

ITEM NUMBER: C 23/03/15

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 03 MARCH 2015

MC 12/03/15 PROPOSED LEASE OF A PORTION OF PUBLIC STREET BEING PORTION OF ERF 10494, DRAKE STREET, STRAND FOR PARKING PURPOSES: ST TROPEZ BODY CORPORATE

It is **RECOMMENDED** that the lease of a portion of public street, Erf 10494, situated at Drake Street, Strand, shown lettered ABCD on Plan ET 194 attached as Annexure A to the report on the agenda, in extent approximately 70 m², to the St Tropez Body Corporate, owner of Erf 10495, Strand, or its successors-in-title, be approved subject *inter alia* to the following conditions, that:

- (a) a market rental of R550 per month excluding VAT of 14% per leased area where applicable, being R77 (in total R627) be payable;
- (b) the rental will escalate at 8% per annum;
- (c) the lease will endure for a period of five (5) years with an option to renew for a further five years, subject to rental review after initial five-year period;
- (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 1 March 2013;
- (e) the property be used for parking purposes only;
- (f) the monthly rental is for non-exclusive and unsecure parking; however should the intention be to enclose the area the rental would need to be re-assessed at a parking tariff for exclusive and secure parking;
- (g) subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- (h) subject to compliance with any other statutory requirements;
- (i) no compensation will be payable for any improvement made to the property, with or without the consent of Council, should the lease be terminated for any reason whatsoever;
- (j) the following condition must also be adhered to as set by the Property Holding Department, that:

- (i) any link for water and sanitation services required will be for the account of lessee. If new service connections are required, the applicant will be responsible for the full cost of any new service or the upgrading of existing service connections;
- (ii) the existing sidewalk not be taken up and pedestrian movement impeded on.

MC 12/03/15

IPAC 08/02/2015 PROPOSED LEASE OF A PORTION OF PUBLIC STREET BEING
PORTION OF ERF 10494, DRAKE STREET, STRAND FOR PARKING
PURPOSES: ST TROPEZ BODY CORPORATE

ISIPHAKAMISO SOKUQESHISWA KWESIQEPHU SESITRATO
SOLUNTU SESIZA-10494, DRAKE STREET, E-STRAND
KULUNGISELELWA IMIBANDELA YOKUPAKA IZITHUTHI: KWABE-ST
TROPEZ BODY CORPORATE

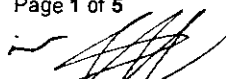
VOORGESTELDE VERHURING VAN 'N GEDEELTE VAN OPENBARE
STRAAT NAAMLIK 'N GEDEELTE VAN ERF 10494, DRAKESTRAAT,
STRAND, VIR PARKEERPLEKDOELEINDES: ST. TROPEZ-
BEHEERLIGGAAM

The committee noted the following:

- The Tax Clearance Certificate had expired and that no agreement of lease will be entered into until the applicant provides a valid Tax Clearance Certificate.
- "The rental will escalate at 8% per annum" be added as recommendation (b).

RECOMMENDED TO COUNCIL that the lease of a portion of public street, erf 10494, situated at Drake Street, Strand, shown lettered ABCD on the attached Plan ET 194, marked annexure A, in extent approximately 70 m², to the St Tropez Body Corporate, owner of Erf 10495, Strand, or its successors-in-title, be approved subject inter alia to the following conditions that:

- a) A market rental of R550 per month excluding VAT of 14% per leased area where applicable, being R77 (in total R627) be payable;
- b) The rental will escalate at 8% per annum;
- c) The lease will endure for a period of five (5) years with an option to renew for a further five years, subject to rental review after initial five-year period;

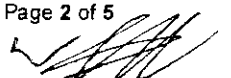


- d) The monthly rental is to be adjusted on the basis of 8% per annum compounded annually on a pro rata basis commencing 6 months from date of this valuation. Accordingly the above recommended rental is to be adjusted as from 1 March 2013; **225**
- e) The property be used for parking purposes only;
- f) The monthly rental is for non-exclusive and unsecure parking; however should the intention be to enclose the area the rental would need to be re-assessed at a parking tariff for exclusive and secure parking;
- g) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- h) Subject to compliance with any other statutory requirements;
- i) No compensation will be payable for any improvement made to the property, with or without the consent of Council, should the lease be terminated for any reason whatsoever;
- j) The following condition must also be adhered to as set by the Property Holding Department:
- i) Any link for water and sanitation services required will be for the account of lessee. If new service connections are required, the applicant will be responsible for the full cost of any new service or the upgrading of existing service connections;
 - ii) That the existing sidewalk not be taken up and pedestrian movement impeded on.

