



REPORT TO SUBCOUNCIL 01

- 1 ITEM NUMBER 01SUB 16/09/2021
- 2 SUBJECT

PROPOSED LEASE OF A PORTION OF CITY OWNED LAND, BEING A PORTION OF ERF 92 BLAAUWBERGSTRAND AND A PORTION OF PUBLIC STREET (STATE LAND) ABUTTING ERF 91 BLAAUWBERGSTRAND, SITUATED AT GENERAL JANSSENS STREET, BLAAUWBERGSTRAND: RONKEM PROPERTIES PTY LTD FOR GARDENING PURPOSES

ONDERWERP

VOORGESTELDE VERHURING VAN 'N GEDEELTE STADSGROND, NAAMLIK 'N GEDEELTE VAN ERF 92 BLAAUWBERGSTRAND, EN 'N GEDEELTE VAN 'N OPENBARE STRAAT (STAATSGROND) AANGRENSEND AAN ERF 91 BLAAUWBERGSTRAND, GELEË TE GENERAAL JANSSENS-STRAAT, BLAAUWBERGSTRAND: RONKEM PROPERTIES (EDMS.) BPK. VIR TUINMAAKDOELEINDES

ISIHLOKO

ISIPHAKAMISO SOKUQESHISWA KWESIQEPHU SOMHLABA WESIXEKO OSISIQEPHU SESIZA 92 BLAAUWBERGSTRAND NESIQEPHU SESITRATO SOLUNTU (UMHLABA KARHULUMENTE) ESIMELENE NESIZA 91 BLAAUWBERGSTRAND, GENERAL JANSSENS STREET, BLAAUWBERGSTRAND, KULUNGISELELWA IMIBANDELA YEZASEGADINI: KWABAKWA RONKEM PROPERTIES PTY LTD

N0378

PTMS NO: 130006416

File Ref No: TYG 14/3/6/1/2/92

(Category 4)

3 DELEGATED AUTHORITY

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

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

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

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

- ☒ Final decision lies with Director: Property Management.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed lease of a portion of City land, being a portion of Erf 92 Blaauwbergstrand and a portion of public street (State Land), situated at General Janssens Street, Blaauwbergstrand in extent approximately 192m ² and 45m ² respectively and as shown hatched on the attached Plan No TA 1147v1, to Ronkem Properties Pty Ltd for garden and security purposes.	
Site extent	192m ² & 45m ² respectively and in total 237 m ²	
Submission date	16 th July 2019	
Current zoning	Transport 2: Public Road and Public Parking	
Current usage	Transport 2: Public Road and Public Parking	
Proposed usage	Garden Purposes	
WARD CLLR	NOTICE DATE	WARD
Nora Grose	18 th March 2021	23
Internal circulation date	20 th February 2020	
Internal department comments	The application for lease was circulated to the various departments and was supported by all.	

Public participation outcome summary	Advertised in the Cape Times and Die Burger on 27 th May 2020 (<i>Bulk Ad</i>) 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 and security burden. • The existing use of the property will continue • The City will receive rental 			
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town			
	Objective 1.1	Positioning Cape Town as forward looking globally competitive City		
	Programme 1.1(g)	Leveraging the City's assets		

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of a portion of City land, being a portion of Erf 92 Blaauwbergstrand and a portion of public street (state land), situated at General Janssens Street, Blaauwbergstrand, shown hatched and lettered ABCDE and E curve GH respectively on the plan no TA 1147v1 attached and marked Annexure A, in extent approximately 192m² & 45m² respectively and in total 237 m², to Ronkem Properties Pty Ltd or their successors in title, be approved subject to inter alia the following conditions:

- A tariff rental of R1 644,35 per annum excluding VAT, calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- The lease will endure for a period of ten years;
- The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- The property be used for gardening and security purposes only;

- e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- f) Subject to compliance with any other statutory requirements;
- g) No compensation will be payable for any improvement made to the property;
- h) All outstanding accounts with the City of Cape Town must be settled;
- i) Council shall not be liable for any damage to the property as a result of maintenance carried out to the existing infrastructure.

City of Cape Town staff, contractors and equipment shall have 24 hour access to the existing municipal water main and other services crossing the subject portion of land for operational and maintenance purposes.

AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van 'n gedeelte Stadsgrond, naamlik 'n gedeelte van erf 92 Blaauwbergstrand, en 'n gedeelte van 'n openbare straat (staatsgrond), geleë te Generaal Janssens-straat, Blaauwbergstrand, aangetoon deur arsering en onderskeidelik die letters ABCDE en E boog GH op plan no. TA 1147v1 aangeheg en gemerk bylae A, onderskeidelik ongeveer 192 m² en 45 m² en altesaam 237 m², aan Ronkem Properties (Edms.) Bpk. of sy regsopvolgers, goedgekeur word, onderworpe aan onder meer die volgende voorwaardes:

- a) 'n Tariefhuurgeld van R1 644,35 per jaar, BTW uitgesluit - bereken teen die koers wat ten tye van die transaksie geld - betaal moet word. Eiendomsbelasting is nie van toepassing nie;
- b) Die huurtermyn tien jaar sal wees;
- c) Die huurgeld jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- d) Die eiendom slegs vir tuinmaak- en sekuriteitsdoeleindes gebruik mag word;
- e) Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;

