

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
20 October 2020  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2020)**

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**5.  
A PORTION OF REMAINDER ERF 4833 HERMANUS (NEAR SEVENTEENTH AVENUE, SITUATED IN VOËLKLIP): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO VODACOM (PTY) LTD**

7/2/3/1

A Le Roux

Manager: Property Administration

9 September 2020

(028) 316 - 3724

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Vodacom (Pty) Ltd, hereinafter referred to as "Vodacom", for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of a portion of Remainder Erf 4833 Hermanus (situated near Seventeenth Avenue, situated in Voëlklip) (±80m<sup>2</sup> in extent), for the purpose of a telecommunication base station and related purposes. See the locality map 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)

**6. Background/Discussion/Evaluation/Conclusion**

**Background**

Vodacom has been using a portion of Remainder Erf 4833 Hermanus for more than 9 years as a telecommunication base station. Vodacom erected a

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mast as well as placed containers on the property which houses the necessary Vodacom equipment.

The current agreement is for a period of 9 (NINE) years and 11 (ELEVEN) months which will expire on 28 February 2021.

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 to continue to provide an important telecommunication service to the community of the Hermanus area.

The area applied for was used by Vodacom for more than 9 (NINE) years without any complaints from the public regarding the use of the property. The mast and equipment are of essential importance for Vodacom, the public at large and other networks who are also making use of the Vodacom mast to ensure telecommunication services to the community and especially the Voëlklip and surrounding areas. Vodacom’s 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;**

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- 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.”**

The site is zoned as Open Space Zone 2: Public Open Space and therefore not classified as a business site although Vodacom is a business. The lease area with the Vodacom high mast and telecommunication equipment are well established on the site for more than 9 (NINE) years. The Hermanus community benefits from these telecommunication services. The Town Planning Department also provided consent use approval in 2016 for the continuation of the use for the purpose of a telecommunication base station for a period of 10 (TEN) years until 2026. Due to the nature of the lease and benefit to the community and as the site is not classified as a business site, it is proposed that the property 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 further lease of the subject portion of Remainder Erf 4833 Hermanus to Vodacom subject thereto that a public participation process is followed and the approval of the Executive Mayor is obtained.

The proposed renewal of the lease was advertised in the Village News on 9 September 2020 for a 30 (THIRTY) day comment/objection period.

**Paragraph 26: “In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases**

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***and encroachments, the approved amount will be used for purposes of determining the rental amount.”***

The 2020/2021 tariff for land for a Mast is R71.30 (SEVENTY ONE RAND AND THIRTY CENTS) (VAT Excluded) per square metre per month. As the area Vodacom occupies with the mast and containers is ±80m<sup>2</sup> in extent the total rental will be an amount of R5,704.00 (FIVE THOUSAND SEVEN HUNDRED AND FOUR RAND) (VAT Excluded) per month. The agreement will stipulate that the rental amount shall escalate annually on the 1<sup>st</sup> 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.”***

Vodacom will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case 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 Remainder Erf 4833 Hermanus was placed in The Village News on 9 September 2020 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

**Conclusion**

With reference to the above discussion it is recommended that the renewal of the lease agreement with Vodacom be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 March 2021 at a rental amount

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of R5,704.00 (FIVE THOUSAND SEVEN HUNDRED AND FOUR RAND) (VAT Excluded) per month which is the amount approved in the 2020/2021 annual budget.

### **7. Financial Implications**

The Municipality stands to gain a rental amount of R5,704.00 (FIVE THOUSAND SEVEN HUNDRED AND FOUR RAND) (VAT Excluded) per month where after the rental amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2021. All expenses pertaining to the proposed lease will be borne by Vodacom.

### **8. Staff Implications**

None

### **9. Comments from other Departments, Divisions and Administrations**

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

*“No objection to the proposed lease. This is an income generating proposal involving an institution who delivers a service to the community of Overstrand, concluded in terms of the conditions set out in the Administration of Immovable Property Policy of the Municipality and with no intension to dispose of the asset”.*

### **10. Annexures**

Annexure A: Locality Map

### **RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Remainder Erf 4833 Hermanus ( $\pm 80\text{m}^2$  in extent), to Vodacom (Pty) Ltd, for the purpose of a telecommunication base station and related purposes at the rental amount of R5,704.00 (FIVE THOUSAND SEVEN HUNDRED AND FOUR RAND) (VAT Excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 March 2021 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**; and
2. 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 2021.

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<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>30 NOVEMBER 2020</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>13 NOVEMBER 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**Manager: Property Administration**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 20 OCTOBER 2020, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION:**

**30 NOVEMBER 2020**

**TARGET DATE TO INFORM APPLICANT:**

**13 NOVEMBER 2020**

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**N/A**

