



REPORT TO SUBCOUNCIL 16

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**1 ITEM NUMBER 16 SUB 13/08/2021**

**2 SUBJECT**

**PROPOSED LEASE OF PORTION OF PUBLIC STREET, ABUTTING ERF 175934 CAPE TOWN, VICTORIA ROAD, WOODSTOCK FOR SECURITY PURPOSES: REX TRUEFORM CLOTHING COMPANY LIMITED**

**2 ONDERWERP**

**VOORGESTELDE VERHURING VAN GEDEELTE VAN OPENBARE STRAAT, AANGRENSEND AAN ERF 175934 KAAPSTAD, VICTORIAWEG, WOODSTOCK, VIR SEKURITEITSDOELEINDES: REX TRUEFORM CLOTHING COMPANY BEPERK**

**2 ISIHLOKO**

**ISIPHAKAMISO SOKUQESHISWA KWESIQEPHU SESITRATO SOLUNTU ESIMELENE NESIZA 175934 ESISEKAPA, VICTORIA ROAD, WOODSTOCK, KULUNGISELELWA IMIBANDELA YEZOKHUSELEKO: KWABEREX TRUEFORM CLOTHING COMPANY LIMITED**

(M4095)

PTMS NO: 130000359

File Ref No: CT14/3/6/1/2/985/A00

(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	Proposed lease of portion of Public Street for Security purposes			
Site extent	±50 m <sup>2</sup>			
Submission date	31 October 2019			
Current zoning	General Commercial C2			
Current usage	Security purposes			
Proposed usage	Security purposes			
WARD CLLR	NOTICE DATE	WARD		
Patrick Chapple	06 April 2021	57		
Internal circulation date	19 March 2019			
Internal department comments	Branch comments received and no objections were received.			
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on “22 May 2020”. 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 prior to 5 January 2017	
Factors motivating recommendation:	<ul style="list-style-type: none"> <li>• The leasing of the land will relieve Council of the maintenance burden.</li> <li>• A tariff related rental income will be generated.</li> <li>• Better utilization of City land</li> </ul>	
Strategic intent	<b>SFA 1 : an OPPORTUNITY City of Cape Town</b>	
	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 Portion of Public Street, abutting Erf 175934 Cape Town, situated on Victoria Road, Woodstock, shown hatched and lettered A curve BCD on the attached sketch STC 2728 marked annexure A, in extent approximately 50m<sup>2</sup>, to Rex Trueform Clothing Company Limited or their successors in title, be approved subject to inter alia the following conditions:

- A tariff rental of R631.00 per annum including 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 security purposes only;
- Subject to such further conditions to be imposed by the Director: Property Management in terms of his/her delegated authority;
- Subject to compliance with any other statutory requirements;
- No compensation will be payable for any improvement made to the property.

## 5 AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van gedeelte van openbare straat, aangrensend aan erf 175934 Kaapstad, geleë in Victoriaweg, Woodstock, gearseer en met die letters A kurwe BCD aangetoon op die aangehegte skets STC 2728, gemerk bylae A, ongeveer 50 m<sup>2</sup> groot, aan Rex Trueform Clothing Company Beperk, of hul

regsopvolgers, goedgekeur word, onderworpe aan, onder meer, die volgende voorwaardes dat:

- a) 'n Tariefhuurbedrag van R631.00 per jaar, BTW bereken teen die koers van toepassing ten tye van die transaksie ingesluit, betaalbaar is. Eiendomsbelasting nie van toepassing nie;
- b) Die huurooreenkoms vir 'n tydperk van tien jaar sal duur;
- c) Die huurbedrag jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- d) Die eiendom slegs vir sekuriteitsdoeleindes gebruik word;
- e) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge sy/haar gedelegeerde bevoegdheid;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaalbaar sal wees vir enige verbeteringe aan die eiendom nie.

## **5 IZINDULULO ZOKUBA ZIQWALASELWE KWAYE KUHLONYULWE KUZO LIBHUNGANA ELIFANELEKILEYO**

Kundululwe ukuba makuphunyezwe ukuqeshiswa kwesiqephu seSitrato soLuntu esimelene nesiza ndawo yoluntu esisiza-175934 esiseKapa, Victoria Road, eWoodstock, esibonakaliswe ngomzobo nangoonobumba abakhulu uA ukuya kuBCD kwiplani eqhotyoshelweyo enguSTC 2728, ephawulwe kwisihlomeloA, esibukhulu obumalunga nama 50 m<sup>2</sup> kwabeRex Trueform Clothing Company Limited okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo yokuba:

- a) Makuhlawulwe ixabiso lerenti elingama R631.00 ngonyaka (kuquka iRhafuntengo) ngexabiso elibalwe ngexabiso elijoliswe kwixesha elo lonaniselwano. lintlawulo zobuhlali azihlawulwa;
- b) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka elishumi;
- c) Irenti iyakuthi ilungelelaniswe rhoqo ngonyaka ngokwesakheko samaxabiso serenti njengoko siphunyezwe liBhunga;
- d) Ipropati le iyakuthi isetyenziselwe imibandela 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 ihlawulwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati.

## **6 DISCUSSION/CONTENTS**

### **6.1 BACKGROUND:**

The owners of Erf 175934 Cape Town, 344 Victoria Road, Woodstock have been leasing the property since before 1964 for security purposes. The agreement has since lapsed and continued on a tacit relocation basis to perpetuate billing. The lessee applied to lease the subject property for a further 10 year period for security purposes.