- g) Geen vergoeding betaal sal word vir enige verbetering wat aan die eiendom aangebring word nie;
- h) Alle uitstaande rekeninge by die Stad Kaapstad vereffen moet word;
- i) Die Raad nie aanspreeklik is vir enige skade aan die eiendom as gevolg van instandhouding wat op die bestaande infrastruktuur gedoen is nie;

Die Stad Kaapstad se personeel, kontrakteurs en toerusting vir bedryfs- en instandhoudingsdoeleindes 24 uur-toegang moet hê tot die bestaande munisipale hoofwaterpypleiding en ander dienste wat oor die betrokke grondgedeelte loop.

IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ukuqeshiswa kwesiqephu somhlaba weSixeko, osisiqephu sesiza 92 Blaauwbergstrand nesiqephu sesitrato soluntu (umhlaba karhulumente), okwiGeneral Janssens Street, eBlaauwbergstrand, esibonakaliswe ngomzobo nangoonobumba abakhulu uABCDE noE ukuya kuGH kwiplani enguTA 1147v1 eqhotysohelwe nephawulwe isihlomeloA, esibukhulu obumalunga ne192 m² nama45 m² nalapho iyonke bungama237 m², kwabakwaRonkem Properties Pty Ltd okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo:

- a) Makuhlawulwe ixabiso larenti eliliR1 644,35 ngonyaka (ngaphandle kweRhafuntengo) ngexabiso elibalwe ngexabiso elijoliswe kwixesha elo lonaniselwano. liRhafu zokuhlala azihlawulwa;
- b) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka elishumi;
- c) Irenti iyakuthi ilungelelaniswe rhoqo ngonyaka ngokwesakheko samaxabiso serenti njengoko siphunyezwe liBhunga;
- d) Ipropati iyakuthi isetyenziselwe imibandela yezasegadini nokhuseleko kuphela;
- e) Ngokuxhomekeke kweminye imiqathango eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho;
- g) Akukho mbuyekezo iyakuthi yenziwe/ihlawulwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati;

- h) Kufuneka kuhlululwe zonke iikhawunti ezingekahlululwa kwiSixeko saseKapa;
- i) IBhunga alisayi kubanoxanduva ngawo nawuphina umonakalo kwipropati ngenxa yononotshelo oluyakuthi luqhutywe kwizakheko esele zimiselwe.

Amagosa eSixeko saseKapa, oonokotraka nezixhobo zokusebenza ziyakuthi zivumeleke kwipropati kangangeeyure ezingama24 ngokujoliswe kwimibhobho yamanzi kamasipala esele imiselwe nezinye iinkonzo ezinqumla isiqephu somhlaba esichaphazelekayo, kulungiselelwa imibandela yokusebenza nononotshelo.

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

An application was received from Ronkem Properties Pty Ltd, the owner of adjacent property Erf 91 Blaauwbergstrand, as indicated ABCDE and E curve GH shown hatched and crosshatched respectively on Plan No TA 1147v1 attached **Annexure A**. The property is to be used for gardening and security purposes.

Ronkem Properties Pty Ltd has been leasing this portion of land since 2010. Their lease has now expired and they have submitted an application for a new lease.

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

The property is registered in the name of Regional Services Council-Cape Metropole D/T 21543 dated 1967-09-18.

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 application category fits within the tariff structure of the City approved on 26 May 2021.

An annual rental tariff of R1 644,35 per annum excluding VAT and subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time, will be payable.

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 by Council 26 August 2010, C 54/08/10), 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

Paragraph 98.3 of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), stipulates that 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.

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

Paragraphs 372 – 375 of the aforementioned 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, all applicants need to submit a SARS clearance or exemption certificate for the leasing of City-owned immovable property.

This transaction is tariff-based and does exceed R15 000 and as such the requirements for a SARS clearance or exemption certificate is applicable. No agreement will be concluded until a valid Tax Clearance Certificate is furnished. A valid Tax Clearance Certificate will be furnished when final approval is sought from the delegated authority.

6.7 FINANCIAL DUE DILIGENCE

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

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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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 tariff rental in the amount of R1 644,35 per annum excluding VAT, as calculated in accordance with the tariff structure.

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 27th May 2020 (bulk add) . Closing dates for objections were 27 Jun 2020. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations as well as to National and Provincial Treasury. 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. No objections were received.