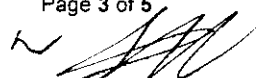
IZINDULULO

Kundululwe ukuba makuphonyezwe uqeshiso lwesiqephu sesitrato soluntu esisiza-10494, esise-Drake Street, e-Strand, esibonakaliswe ngoonobumaba abakhulu u- ABCD kwiPlani eqhotyoshelweyo engu-ET 194 ephawulwe kwisihlomelo-A, esibukhulu obumalunga nama-70 m², kwabakwa-St Tropez Body Corporate, abangabanini besiza-10495 esise-Strand okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo yokuba:

- a) Makuhlawulwe ixabiso lerenti elingama-R550 ngenyanga, ngaphandle kweRhafu-ntengo eli-14%, engama-R77 (apho iyonke ingama-R627);
- b) Inqeshiso iya kunyuka nge-8% ngonyaka;
- c) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka emihlanu (5) apho kuyakubakho ummiselo wokuluhlaziya eminye iminyaka emihlanu, ngokuxhomekeke ekuphengululweni kwerenti emva kwesithuba seminyaka emihlanu sokuqala;



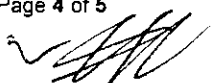
- d) Ixabiso lentengiso malilungelelaniswe ngokommiselo we-8% ngonyaka oqukaniswe rhoqo ngonyaka ngokwekota apho ithi iqalise iinyanga ezintandathu emva komhla woqingqo-maxabiso; Irenti le ingentla apha kufuneka ilungelelaniswe ngokufanelekileyo ukususela ngowo-1 Matshi 2013;
- e) Ipropati iyakuthi isetyenziselwe imibandela yokupaka isithuthi kuphela;
- f) Ukuba irenti yarhoqo ngenyanga ilungiselelwe indawo yokupaka exabiso elifikelelekayo nengakhuselekanga; nangona kunjalo, ukuba injongo iye yayeyokuba ummandla lo uvalwe/ubiyelwe, irenti kuyakufuneka iqulunqwe ngokutsha, ijoliswe kwixabiso lokupaka kwindawo ekumgangatho ophezulu nekhuselekileyo;
- g) Ngokuxhomekeke kwimiqathango engeminye eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyazisiweyo;
- h) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho;
- i) Akukho mbuyekezo eyakuthi ihlawulwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati, ngokwemvume okanye ngaphandle kwemvume yeBhunga, ukuba uqeshiso luye lwarhoxiswa ngaso nasiphina isizathu;
- j) Le miqathango ilandelayo kufuneka ithotyelwe njengoko iqulunqwe leSebe loLawulo lwePropati:
- i) Nakuphina ukuvuza kwamanzi nenkonzo yococeko efunekayo, iyakuthi ibeluxanduva lokuhlulwa ngulowo urentayo (uqeshisiweyo). Ukuba kufuneka uqhagamshelwano olutsha lwenkonzo, umfaki-sicelo uyakuthi abenoxanduva lweendleko ngokupheleleyo zazo naziphina iinkonzo ezintsha okanye ezingokuhlaziywa koqhagamshelwano lwenkonzo esele imiselwe;
 - ii) Indlelana esecaleni yokuhamba ngenyawo akufunekanga ithathiwe kwaye kungaphazanyiswa nabo bahamba ngeenyawo.



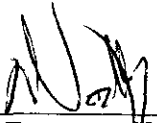
Daar word aanbeveel dat die verhuring van 'n gedeelte van openbare straat, erf 10494, geleë te Drakenstraat, Strand, aangetoon deur die letters ABCD op die aangehegte plant ET194, gemerk bylae A, ongeveer 70 m² groot, aan die St Tropez-regspersoon, eienaar van erf 10495, Strand, of sy resopvolgers, goedgekeur word, onderwerpe aan onder meer die volgende voorwaardes, naamlik dat:

