

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

23.

HERMANUS: TRANSFER OF UNREGISTERED ERF 12199, HERMANUS, ±2,4818 HA IN EXTENT, FOR INDUSTRIAL PURPOSES

7/2/3/2

M Erasmus & R Kuchar

(028) 316 - 3724

Hermanus Administration

11 April 2017

1. Executive Summary

To obtain final approval for the transfer of unregistered Erf 12199, Hermanus, ±2,4818 ha in extent, for industrial purposes, to Massbuild (Pty) Ltd t/a Builders Express.

Further to make a recommendation to Council to make funds available for the relocation of the tennis and squash courts and clubhouse from the proceeds received from above transfer of Erf 12199, Hermanus.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure & Planning
Property Administration

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality, as amended
- Local Government: Municipal Finance Management Act, No 56 of 2003
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Overstrand Municipality Supply Chain Management Policy, as amended
- Grants-in-Aid Policy

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6. Background/Discussion/Evaluation/Conclusion

Background

Transfer of Erf 12199, Hermanus

Unregistered Erf 12199 Hermanus consists of a consolidation of a portion of Erf 5568 Hermanus and a portion of Erf 2366 Hermanus. Council approved in principle the alienation of the subject unregistered property by means of a competitive process on 24 February 2016. Subsequently tenders were invited in August 2016 for the sale of unregistered Erf 12199, Hermanus, ±2,4818 ha in extent, for industrial purposes.

The Municipal Manager, in terms of legislative provisions and upon recommendation by the Bid Adjudication Committee, awarded the tender on 5 December 2016 to Massbuild (Pty) Ltd t/a Builders Express at an amount of R22,800,000.00 (TWENTY TWO MILLION EIGHT HUNDRED THOUSAND RAND ALONE) (VAT included). The amount tendered is higher than the indicative value of R16,740,900.00 (SIXTEEN MILLION SEVEN HUNDRED AND FORTY THOUSAND NINE HUNDRED RAND ALONE) (VAT included) as indicated in the tender document.

Funding of Hermanus Sport Club

Council at its meeting held on 29 February 2012 took the following resolution:

- “1. that an amount of R6.5 million **be made available** towards the relocation of the clubhouse, tennis and squash courts in the February 2012 adjustment budget;
2. that the funding of the R6,5 million be done from the income derived from the transfer of Sandbaai Commonage;
3. that the R40 million **be replenished** with the money received for the sale of unregistered Erf 11436 (a portion of Erf 10996), Hermanus;
4. that Council approves the deviation of Clauses 5.2 and 5.3 of its Grants-in-Aid Policy;
5. that a **once off** grant-in-aid towards Hermanus Sports Committee be made to the amount of R6,5 million on condition that they use the grant to construct tennis courts, a squash court and the associated clubhouse within 6 months after payment of the grant (as indicated in the Master Plan), and

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6. *that the HSC be fully compliant with the provisions of Section 67 of the Municipal Finance Management Act, 2003 and that purchase contract for Erf 11436 (a portion of Erf 10996), has been concluded before the grant-in-aid be made available.”*

Council, at its meeting held on 20 March 2014, made R400,000.00 (FOUR HUNDRED THOUSAND RAND) of the R6,5 million available in order to enforce the structure to prevent any structural damage due to non-completion of the building:

- “1. *that the amount of R400 000 (FOUR HUNDRED THOUSAND RAND) as reflected in the adjusted budget of Council’s meeting held on 25 February 2014 be paid to the Hermanus Sport Club;*
2. *that the amount of R400 000(FOUR HUNDRED THOUSAND RAND) be regarded as part payment of the R6,5 million as was resolved at Council’s meeting of 29 February 2012;*
3. *that the amount of R400 000 (FOUR HUNDRED THOUSAND RAND) be used to build walls and structures to secure the existing structure and to prevent damage thereof;*
4. *that a formal agreement be concluded in order to formalize the terms of the grant-in-aid to the amount of R6,5 million, with specific reference to this partial payment of R400 000 (FOUR HUNDRED THOUSAND RAND) , and*
5. *that an engineering certificate be obtained for work done in order to record the assets in the municipality’s asset register.”*

Discussion

Transfer of Erf 12199, Hermanus

The property is earmarked for the development of industrial purposes and it may only be used for the purpose which complies with the primary uses allowed in terms of the Overstrand Zoning Scheme and further the development should comply with the provisions of the applicable Scheme Regulations as promulgated, conditions of approval and the Environmental record of Decision.