Strategic, Legal and Economic Interests

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

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

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

6.10 STAFF IMPLICATIONS

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

No ☒

Yes ☐

ANNEXURES

Annexure A: Plan No TA 1147v1

FOR FURTHER DETAILS CONTACT:

NAME	MELISSA VAN DER WESTHUIZEN	Digitally signed by Bongwe Maki-Swelindawo Date: 2021.08.17 09:16:13 +02'00'
CONTACT NUMBERS	0214444977	
E-MAIL ADDRESS	MELISSA.VANDERWESTHUIZEN@CAPETOWN.GOV.ZA	
DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT	
FILE REF NO	TYG 14/3/6/1/2/92 (130006416)	
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	Rachel Schnackenberg	Digitally signed by Rachel Schnackenberg Date: 2021.08.17 17:48:23 +02'00'

Michael Sims

Digitally signed by Michael Sims
Date: 2021.08.19 13:02:53
+02'00'

Comment:

**ACTING DIRECTORE : PROPERTY MANAGEMENT IN
HIS CAPACITY AS EXECUTIVE DIRECTOR :
ECONOMIC OPPORTUNITIES & ASSET
MANAGEMENT NOMINEE**

NAME MIKE SIMS

DATE

Joan-Mari Holt

Digitally signed by Joan-
Mari Holt
Date: 2021.08.20 08:05:08
+02'00'

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

☐ NON-COMPLIANT

LEGAL COMPLIANCE

NAME

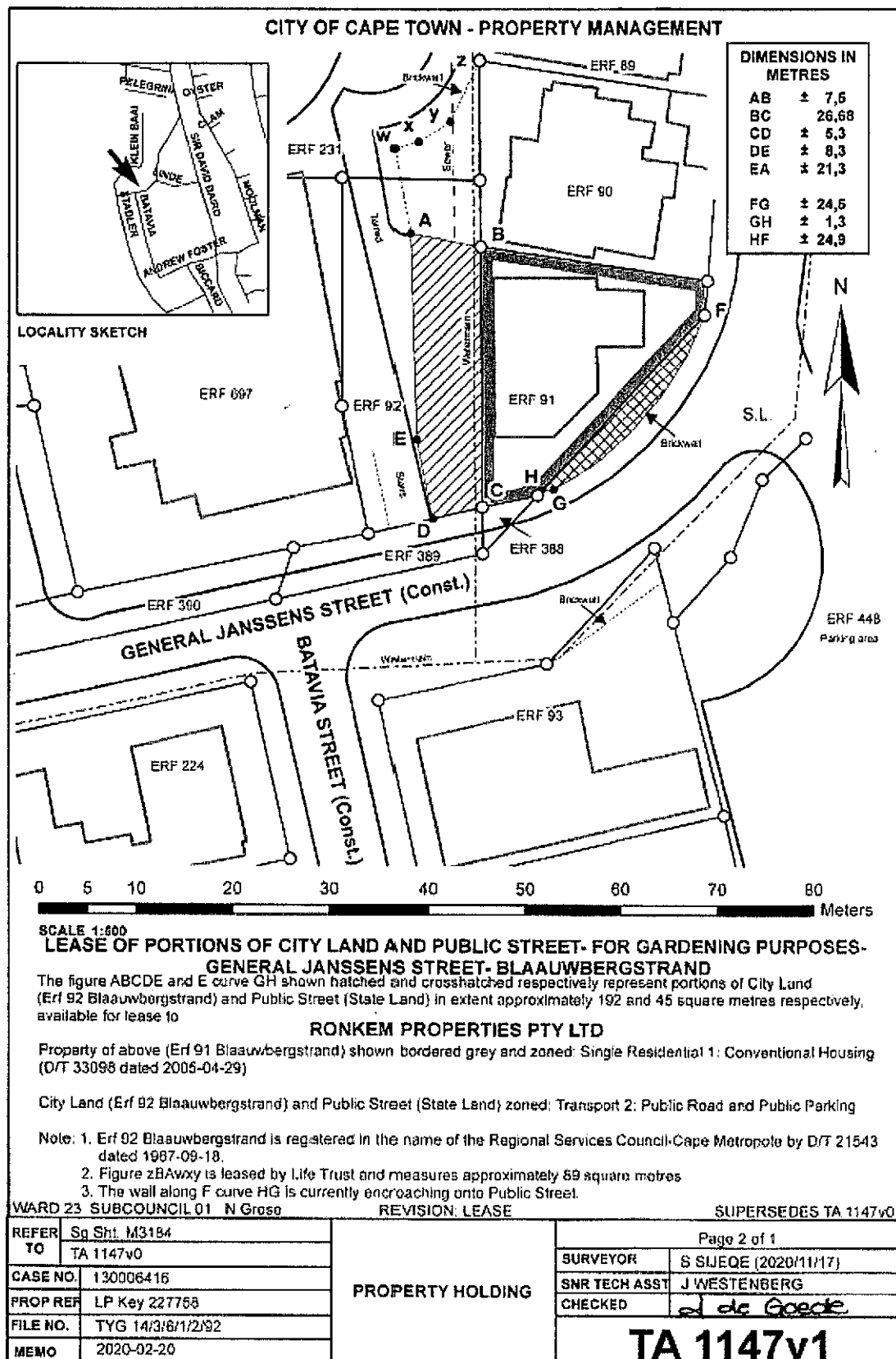
TEL

DATE

Comment:

Certified as legally compliant based on the contents
of the report.

ANNEXURE A





MR W V/D WESTHUIZEN
Subcouncil 1 Manager

☐

DATE

20.08.2021



MR N GROSE
Chairperson Subcouncil 1

☐

DATE

20.08.2021