- a) 'n Markverwante huurgeld van R550 per maand, 14%-BTW per verhuurde gebied uitgesluit waar van toepassing, synde R77 (in totaal R627) betaal moet word;
- b) Die huurgeld sal met 8% per jaar styg.
- c) Die huurooreenkoms vir 'n tydperk van vyf jaar (5) sal duur, met 'n opsie om dit vir 'n verdere vyf jaar te hernieu, onderworpe aan 'n hersiening van die huurgeld na die aanvanklike tydperk van vyf jaar;
- d) Die koopprys aangepas word teen 8% per jaar, jaarliks pro rata saamgestel, vanaf ses maande na hierdie waardasiedatum; Die bogenoemde huurgeld moet dus soos vanaf 1 Maart 2013 aangepas word.
- e) Die eiendom slegs vir parkeerdoeleindes gebruik mag word;
- f) Die maandelikse huurgeld vir nie-eksklusiewe en onbeveiligde parkering is; sou daar egter beoog word om die gebied te omhein, die huurgeld herbepaal moet word teen 'n parkeertarief vir eksklusiewe en beveiligde parkering;
- g) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid;
- h) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- i) Geen vergoeding betaal sal word vir enige verbetering op die eiendom nie, met of sonder die Raad se toestemming, indien die huurkontrak om welke rede ook al beëindig sou word;
- j) Daar aan die volgende voorwaardes voldoen moet word, soos gestel deur die departement eiendomsbesit:
 - i) Enige koppeling vir water- en sanitasiedienste wat verlang word, op die huurder se onkoste gedoen sal word. Indien nuwe diensaansluitings nodig is, die aansoeker verantwoordelik sal wees vir die volle koste van enige nuwe diens of die verbetering van bestaande diensaansluitings;
 - ii) Die bestaande sypaadjie nie beset word en voetgangerbeweging belemmer word nie.

ACTION: R SCHNACKENBERG; R GELDERBLOEM



It is noted that this resolution is in line with Supply Chain Management Policy.



MR RICHARD WOOTTON
EMPLOYEE No: 10207948
CHAIRPERSON : IMMOVABLE PROPERTY
ADJUDICATION COMMITTEE

DATE: 6/2/15

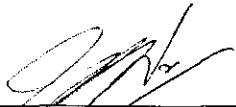
COMMENT:



DIRECTOR : LEGAL SERVICES
MR LUNGEL0 MBANDAZAYO

DATE: 9/02/2015

COMMENT:



ALDERMAN IAN NEILSON
MAYORAL COMMITTEE MEMBER : FINANCE

DATE: 11/2/2015

COMMENT:



REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

DATE:

1. ITEM NUMBER : To be determined by Executive Director

2. SUBJECT:

PROPOSED LEASE OF A PORTION OF PUBLIC STREET BEING PORTION OF ERF 10494, DRAKE STREET, STRAND FOR PARKING PURPOSES: ST TROPEZ BODY CORPORATE

2. ONDERWERP:

VOORGESTELDE VERHURING VAN 'N GEDEELTE VAN OPENBARE STRAAT NAAMLIK 'N GEDEELTE VAN ERF 10494, DRAKESTRAAT, STRAND, VIR PARKEERPLEKDOELEINDES: ST. TROPEZ-BEHEERLIGGAAM

2. ISIHLOKO:

ISIPHAKAMISO SOKUQESHISWA KWESIQEPHU SESITRATO SOLUNTU SESIZA-10494, DRAKE STREET, E-STRAND KULUNGISELELWA IMIBANDELA YOKUPAKA IZITHUTHI: KWABE-ST TROPEZ BODY CORPORATE

LSUD4594

H14/3/6/1/2/362

PH2014/0537 (Category 1)

3. STRATEGIC INTENT

SFA 1: an OPPORTUNITY CITY

Objective 1.5	Leverage the City's assets to drive economic growth and sustainable development
Programme 1.5(a)	City strategic assets investigation

4. PURPOSE

To recommend the lease of portion of public street Erf 10494, situated at Drake Street, Strand, shown lettered ABCD on the attached Plan ET194 marked "Annexure A", in extent approximately 70 m², to St Tropez Body Corporate or its successors-in-title, subject to certain conditions as set out in paragraph 7.