The proposed lease of the subject property was duly advertised in terms of the stipulations of the Management of Certain of the City of Cape Town's Immovable Property Policy in two local newspapers on 22 May 2020, inviting the public to lodge written comments. A notice in this regard was also served on the relevant ward councilor and sub-council, the surrounding neighbours and the ratepayer's association.

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

### **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:

- i. No structures impede on the pedestrian and vehicle movement.
- ii. The City of Cape Town has the right to construct and/or erect and lay such poles, stays, cables, wires or appurtenances relating thereto as may be necessary, together with the right of use, inspect, maintain, repair, alter, relay and/or remove all such poles, stays, cables, wires or appurtenances aforesaid. This includes the right to bring machinery onto the property and to carry out excavations;
- iii. The City of Cape Town has the right for any employee or servant or contractor to of City of Cape Town to enter and be upon the property at any time in the exercise of the aforesaid rights;
- iv. No building, containers or structure shall be erected within 3m of the electrical services;

- v. No excavation or filling shall be carried out within the leased area without the prior written consent of the Director: Electricity Services via the wayleave approval/process. All excavations within 3m of the electrical services must be carried out under the direction of a representative of this Department, in this regard, please contact this Directorate two weeks before the commencement of work.
- vi. No stakes, pegs or pins shall be stored within 1m of any part of the electricity services;
- vii. No plant or material shall be stored within 1m of any part of the electricity services;
- viii. No mechanical plant may be used within 3m of medium voltage cable or 5m of high voltage cable;
- ix. The lessee shall be responsible at all times for the maintenance and good order of the land;
- x. The lease may be suspended at any time should the applicant not comply with the conditions;
- xi. On termination of the lease, the entire leased area must be reinstated at the Lessee's expense to a condition acceptable to this Department.
- xii. Access into the area shall be available 24 hours a day to personnel of the Water and Sanitation Department.
- xiii. The access control system shall be uncomplicated and to the satisfaction of the Water and Sanitation Department in order to provide immediate access to Water and Sanitation personnel, together with all vehicles and plant as may be required. In addition to vehicular access gates pedestrian gates incorporating Water pattern padlocks may be required.
- xiv. Where gates are fitted with padlocks, the Water padlocking system shall be installed at the applicants/owners/residents cost. Details of the lock arrangement must be obtained from the Principal Water Inspector, telephone number (021) 957 4765.
- xv. Notwithstanding the aforementioned, neither the Water and Sanitation Department or the Council will be liable for any damages or loss if any lock or gate has forced or broken in order to gain access to attend the burst mains, blocked sewers or other emergencies such as inspections that must be carried out, meters that must be read, or any other cause outside the control of Council.
- xvi. The applicants/owners/residents shall bear the cost of the installation of repositioning of any valve, hydrant, meter or other fitting and all protective

measures to the water installation that may be necessitated by the lease/(purchase and servitude) of land, or closure of public street.

- xvii. The ground surface over a water or sewer main shall not be altered in any way except with the prior approval of the Water and Sanitation Department.
- xviii. No trees shall be planted within 3m of the water and sewer mains.
- xix. The lease shall be subject to the further approval of the Chief Fire Officer and all conditions imposed by him.
- xx. Details fo the final proposal shall be submitted to the Water and sanitation Department for approval prior to closure being affected.
- xxi. The applicant shall advise the District Manager of Reticulation in writing not less than 14 days before the are is closed off.

### **6.3 VALUATION**

The application category fits within the tariff structure of the City approved on 27 May 2020;

### **6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS**

- 6.4.1 The proposal complies with the provisions of Regulation 34 of Chapter 4 of the MATR in that a right to use, control or manage a capital asset may be granted.
- 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**

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 whose 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.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not required.

## 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 financial benefit in the form of a tariff rental to the amount of R631.00 per annum including VAT as well as rates and taxes, if applicable.



## **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 7 June 2019. Closing dates for objections were 03 August 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 objections and comments 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 or comments 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: STC 2728

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	MANDY TAYLOR	Johan William de Goede	Digitally signed by Johan William de Goede Date: 2021.06.09 07:41:39 +02'00'
<b>CONTACT NUMBERS</b>	(021) 400 6098	Goede	
<b>E-MAIL ADDRESS</b>	MANDY.TAYLOR@CAPETOWN.GOV.ZA		
<b>DIRECTORATE</b>	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT		
<b>FILE REF NO</b>	CT14/3/6/1/2/985/A00		
<b>MANAGER: PROPERTY HOLDING</b> RACHEL SCHNACKENBERG	Rachel Schnackenberg	Digitally signed by Rachel Schnackenberg Date: 2021.06.15 08:29:55 +02'00'	

Andre Human  
Digitally signed by Andre Human  
Date: 2021.06.15 12:43:44 +02'00'

Comment:

**ACTING DIRECTOR : PROPERTY MANAGEMENT**

NAME ANDRE HUMAN

DATE

Jason Sam Liebenberg  
Digitally signed by Jason Sam Liebenberg  
Date: 2021.06.23 14:46:47 +02'00'

☐ 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

Comment:

TEL

Certified as legally compliant based on the contents of the report

DATE

# ANNEXURE A

