

**AGENDA of the
Portfolio Committee :Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting : 27 February 2019)**

**2.
STANFORD, A PORTION OF ERF 294 : LEASE OF MUNICIPAL PROPERTY TO
VODACOM (PTY) LTD**

7/2/3/1

**M Erasmus
7 January 2019**

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval from the Executive Mayor to enter into a further lease agreement with Vodacom (Pty) Ltd, hereinafter referred to as “Vodacom” in respect of a portion of Erf 294 Stanford for the purpose of a telecommunications base station and related purposes.

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

- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

Vodacom has been utilising a portion of Erf 294, Stanford since 2009 for telecommunications base station and related purposes.

The last agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 31 January 2019. As Vodacom is still utilising the property the rental is still being levied on the municipal account.

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The locality of the proposed lease area is indicated on the locality plan attached per “Annexure A”.

Discussion

Vodacom applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months and provides a very important service to the community of Stanford and especially in the provision of communication and improvement of internet reception to their clients.

The area applied for have been used by Vodacom for approximately ten years without any complaints from the public regarding the use of the property. The municipal account is paid to date.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

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:

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.”

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As the site is not classified as a business site and due to the nature of the lease and benefit to the community, it can be leased directly to Vodacom without following a competitive process.

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 subject portion of Erf 294 Stanford to Vodacom subject thereto that a public participation process is followed.

A public participation process will be followed. Should valid objections be received during the public participation process the matter will be referred back to the Executive Mayor.

Paragraph 26: “In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases and encroachments, the approved amount will be used for purposes of determining the rental amount.”

The 2018/2019 tariff for a Mast is R64.35 (SIXTY FOUR RAND AND THIRTY FVE CENTS) (VAT Excluded) per square metre per month. The total commencement rental will be an amount of R5,148.00 (FIVE THOUSAND ONE HUNDRED AND FORTY EIGHT RAND) (VAT Excluded) per month. The agreement will stipulate that the rental amount shall escalate annually on the 1st of July in accordance with the tariff as approved in the annual budget.

Paragraph 36: “All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.”

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Vodacom will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs

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 will be inspected by the Property Administration Department at least once a year.

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

B. Advertisement/Notification

An advertisement for the lease of a portion of Erf 294 Stanford (±80m² in extent) will be placed in the local newspaper for a 30 (THIRTY) day objection/comment period.

Conclusion

With reference to the above discussion it is recommended that the lease agreement with Vodacom be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 February 2019 at a rental amount of R5,148.00 (FIVE THOUSAND ONE HUNDRED AND FORTY EIGHT RAND) (VAT Excluded) per month which is the amount approved in the 2018/2019 budget.

7. Financial Implications

The Municipality stands to gain a rental amount of R5,148.00(FIVE THOUSAND ONE HUNDRED AND FORTY EIGHT RAND) (VAT Excluded) per month where after the lease amount will escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2019. All expenses pertaining to the proposed lease will be borne by Vodacom.

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

As this is an income generating proposal involving an institution who delivers a service to the community of Stanford, with no intention to dispose of the asset, there is no objection to the report.

10. Annexures

Annexure A: Locality Map

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Erf 294 Stanford ($\pm 80\text{m}^2$ in extent), to Vodacom (Pty) Ltd for telecommunication base station and related purposes at the rental amount of R5,148.00 (FIVE THOUSAND ONE HUNDRED AND FORTY EIGHT RAND) (VAT Excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 February 2019 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
2. that the abovementioned approval subject to a public participation process being followed; and
3. that the rental amount mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2019.

RESPONSIBLE OFFICIAL:	M ERASMUS
TARGET DATE FOR IMPLEMENTATION:	1 APRIL 2019
TARGET DATE TO INFORM APPLICANT:	12 APRIL 2019
TARGET DATE TO INFORM OBJECTOR:	N/A

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
19 FEBRUARY 2019, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:	M ERASMUS
TARGET DATE FOR IMPLEMENTATION:	1 APRIL 2019
TARGET DATE TO INFORM APPLICANT:	12 APRIL 2019
TARGET DATE TO INFORM OBJECTOR:	N/A