A public servitude road (right-of-way) transgressing the property must be established in co-operation with the Town Planning Department. This servitude road must link up with the 11kV servitude and link up with Mussel Road. A 4m service servitude east of the right-of-way servitude (the existing Mussel Road) will be registered for the 11kV cable transgressing the property

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and access to the Main Road. The precise locality will be clarified with the Engineering Department. Access will be obtained from De Goede Street, opposite Balfour Street and from the Main Road, opposite Mountain Street. The latter may only be a left in, left out onto Main Road.

Funding toward Hermanus Sport Club

Up till now the transfer of the Sandbaai Commonage and the sale of the unregistered Erf 11436, Hermanus (current tennis courts) have not realized. There is also a possibility that Council could retain Erf 11436, Hermanus for municipal purposes (offices). Thus a period of four (4) years have passed since Council took the decision to make R6,5 million available to the Hermanus Sport Centre in order to relocate the tennis and squash courts and the clubhouse. The delay in the payment has also made the previous pledge outdated as a result of escalation of building costs.

Attached per Annexure B is an updated cost estimation for construction of squash courts, tennis courts and the sport centre. The current estimate to complete the facilities amounts to R9,003,564.00 (NINE MILLION THREE THOUSAND FIVEHUNDRED AND SIXTY FOUR RAND) (excluding VAT).

However, if the amount of R6,1 million escalates (CPI) for four (4) years, it would come to R7 613 660 (SEVEN MILLION SIX HUNDERED AND SIXTY RAND).

Evaluation

Transfer of Erf 12199

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

Paragraph 9(1)(a): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA: decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services:”

The comments from the relevant officials confirmed that the said property is not needed for basic municipal services. Council, when the in principle approval was obtained, confirmed that the subject property is not needed to provide the minimum level of basic municipal services.

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Paragraph 9(1)(b) “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA: considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA:”

The original indicative value of the property was determined by Boland Valuers at an amount R16,740,900.00 (SIXTEEN MILLION SEVEN HUNDRED AND FORTY THOUSAND NINE HUNDRED RAND ALONE) (VAT included).

Paragraph 28: “All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.”

The purchaser will be liable for the cost of the final transfer advertisement, all costs involved with the registration of the transfer in the Deeds Office, including the registering of the Certificate of Registered Title and Certificate of Consolidated title and subsequent transfer and other costs as may be stipulated.

Paragraph 31: “Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.”

A clause to this effect will be inserted in the Deed of Sale.

Paragraph 32: “Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes.”

A clause to this effect will further be inserted in the Deed of Sale.

Paragraph 34: “A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder

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within 10 days of date of request in writing thereof by the Municipality.”

A clause to this effect will be inserted in the Deed of Sale.

Paragraph 35: *“Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/purchaser.”*

A clause to this effect will be inserted in the Deed of Sale.

Funding for Hermanus Sport Club

As can be seen in the discussion, construction cost is escalating. It is thus prudent that the money to the Sport Club be made available as soon as possible. This is not only to curb the escalating cost but also to complete the moving of the tennis and squash courts. The existing tennis courts have also come to the stage that urgent repairs and resurfacing is needed. This will amount to ±R400 000.00 (FOUR HUNDRED THOUSAND RAND). However, if Council can make the money available from the funds gained from the transfer of unregistered Erf 12199, Hermanus, these costs can be avoided.

The current estimated construction costs amounts to R9 million (excluding VAT) for the relocation.

However taking before-mentioned into account, the outstanding amount of R6,1 million plus CPI escalation fee for the past four (4) years should be made available to the Hermanus Sport Club in order to replace the squash and tennis courts and the club house. Although the amount is less than the projected construction cost, some materials can be recycled. Further it was also previously stated that the Hermanus sport Committee is in a better position to bargain for lower construction cost than Council who is bound by the Municipal Finance Management Act. The Hermanus Sport Committee will also need to source alternative funding to complete the project.

Further cognisance must be taken that the Hermanus Sport Committee in conjunction with various role players sourced funding for an astro-turf hockey field and is currently underway with the implementation of a dance hall. All of this is an asset to the Overstrand Community as a whole and also becomes an asset of the Municipality.

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B. Advertisement/Notification

An advertisement for the transfer of unregistered Erf 12199, Hermanus, ±2,4818 ha in extent, was placed in The Village News on 28 February 2017 for a 30 (thirty) day objection/comment period. No objections/comments were received.

