leyo kufuneka inikezelwe kwabakwa-Transnet kunye nesaziso ngokubhaliweyo esijoliswe kwiSixeko saseKapa phambi kokuba abakwa-Transnet bakuphumeze oko;
- l) Kufuneka kufakelelwe iibloko zikaloliwe kwimizila yakhe (ngokungqinelana nommiselo wakwa-Transnet) ukuba indawo leyo iyakuthi isetyenziselwe imibandela yestora okanye ukupaka;
- m) Naluphina uhlobo lokunqumba okanye ukuphethula umhlaba kummandla woqeshiso, kufuneka oko kuphunyezwe siSixeko saseKapa;
- n) Ummandla woqeshiso kufuneka ubuyiselwe kwisimo sawo sangaphambili, apho kuyakuthi kwaneliseke iSixeko saeKapa emva kokuba kupheliswe uqeshiso.

6. DISCUSSION/CONTENTS

6.1 BACKGROUND

Capital Propfund (Pty) Ltd, the owner of Erven 150233 and 103609 Cape Town, applied to lease a portion of Erf 99949 Cape Town, situated off Fitzmaurice Avenue, Epping Industria 2, Cape Town and as indicated by the figure ABCDEFGHJKLMNPQRSTUVWXYZA'B'C'D' on the Plan No TA 495V0 attached as **annexure A**. The applicant requires the subject property for parking and storage purposes.

The subject property comprises an unused railway siding. As a result of the nature of the subject property it is not suitable for any development. It thus complies with the definition of non-viable land. Should the lease be approved, the rail siding can still be used from point A and B on the attached plan, if the need should arise.

Erf 99949 Cape Town is registered in the name of the Municipality of Cape Town by Deed of Transfer No T25494/1968 and vests in the name of the City of Cape Town. The property is zoned as Transport 1.



6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the conditions set out in paragraph 5 above.

6.3 VALUATION

The City's Professional Valuers on 30 November 2018 assessed the rental value of the Subject Property at R20 200 per month exclusive of VAT and inclusive of rates.

The proposed lease term is for a period of 10 years, subject to a review of rental after a period of 5 years.

The monthly rental is to be adjusted on the basis of 8% per annum compounded annually on a pro rata basis commencing 6 months from date of this valuation. Accordingly, the above recommended rental is to be adjusted as from 2019-06-01.

The valuation synopsis is attached to the report as **Annexure B**.

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.

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."

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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.

The applicant has complied and Tax Clearance Certificate is attached 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

	this report have any sustainability	No ⊠	Yes 🗌
implications for the		1	

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 market related rental

Management of Risk

No operational or control risk to the City.

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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 21 June 2019. Closing dates for objections were 22 July 2019. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. No comments or objections were 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 comments or objections were received from either National or Provincial Treasury.

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 the Right

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.

6.10 STAFF IMPLICATIONS

Does	your	report	impa	ct (on	staff	re	esources	s, b	oudget,	gra	ding,
remune	eration,	allowa	nces,	desi	gna	tion,	job	descrip	tion,	location	or	your
organis	ational	structu	re?									

No	\boxtimes
Yes	

ANNEXURES

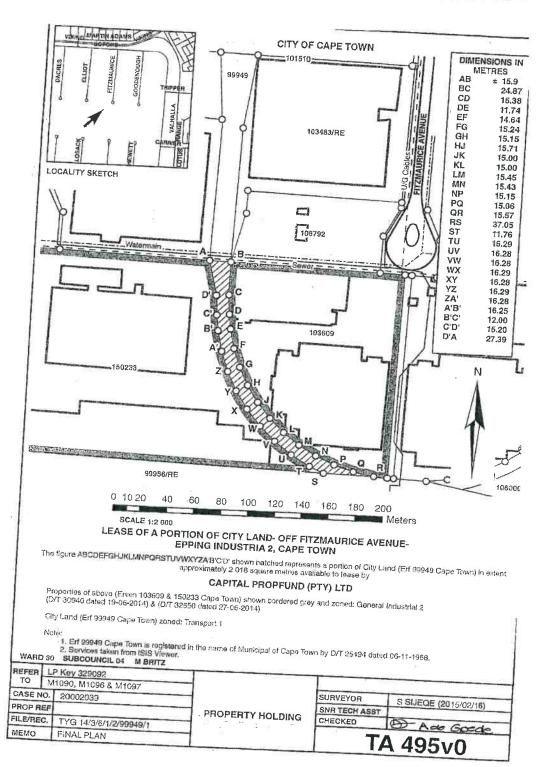
Annexure A: Plan No TA 495v0
Annexure B: Valuation Synopsis
Annexure C: Tax Clearance Certificate

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	Name	GERDA DU PLESS	sis // Out/ w	V3/09/19
	CONTACT NUMBERS	021 444 4975	V	11.0
	E-MAIL ADDRESS	SUSASAR.DUPLE	SSIS@CAPETOWN.	GOV.ZA
	DIRECTORATE		RTUNITIES AND ASS	ET MANAGEMENT
	FILE REF NO	TYG14/3/6/1/2/	99949/1	
	MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	P.P. Mely	buel 29	1/09/19.
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	May -		Comment:	
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- 10174	CAPACITY AS EXECUTIVE DIRECTOR			
	OPPORTUNITIES & ASSET MANAGEME			
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	DATE 07/10/2019	1		
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•	LEGAL COMPLIANCE		Non-Compliant	
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FOR FURTHER DETAILS CONTACT:



VALUATION SYNOPSIS: MARKET VALUATION OF PORTION OF ERF 99949 CAPE TOWN, OFF FITZMAURICE AVENUE, EPPING INDUSTRIA 2: CAPITAL PROPFUND (PTY) LTD

Background

The City's Professional Valuer on 2018-11-30 assessed the rental of the Subject Property at R20 200 per month (inclusive of rates and excluding VAT).