5. FOR NOTING BY / DECISION BY

- This report is for consideration by
- the Immovable Property Adjudication Committee (IPAC)
 - the Executive Mayor together with the Mayoral Committee
 - Council

6. EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the lease of a portion of public street being portion of erf 10494, Drake Street, Strand			
Property description	Portion of Public street being portion of erf 10494, Drake Street, Strand			
Applicant	St Tropez Body Corporate			
Site extent	70 m ²			
Current zoning	Public Street			
Current usage	Parking			
Proposed usage	Parking			
Application description	Lease			
Submission date	15 July 2011			
Circulation date	Re-valuation of rental.			
Comments	Branch Comments – No objections received			
Public participation outcome summary	No objections received			
WARD Cllr Stuart Pringle	NOTICE	DATE 16/10/2012	WARD	84
Viable	Yes		No	X
Recommended decision	Approval	X	Refusal	
Regulation 34(1) In-principle approval	Granted by Director : Property Management in terms of delegated authority Part 27 (24)(7).			

7. RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that the lease of a portion of public street, erf 10494, situated at Drake Street, Strand, shown lettered ABCD on the attached Plan ET 194, marked annexure A, in extent approximately 70 m², to the St Tropez Body Corporate, owner of Erf 10495, Strand, or its successors-in-title, be approved subject inter alia to the following conditions that:

- a) A market rental of R550 per month excluding VAT of 14% per leased area where applicable, being R77 (in total R627) be payable;

- b) The lease will endure for a period of five (5) years with an option to renew for a further five years, subject to rental review after initial five-year period;
- c) 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 1 March 2013;
- d) The property be used for parking purposes only;
- e) The monthly rental is for non-exclusive and unsecure parking; however should the intention be to enclose the area the rental would need to be re-assessed at a parking tariff for exclusive and secure parking;
- 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, with or without the consent of Council, should the lease be terminated for any reason whatsoever;
- i) The following condition must also be adhered to as set by the Property Holding Department:
 - i) Any link for water and sanitation services required will be for the account of lessee. If new service connections are required, the applicant will be responsible for the full cost of any new service or the upgrading of existing service connections;
 - ii) That the existing sidewalk not be taken up and pedestrian movement impeded on.

7. AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat die verhuring van 'n gedeelte van openbare straat, erf 10494, geleë te Drakenstraat, Strand, aangetoon deur die letters ABCD op die aangehegte plant ET194, gemerk bylae A, ongeveer 70 m² groot, aan die St Tropez-regspersoon, eienaar van erf 10495, Strand, of sy resopvolgers, goedgekeur word, onderwerpe aan onder meer die volgende voorwaardes, naamlik dat:

- a) 'n Markverwante huurgeld van R550 per maand, 14%-BTW per verhuurde gebied uitgesluit waar van toepassing, synde R77 (in totaal R627) betaal moet word;
- b) Die huurooreenkoms vir 'n tydperk van vyf jaar (5) sal duur, met 'n opsie om dit vir 'n verdere vyf jaar te hernieu, onderworpe aan 'n hersiening van die huurgeld na die aanvanklike tydperk van vyf jaar;

- c) Die koopprys aangepas word teen 8% per jaar, jaarliks pro rata saamgesteld, vanaf ses maande na hierdie waardasiedatum; Die bogenoemde huurgeld moet dus soos vanaf 1 Maart 2013 aangepas word.
- d) Die eiendom slegs vir parkeerdoeleindes gebruik mag word;
- e) Die maandelikse huurgeld vir nie-eksklusiewe en onbeveiligde parkering is; sou daar egter beoog word om die gebied te omhein, die huurgeld herbepaal moet word teen 'n parkeertarief vir eksklusiewe en beveiligde parkering;
- f) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid;
- g) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- h) Geen vergoeding betaal sal word vir enige verbetering op die eiendom nie, met of sonder die Raad se toestemming, indien die huurkontrak om welke rede ook al beëindig sou word;
- i) Daar aan die volgende voorwaardes voldoen moet word, soos gestel deur die departement eiendomsbesit:
 - i) Enige koppeling vir water- en sanitasiedienste wat verlang word, op die huurder se onkoste gedoen sal word. Indien nuwe diensaansluitings nodig is, die aansoeker verantwoordelik sal wees vir die volle koste van enige nuwe diens of die verbetering van bestaande diensaansluitings;
 - (ii) Die bestaande sypaadjie nie beset word en voetgangerbeweging belemmer word nie.