Conclusion

Transfer of Erf 12199

It is recommended that the transfer of unregistered Erf 12199, Hermanus, ±2,4818 ha in extent, for industrial purposes to Massbuild (Pty) Ltd t/a Builders Express for the amount of R22,800,000.00 (TWENTY TWO MILLION EIGHT HUNDRED THOUSAND RAND ALONE) (VAT included) be approved.

Funding of Hermanus Sport Club

It is furthermore recommended that Council makes available an amount of R6,1 million, escalated (CPI), to R7 613 660 (SEVEN MILLION SIX HUNDRED AND SIXTY RAND), to the Hermanus Sport Committee to construct the tennis and squash courts and the clubhouse.

7. Financial Implications

The Municipality stands to gain an income of R22,800,000.00 (TWENTY TWO MILLION EIGHT HUNDRED THOUSAND RAND ALONE) (VAT included) for the sale of the property.

That a grant-in-aid to the amount of R7 613 660 (SEVEN MILLION SIX HUNDRED AND SIXTY RAND) be included on a subsequent budget or mid-year review adjustments budget, subject to the receipt of the proceeds of the sale of unregistered erf 12199 into Council's bank account, to be paid to the Hermanus Sport Committee, and that the amount above be paid in tranches in order to limit any risk. This is done as the amenities remain the property of the Municipality.

In the instance of payment being made beyond 2017, the amount be escalated with yearly CPI for another year.

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr. J Vorster - (028) 313 8046

Unregistered erf 12199, referred to as full extent of Erf 5568, Hermanus is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R600,000. The full extent of Erf 2366 Hermanus is currently reflected in the Fixed Asset Register for Investment Property: Land with a carrying value of R14,685,000. The disposal of portions the abovementioned properties will have to be accounted for at the selling price in order to adjust the carrying value of the remaining portions of Erf 5568 and Erf 2366, Hermanus respectively in the Fixed Asset Register.

There is no objection as the application complies with the Administration of Immoveable Property Policy.

Manager: Town Planning, Mr. R Kuchar - (028) 313 8900

Recommendation below is supported.

10. Annexures

Annexure A: Locality Plan
Annexure B: Cost Estimate

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of unregistered Erf 12199, Hermanus, ±4,818 ha in extent, for industrial purposes to Massbuild (Pty) Ltd t/a Builders Express for the amount of R22,800,000.00 (TWENTY TWO MILLION EIGHT HUNDRED THOUSAND RAND ALONE) (VAT included), **be approved**;
2. that Massbuild (Pty) Ltd t/a Builders Express at their cost register a public access servitude over the unregistered Erf 12199, Hermanus in co-operation with the Town Planning Department, which servitude will link up with the service servitude and with Mussel Road;
3. that Massbuild (Pty) Ltd t/a Builders Express at their cost register a service servitude east of the right-of-way servitude (the existing Mussel Road) for the 11kV cable transgressing the property and access to the Main Road;

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4. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003;
5. that Massbuild (Pty) Ltd t/a Builders Express be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office, including the registering of the Certificate of Registered Title and Certificate of Consolidated title and subsequent transfer and other costs as may be stipulated;
6. that a grant-in-aid to the amount of of R7 613 660 (SEVEN MILLION SIX HUNDERED AND SIXTY RAND) be made available to Hermanus Sport Club, to be included on a subsequent budget or mid-year review adjustments budget, subject to the receipt of the proceeds of the sale of unregistered erf 12199 into the Municipality's bank account, be paid to the Hermanus Sport Committee;
7. that, in the instance of payment in respect of the amount in resolution 6 above be made beyond 2017, the amount be escalated with yearly CPI for another year;
8. that payment to the Hermanus Sport Committee be further subject to all conditions previously set by Council at its meeting held on 29 February 2012; and
9. that the payment be made in trances as agreed to between the Municipality and the Hermanus Sport Committee.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	N/A

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HERMANUS: TRANSFER OF UNREGISTERED ERF 12199, HERMANUS, ±2,4818 HA IN EXTENT, FOR INDUSTRIAL PURPOSES

7/2/3/2

**M Erasmus & R Kuchar
11 April 2017**

(028) 316 - 3724

Hermanus Administration

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 MAY 2017, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