Salient information of subject property

Description	Portion of Erf 99949 Epping Industria 2
Zoning	Transport 1 (TR1)
Plan - L	TA 495v0
Extent to be leased	±2 018m²
General Valuation	4869m²; R0
(GV 2015)	238m²: R676 480
Current rental	New application
Proposed usage	Parking & storage purposes

Benefit Derived from the Subject Property

In principle the rental for a portion of non-viable land such as the subject property, is aimed at reflecting the enhancement which the portion brings to the property with which it is to be consolidated. The subject area would form part of the daily operational functioning of the applicant's business — i.e. mainly storage of goods and vehicular parking and occasional turning and accessing different parts of the building complex, etc. a 100% utility is considered fair and not unreasonable to apply.

Rental determination approach

We have been tasked with determining the **market value** 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 knowledgably, prudently and without compulsion." (IVSC 2011)

Method of Valuation

The most apt method in determining the rental quantum of the Subject property is by means of the Market Data Approach of Direct Comparison method. With this method, storage and parking rentals of comparable usage in the precinct of the Subject Property were researched and compared to the Subject Property with adjustments made for differences in value forming attributes if deemed necessary.

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Market Research

The following City-owned properties have recently been assessed for parking and storage purposes in close proximity to the subject property:

- A portion of Erf 99954 Cape Town (Epping), measuring approximately 1070m² was valued in May 2018 and a rental of R12,000 per month or ±R11.00/m² was agreed to. The rental included maintenance and establishment costs.
- A portion of Erf 32588 Cape Town (Epping Industria 2), being a portion of defunct railway reserve located between Nourse & Packer Avenues measuring approximately 1255m² was successfully negotiated at R12.50/m² in January 2018 for parking and storage purposes.
- A portion of Remainder of Erf 32589 Cape Town (same mother erf as subject), approximately measuring 882m² in extent, was valued in January 2018 for parking purposes at R11.11/m², which was accepted by the applicant. The rental included maintenance and establishment costs.
- Portion of remainder Erf 32584 Cape Town (Epping Industria 2), being a portion of defunct railway reserve measuring approximately 1478m² was successfully negotiated at R11.23/m² on 2018-06-30 for parking and storage purposes. The rental included municipal rates but excluded VAT.
- A portion of remainder Erf 32589 Cape Town at Epping 2, being a portion of defunct rail
 reserve, approximately measuring 1190m² in extent, was valued on 2018-09-30 for
 parking & storage with the applicant agreeing to a rental R15 500 per month or
 R13.00/m². The rental included maintenance and establishment costs.

Valuation calculation and conclusion

Based on the above information and taking into account the location, the fact that the land still needs to be prepared, usage and configuration, a rate in the region of R10/m² is considered fair and reasonable to apply.

2 018m² x R10/m² ≈ R20 200

Recommendation

It is recommended that the City land, being portion of Erf 99949, Cape Town, Epping 2, shown lettered ABCDEFGHJKLMNPQRSTUVWXYZA'B'C'D on plan TA 495v0, measuring in extent approximately 2018m² be leased to Capital Prop fund (Pty) Ltd for an amount of **R20 200** (including rates and exclusive of VAT) per month escalating at 8% per annum for a period of 10 years, subject to:

- i) The rental to be reviewed after 5 years.
- The monthly rental is to be adjusted on the basis of 8% per annum compounded annually commencing 6 months from date of this valuation i.e. 2019-06-01. Accordingly, the above recommended rental is to adjusted as from 2019-06-01.

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Carly James 13

Anton Opperman Professional Associated Valuer (Reg. no. 3119/2)

Rosanna Potgieter Principal Professional Valuer- Rentals

Date: 2018-12-07

http://teamsiles.capelown.gov.zahilesi/inproprianpi/Valuations/Users/anton-uppern and/2018/Epploy/1022_part99949_FMeuriceA__CProp_S.docx



Tax Clearance Certificate Number: 0700/2/2019/A003030132

Tax Clearance Certificate - Good Standing

Enquiries 0800 00 SARS (7277) Approved Date 2019-05-21 Expiry Date 2020-05-21

Company registration number 2014/013211/07

Income Tax

9090466195 CAPITAL PROPFUND PTY LTD

VAT

4660264799

CAPITAL PROPFUND PTY LTD

PAYE

7760785123

CAPITAL PROPFUND PTY LTD

Trading Name CAPITAL PROPFUND PTY LTD

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 compiled 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

This certificate is issued free of charge by SARS