7. IZINDULULO

Azigunyaziswanga: isiqqibo seseBhunga:

Kundululwe ukuba makuphunyezwe uqeshiso lwesiqephu sesitrato soluntu esisiza-10494, esise-Drake Street, e-Strand, esibonakaliswe ngoonobumaba abakhulu u-ABCD kwiPlani eqhotyoshelweyo engu-ET 194 ephawulwe kwisihlomelo-A, esibukhulu obumalunga nama-70 m², kwabakwa-St Tropez Body Corporate, abangabanini besiza-10495 esise-Strand okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo yokuba:

- a) Makuhlawulwe ixabiso lerenti elingama-R550 ngenyanga, ngaphandle kweRhafu-ntengo eli-14%, engama-R77 (apho iyonke ingama-R627);
- b) Uqeshiso luyakuthi luqhubekke isithuba seminyaka emihlanu (5) apho kuyakubakho ummiselo wokuluhlaziya eminye iminyaka emihlanu, ngokuxhomekeke ekuphengululweni kwerenti emva kwesithuba seminyaka emihlanu sokuqala;



- c) Ixabiso lentengiso malilungelelaniswe ngokommiselo we-8% ngonyaka oqukaniswe rhoqo ngonyaka ngokwekota apho ithi iqalise iinyanga ezintandathu emva komhla woqingqo-maxabiso; Irenti le ingentla apha kufuneka ilungelelaniswe ngokufanelekileyo ukususela ngowo-1 Matshi 2013;
- d) Ipropati iyakuthi isetyenziselwe imibandela yokupaka isithuthi kuphela;
- e) Ukuba irenti yarhoqo ngenyanga ilungiselelwe indawo yokupaka exabiso elifikelelekayo nengakhuselekanga; nangona kunjalo, ukuba injongo iye yayeyokuba ummandla lo uvalwe/ubiyelwe, irenti kuyakufuneka iqulunqwe ngokutsha, ijoliswe kwixabiso lokupaka kwindawo ekumgangatho ophezulu nekhusilekileyo;
- f) Ngokuxhomekeke kwimiqathango engeminye eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyazisiweyo;
- g) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho;
- h) Akukho mbuyekezo eyakuthi ihlawulwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati, ngokwemvume okanye ngaphandle kwemvume yeBhunga, ukuba uqeshiso luye lwarhoxiswa ngaso nasiphina isizathu;
- i) Le miqathango ilandelayo kufuneka ithotyelwe njengoko iqulunqwe leSebe loLawulo lwePropati:
 - i) Nakuphina ukuvuza kwamanzi nenkonzo yococeko efunekayo, iyakuthi ibeluxanduva lokuhlawulwa ngulowo urentayo (uqeshisiweyo). Ukuba kufuneka uqhagamshelwano olutsha lwenkonzo, umfaki-sicelo uyakuthi abenoxanduva lweendleko ngokupheleleyo zazo naziphina iinkonzo ezintsha okanye ezingokuhlaziywa koqhagamshelwano lwenkonzo esele imiselwe;
 - ii) Indlelana esecaleni yokuhamba ngenyawo akufunekanga ithathiwe kwaye kungaphazanyiswa nabo bahamba ngeenyawo.

8. DISCUSSION/CONTENTS

8.1 BACKGROUND:

The applicant submitted an application to lease a portion of public street erf 10494, adjacent to erf 10495, Drake Street, Strand shown hatched ABCD on the plan attached as Annexure A for parking purposes. St Tropez Body Corporate applied to extend the existing parking area.

St Tropez is a thirteen storey complex comprising 104 flats with 73 single garages and approximately 27 open-air parking bays. The additional parking on the leased area would provide additional parking for the residents as well as for visitors which is considered almost a must in such a complex.

The application was circulated to all relevant departments for comments.

The proposed lease was advertised for public comment or objections and no objections were received. The land is non-viable and only the lessee has use of the land for parking purposes as no traffic impact on the surrounding road network will be caused by this application.

Minutes of the subcouncil meeting, signed by the Manager of Sub-Council 8 serves as confirmation that all conditions are still applicable and has not been amended, except for the rental amount which will be escalated, i.e. the rental of R550 per month at 8% on a pro rate basis commencing 6 months from date of valuation.