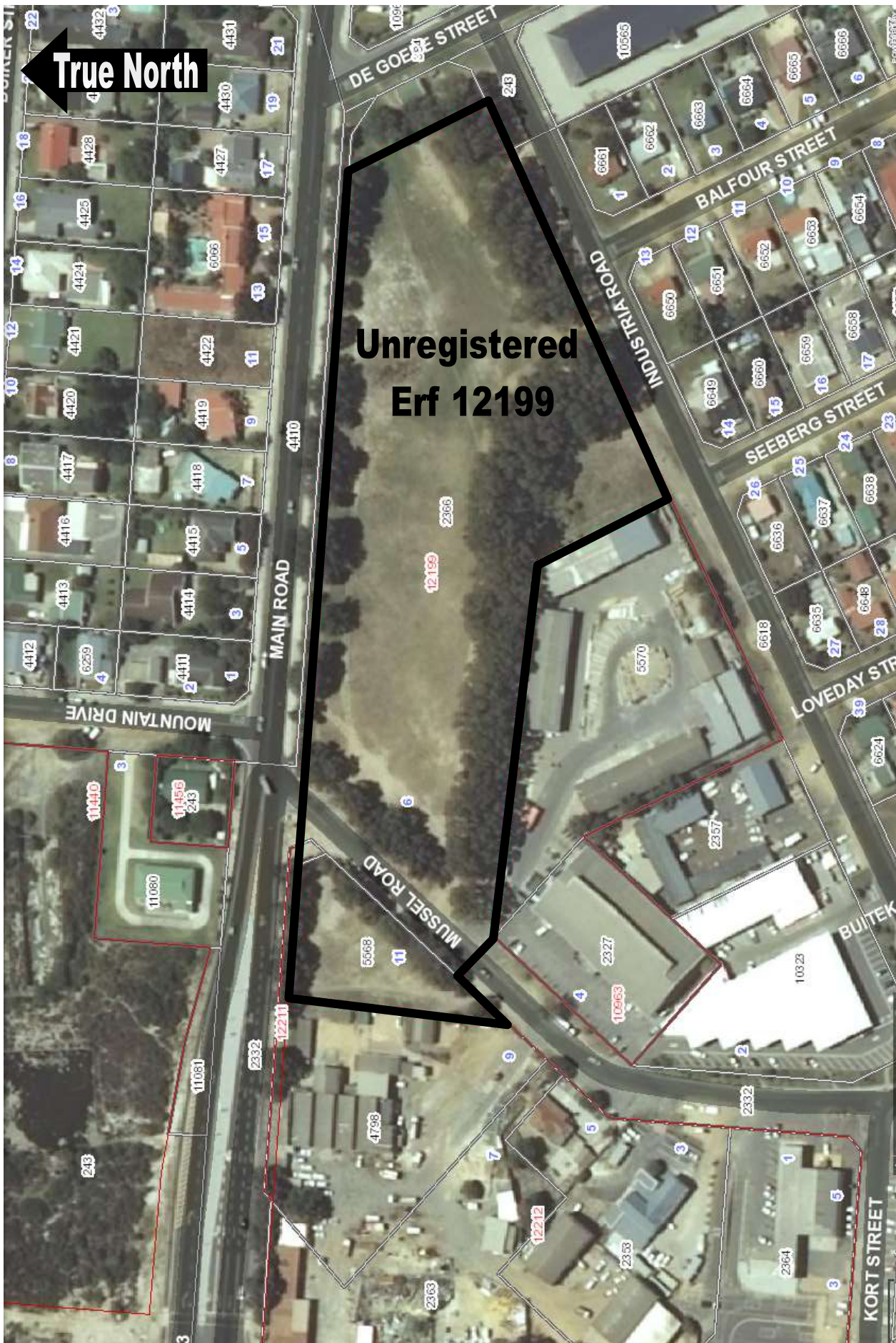
RECOMMENDATION TO THE COUNCIL:

1. that the transfer of unregistered Erf 12199, Hermanus, ±4,818 ha in extent, for industrial purposes to Massbuild (Pty) Ltd t/a Builders Express for the amount of R22,800,000.00 (TWENTY TWO MILLION EIGHT HUNDRED THOUSAND RAND ALONE) (VAT included), **be approved**;
2. that Massbuild (Pty) Ltd t/a Builders Express at their cost register a public access servitude over the unregistered Erf 12199, Hermanus in co-operation with the Town Planning Department, which servitude will link up with the service servitude and with Mussel Road;
3. that Massbuild (Pty) Ltd t/a Builders Express at their cost register a service servitude east of the right-of-way servitude (the existing Mussel Road) for the 11kV cable transgressing the property and access to the Main Road;
4. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003;
5. that Massbuild (Pty) Ltd t/a Builders Express be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office, including the registering of the Certificate of Registered Title and Certificate of Consolidated title and subsequent transfer and other costs as may be stipulated;
6. that a grant-in-aid to the amount of R7 613 660 (SEVEN MILLION SIX HUNDRED AND SIXTY RAND) be made available to Hermanus Sport Club, to be included on a subsequent budget or mid-year review adjustments budget, subject to the receipt of the proceeds of the sale of unregistered erf 12199 into the Municipality's bank account, be paid to the Hermanus Sport Committee;

