

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

**4.
A PORTION OF ERF 249 AND A PORTION OF ERF 832 HERMANUS (KNOWN AS
THE HERMANUS MARKET SQUARE SITUATED IN MARKET SQUARE STREET):
LEASE OF MUNICIPAL PROPERTY TO COTTON4U4EVER (PTY) LTD**

7/2/3/1

A Le Roux

Manager: Property Administration

13 August 2020

(028) 316-3724

1. Executive Summary

To obtain approval to enter into a lease agreement with COTTON4U4EVER (Pty) Ltd (hereinafter referred to as the “Applicant”) for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being a portion of Erf 249 and a portion of Erf 832 Hermanus (34 stalls) (hereinafter referred to as the “Property”) and known as the Hermanus Market Square situated in Market Square Street, Hermanus for the purpose of managing, sub-leasing and maintaining the stalls as well as maintaining the on-site ablution facilities and passages between the stalls. See the locality plan attached hereto marked Annexure “A.”

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Promotion of tourism, economic and social development

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)
- Overstrand Municipality Supply Chain Management Policy, as amended
- Local Government: Municipal Finance Management Act, Act 56 of 2003

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Municipality has stalls for trading purposes situated on a portion of Erf 249 and a portion of Erf 832 Hermanus. It was previously decided that the stalls be leased out as a whole to one person/organisation to manage and sub-lease the individual stalls.

After following a competitive process in 2015 the Property was leased to Mr MA de Klerk who has been managing the stalls since then. The current lease agreement for the Property will expire on 30 September 2020.

The Municipal Manager, as delegated authority, approved in principle the lease of the Property by means of a competitive process (tender) on 24 November 2019 and subsequently tenders were called for the lease, management, maintenance and sub-lease of 34 of the Market Square Stalls as well as the upkeep of the ablution facilities situated on the Property for a contract period of 9 (NINE) years and 11 (ELEVEN) months.

Only one tender was received from the Applicant for R76,840.00 (SEVENTY SIX THOUSAND EIGHT HUNDRED AND FORTY RAND ALONE) (VAT included) per month.

The tender was awarded, after the necessary evaluation, to the Applicant for a rental amount of R76,840.00 (SEVENTY SIX THOUSAND EIGHT HUNDRED AND FORTY RAND ALONE) (VAT Included) per month, by the Bid Adjudication Committee on 28 August 2020.

As the lease period will commence on 1 October 2020 a lease agreement will in the meantime been entered into with the Applicant subject to the approval from the Executive Mayor for the long term lease to ensure that the Property is not vacant for any period and thereby reducing the risk of vandalism to the Property.

Evaluation

The following paragraphs of the Administration of Immovable Property Policy are applicable:

Paragraph 17: *“Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:*

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

17.1 a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 18 below; or

17.2 a direct lease.”

Paragraph 18: “A competitive process must at all times be followed in circumstances where:

18.1 the lease is for a long term with an income value in excess of R10 million;

18.2 the lease is for a formal business premises with a market related rental;

18.3 more than one party, in discretion of the municipality, is interested in the lease of the subject property; and/or

18.4 by discretion of the municipality, a competitive process will best serve the interests of the community.”

As (i) many parties are interested in operating a business from a stall at the Market Square stalls, (ii) the Market Square stalls are situated on prime business property in the Hermanus central business district, and (iii) the stalls are being used for formal business purposes, a decision was made to again make the Market Square stalls available for leasing by means of a competitive bidding process at a market related rental. A competitive bidding process was therefore followed.

Paragraph 20: “Long term lease of municipal immovable property with an income value less than R10 million:

20.1 The Municipality may grant a long term lease of municipal immovable property with an income value of less than R10 million only after:

(a) the Accounting Officer has approved the lease in principle;

(b) in the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and

(c) the Executive Mayor, as delegated authority, has subsequently approved that the right may be granted.”

The Accounting Officer (Municipal Manager) approved in principle the lease of the Property by means of a competitive process. As a competitive process was followed which involves an advertisement to ensure competitiveness, fairness and transparency, it is not necessary to advertise the lease again. This report serves to request the Executive Mayor’s approval of the long term lease.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality, shall escalate on the 1st of July every year, by a percentage fixed in accordance with the prevailing consumer price index (all items).”

A clause to this effect is included in the lease agreement.

Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”

The Property Administration Department will inspect the property once a year.

It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 - 50 is included in the lease agreement entered into with the Applicant.

Conclusion

Taking the above into consideration, it is recommended that the lease of the Property to the Applicant for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 October 2020 for the purpose of managing, sub-leasing and maintaining the stalls as well as maintaining the on-site ablution facilities and passages between the stalls at the rental amount of R76,840.00 (SEVENTY SIX THOUSAND EIGHT HUNDRED AND FORTY RAND ALONE) (VAT Included) per month be approved.

7. Financial Implications

The Municipality stands to gain a rental amount of R76,840.00 (SEVENTY SIX THOUSAND EIGHT HUNDRED AND FORTY RAND ALONE) (VAT Included) per month where after the rental amount will escalate every year on the 1st of July by a percentage fixed in accordance with the prevailing consumer price index (all items).

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

“As this is an income generating proposal, with no intention of selling the asset, there is no objection against the application.”

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

10. Annexures

Annexure A: Locality Map

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Erf 249 and a portion of Erf 832 Hermanus, to COTTON4U4EVER (Pty) Ltd, for the purpose of managing, sub-leasing and maintaining the stalls as well as maintaining the on-site ablution facilities and passages between the stalls for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 October 2020 at the rental amount of R76,840.00 (SEVENTY SIX THOUSAND EIGHT HUNDRED AND FORTY RAND ALONE) (VAT Included) per month, **be approved**; and
2. that the rental amount mentioned in 1 above escalates every year on the 1st of July in accordance with paragraph 40 of the Administration of Immovable Property Policy of 2015 with the first escalation to be on 1 July 2021.

RESPONSIBLE OFFICIAL :	M Erasmus
TARGET DATE FOR IMPLEMENTATION :	15 OCTOBER 2020
TARGET DATE TO INFORM APPLICANT :	15 OCTOBER 2020
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

4.

A PORTION OF ERF 249 AND A PORTION OF ERF 832 HERMANUS (KNOWN AS THE HERMANUS MARKET SQUARE SITUATED IN MARKET SQUARE STREET): LEASE OF MUNICIPAL PROPERTY TO COTTON4U4EVER (PTY) LTD

7/2/3/1

A Le Roux

Manager: Property Administration

13 August 2020

(028) 316-3724

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 SEPTEMBER 2020, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

15 OCTOBER 2020

TARGET DATE TO INFORM APPLICANT :

15 OCTOBER 2020

TARGET DATE TO INFORM OBJECTOR :

N/A