That the monthly rental is for non-exclusive and unsecure parking; however should the intention be to enclose the area the rental would need to be re-assessed at a parking tariff for exclusive and secure parking.

8.2 CONSULTATION WITH BRANCHES:

The application was circulated to the various service branches for comments and all branches support the application.

8.3 FACTORS MOTIVATING RECOMMENDATION:

8.3.1 The leasing of the land will relieve Council of the maintenance burden.

8.3.2 A market related rental income will be generated.

8.3.3 Better utilization of City land.

8.3.4 Security risk will be diminished.

8.4 PUBLIC PARTICIPATION

Advertising	Cape Times & Burger	08 February 2012
	Prov & Nat Treasury	16 October 2012
	Notices to adj owners	16 October 2012
	Ward councillor	16 October 2012
	Subcouncil Chair & Manager	16 October 2012
	Community organisation(s)	N/A
Outcome	Objections	No objections
	Ward Councillor's support	Supported

8.5 VALUATION

8.5.1 The application category does not fit within the tariff structure of the City approved on 28 May 2014;



8.5.2 The City's Professional Valuers on 31 August 2012 assessed the rental value of the Subject Property at R550 per month excluding VAT (if applicable). 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 the valuation. The valuation report and updated valuation synopsis dated 10 Dec 2014 is attached to the report as Annexure B.

8.5.3 That the monthly rental is for non-exclusive and unsecure parking; however should the intention be to enclose the area the rental would need to be re-assessed at a parking tariff for exclusive and secure parking.

8.6 VAT

VAT will be levied at the standard rate.

8.7 BLACK ECONOMIC EMPOWERMENT (BEE) STATUS

The applicant is a company. The applicant is not from a previously disadvantaged group.

8.8 CONSTITUTIONAL AND POLICY IMPLICATIONS

8.8.1 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.

8.8.2 Council's By-Law (LA 12783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 4) allows the leasing of immovable property.

8.8.3 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;

8.8.4 Policy on the management of Council's Immovable Property, approved 20 June 2005 (MC 29/06/05) , amended 19 October 2005 (MC 31/10/05), promulgated 3 February 2006 (PG 6340: LA 32323).

8.9 FINANCIAL IMPLICATIONS

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

8.10 TAX COMPLIANCE

An updated Tax Clearance Certificate will be obtained before signature of the contract.



8.11 FINANCIAL DUE DILIGENCE

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

8.12 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City? No Yes

8.13 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 to the amount of R550 per month excluding VAT of 14% where applicable, being R77 (in total – R627) as well as rates and taxes, if applicable. The rental will escalate at 8% per annum from 1 March 2013 as of date of valuation. That the monthly rental is for non-exclusive and unsecure parking; however should the intention be to enclose the area the rental would need to be re-assessed at a parking tariff for exclusive and secure parking.

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 Times and Die Burger on 8 February 2012. Closing dates for objections were 8 March 2012. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. No 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.

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 Transfer or Disposal

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.

8.14 STAFF IMPLICATIONS

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

No

Yes

ANNEXURES

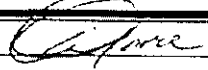
Annexure A: Plan ET 194


Annexure B : Valuation Report and updated valuation synopsis.

Annexure C: SARS Tax Clearance Certificate (An updated Tax Clearance Certificate will be obtained before signing of the lease.)

Annexure D: Extract of Sub-Council Minutes meeting dated 22 August 2013

Annexure E: Memo signed by Manager - Sub-Council 8 confirming that all conditions are still applicable

NAME	Dirk Maree (Adele Bannister) 
CONTACT NUMBERS	021 900 1713
E-MAIL ADDRESS	Adele.Bannister@capetown.gov.za
DIRECTORATE	FINANCE
FILE REF NO	H14/3/6/1/2/365
MANAGER: PROPERTY HOLDING	16 Mackenbergh 16-01-2015

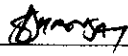

 Director : PROPERTY MANAGEMENT IN
 HER CAPACITY AS CFO NOMINEE

Comment:

NAME W. ANDERSON
~~RUBY GELDERBLOEM~~

DATE 2015-01-23

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


 LEGAL COMPLIANCE

NON-COMPLIANT

NAME A.S. MARAIS

TEL (021) 400 4536

DATE 30-01-15

Comment:

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