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7. that, in the instance of payment in respect of the amount in resolution 6 above be made beyond 2017, the amount be escalated with yearly CPI for another year;
8. that payment to the Hermanus Sport Committee be further subject to all conditions previously set by Council at its meeting held on 29 February 2012; and
9. that the payment be made in tranches as agreed to between the Municipality and the Hermanus Sport Committee.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	N/A



Annexure B
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20 HOPE STREET
PO BOX 2056
HERMANUS
7200

CELL: 083 6508 103
TEL : 028 313 0744
FAX : 028 313 0747
E-MAIL: andre@cegela.co.za

7 November 2016

Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: Mr. R Kuchar

**HERMANUS SPORTS CLUB (HSC)
2016 ESTIMATES FOR TENNIS AND SQUASH COURTS AND PARTIAL CLUB HOUSE**

Underneath are the latest estimates for the construction of the tennis and courts and a partial club house at the HSC grounds, based on current rates. No allowance has been made for future escalation.

No	Item	Amount R
6 Tennis Courts		
1	Rework base	110 000,00
2	Half round Channels	30 000,00
3	E1 edgings	26 000,00
4	Premix Surfacing	500 000,00
5	Plasflex or similar surface	300 000,00
6	Seating and retaining walls	180 000,00
7	Fencing around courts	360 000,00
8	Floodlights to 4 Courts	350 000,00
9	Sub-Total	1 856 000,00
10	Preliminaries and General	223 000,00
11	Sub-Total	2 079 000,00
12	Contingencies(5%)	103 950,00
13	Sub-Total	2 182 950,00
14	Professional Fees	273 000,00
15	Sub-Total	2 455 950,00
16	VAT (14%)	343 833,00
17	TOTAL	2 799 783,00

No	Item	Amount R
4 Squash Courts		
1	Foundations	25 000,00
2	Floor slabs	77 000,00
3	Reinforced concrete	120 000,00
4	Brickwork	530 000,00
5	Roof Covering	190 000,00
6	Wooden floors	240 000,00
7	Glass backs	400 000,00
8	Lights	30 000,00
9	Windows and Doors	30 000,00
10	Passage Floor finishes	40 000,00
11	Pavillion	40 000,00
12	Plaster and Paint	250 000,00
13	Sub-Total	1 972 000,00
14	Preliminaries and General	237 000,00
15	Sub-Total	2 209 000,00
16	Contingencies(5%)	110 000,00
17	Sub-Total	2 319 000,00
18	Professional Fees	290 000,00
19	Sub-Total	2 609 000,00
20	VAT (14%)	365 260,00
21	TOTAL	2 974 260,00

No	Item	Amount R
Partial completion of clubhouse		
1	Reinforced concrete slabs	500 000,00
2	Floor slabs	265 000,00
4	Brickwork	570 000,00
5	Roof Covering	450 000,00
6	Electrcial	250 000,00
7	Light fittings	150 000,00
8	Carpentry & Joinery	120 000,00
9	Windows and Doors	250 000,00
10	Floor finishes	175 000,00
12	Plaster and Paint	250 000,00
13	Sub-Total	2 980 000,00
14	Preliminaries and General	358 000,00
15	Sub-Total	3 338 000,00
16	Contingencies(5%)	167 000,00
17	Sub-Total	3 505 000,00
18	Professional Fees	438 000,00
19	Sub-Total	3 943 000,00
20	VAT (14%)	552 020,00
21	TOTAL	4 495 020,00

Relocation of Tennis and Squash Club Facilities to HSC

Summary of estimates 2016 rates		
No	Item	Amount R
1	6 new tennis courts	2 455 950,00
2	4 new squash courts	2 609 000,00
4	Partial club house	3 943 000,00
13	Sub-Total	9 007 950,00
20	VAT (14%)	1 261 113,00
21	TOTAL	10 269 063,00

We trust you will find the above help full to obtain additional funding for this project.

Yours faithfully



AS van der Merwe