

7.

**ERF 594 STANFORD, SITUATED NEXT TO THE R43 MAIN ROAD, STANFORD:
RENEWAL OF LEASE TO CHRISTOPHER JOHN CARSTENS****A Le Roux
30 January 2024****Manager: Property Administration****(028) 316 - 5623**

1. Executive Summary

To obtain approval to enter into a further lease agreement with Christopher John Carstens (hereinafter referred to as “the Lessee”) in respect of Erf 594 Stanford (3,7479ha in extent), situated next to the Main Road, Stanford (hereinafter referred to as “the Property”), for a period of 5 (FIVE) years for the purpose of planting indigenous vegetation and cultivation of buffalo grass. The locality map is attached hereto as “Annexure A1 & A2”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immoveable Property Policy of the Overstrand Municipality (2015)

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

The Lessee is a member of the Close Corporation, Seriso 324 CC, that owns Erf 438 Stanford, which is adjacent to the Property. The Lessee has been using the Property for approximately 20 (TWENTY) years with the first lease agreement signed and commenced in 2008, for the purpose planting indigenous vegetation and cultivation of buffalo grass without any complaints from the public regarding the use of the Property.

The last agreement was for a period of 3 (THREE) years, which commenced on 1 January 2021 and expired on 31 December 2023.

The Lessee applied to renew the lease agreement for a further 9 (NINE) years and 11 (ELEVEN) months. The future use and development of the Property must still be investigated and determined by the Municipality. Such an investigation will take time to establish the needs of the community, the vision of the Municipality as well as the allowed uses on the Property. As it is not desirable that the Property be unoccupied, it is recommended that a further lease period of 5 (FIVE) years be entered into with the Lessee pending the outcome of the investigation as to the best use of the Property.

Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the said agreement as the valuation process took longer than expected.

The municipal account of the Lessee is paid up to date.

A lease agreement has in the meantime been entered into (for administrative purposes) with suspensive conditions that the Executive Mayor approves the long-term lease at a Mayoral Committee Meeting. The renewal date in the lease agreement was backdated to commence the day after expiry of the last agreement.

The Applicant delivers a service to the community by creating employment opportunities to 8 (EIGHT) permanent employees as well as casual employees of the Stanford community to cultivate and harvest the vegetation and grass.

Evaluation

A. Administration of Immoveable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

Paragraph 4: “No application for the purchase, lease of or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for that financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that he/she will bear all costs involved in such transaction including – but not limited to – legal, survey, re-zoning, sub-division, consolidations, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.”

As the application for renewal was received before the expiry of the last agreement there is no need for a formal application form to be completed and no application fee is payable.

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”.

The Property is zoned as Industrial Zone 1: General Industry with Agricultural and Industries as primary uses under which the said lease can be accommodated. The future use and development of the Property is to be investigated and determined, which will most probably entail a larger development with a longer lease period / a possible alienation of the Property. The current upgrading of the R43 road will have an effect on any possible type of development on the Property as a size of ±688m² (SIX HUNDRED AND EIGHTY-EIGHT SQUARE METRES) will be transferred to the Provincial Government. This must also be finalised.

It must again be noted that the duration of the proposed agreement to be entered into is only for a further period of 5 (FIVE) years with a cancellation clause included in the agreement providing the Municipality with the opportunity to cancel the lease when necessary. It is not feasible to make the Property available by means of a competitive bidding process at this stage. The Property cannot be made available by means of a competitive tender process at this stage as the specific development and use of the Property is not determined by the Municipality yet.

At this stage the only access to the Property is currently through the adjoining property of the Lessee and thus not accessible by anyone else. As it is not desirable that the Property is currently unoccupied and as the only access is through the adjoining property, it is recommended that the Property be leased directly to the Lessee as a competitive process will thus not serve a useful purpose and will not make financial sense at this stage.

Paragraph 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 approved that the right may be granted.”**

Paragraph 22: “The in principle approval of the Accounting Officer must be obtained with any request for the renewal of the lease agreement.”

The Accounting Officer (Municipal Manager) approved in principle the further lease of the Property to the Applicant, subject to a public participation process being followed and further subject to the approval from the Executive Mayor.

The proposed lease was advertised in Gans Berg News on 13 October 2023 for a 30 (THIRTY) day comment/objection period.

Paragraph 24: “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional valuer or professional associated valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000), or any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease)/servitude holder (in the case of a servitude).”

Boland Valuers determined the market related value in October 2007 at an amount of R1,110.00 (ONE THOUSAND ONE HUNDRED AND TEN RAND) (VAT excluded) per month, which valuation is more than 15years old and due to the constant changes in the property market, a new valuation was obtained to determine the market related rental.

HCB Property Valuations on 1 December 2023 determined the market related monthly rental at an amount of R3,065.00 (THREE THOUSAND AND SIXTY-FIVE RAND) (VAT Excluded). The valuation was done taking into consideration the size, shape, locality, zoning and proposed use of the Property.

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.”

The Lessee will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case are the advertisement - and valuation 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 of the said policy was included in the lease agreement.

B. Advertisement/Notification

An advertisement for the lease of the Property to the Lessee was published in the Gans Berg News on 13 October 2023 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

Conclusion

With reference to the above discussion, it is recommended that the lease of the Property to the Lessee be approved for a further period of 5 (FIVE) years from 1 January 2024 at a rental amount of R3,065.00 (THREE THOUSAND AND SIXTY-FIVE RAND) (VAT Excluded) per month for the 2023/2024 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R3,065.00 (THREE THOUSAND AND SIXTY-FIVE RAND) (VAT Excluded) where after the rental amount will escalate annually on 1 July in accordance with the consumer price index (all items).

All expenses pertaining to the proposed lease will be borne by the Lessee.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations**Town Planner - Mr P Roux**

"I don't have an objection; the agreement has been in place for various years."

(Then) Acting Senior Manager: Gansbaai Administration - Mr T Marx

"We do not have any objection with regards to this application."

Senior Manager: Expenditure & Assets - Mr. J Vorster

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

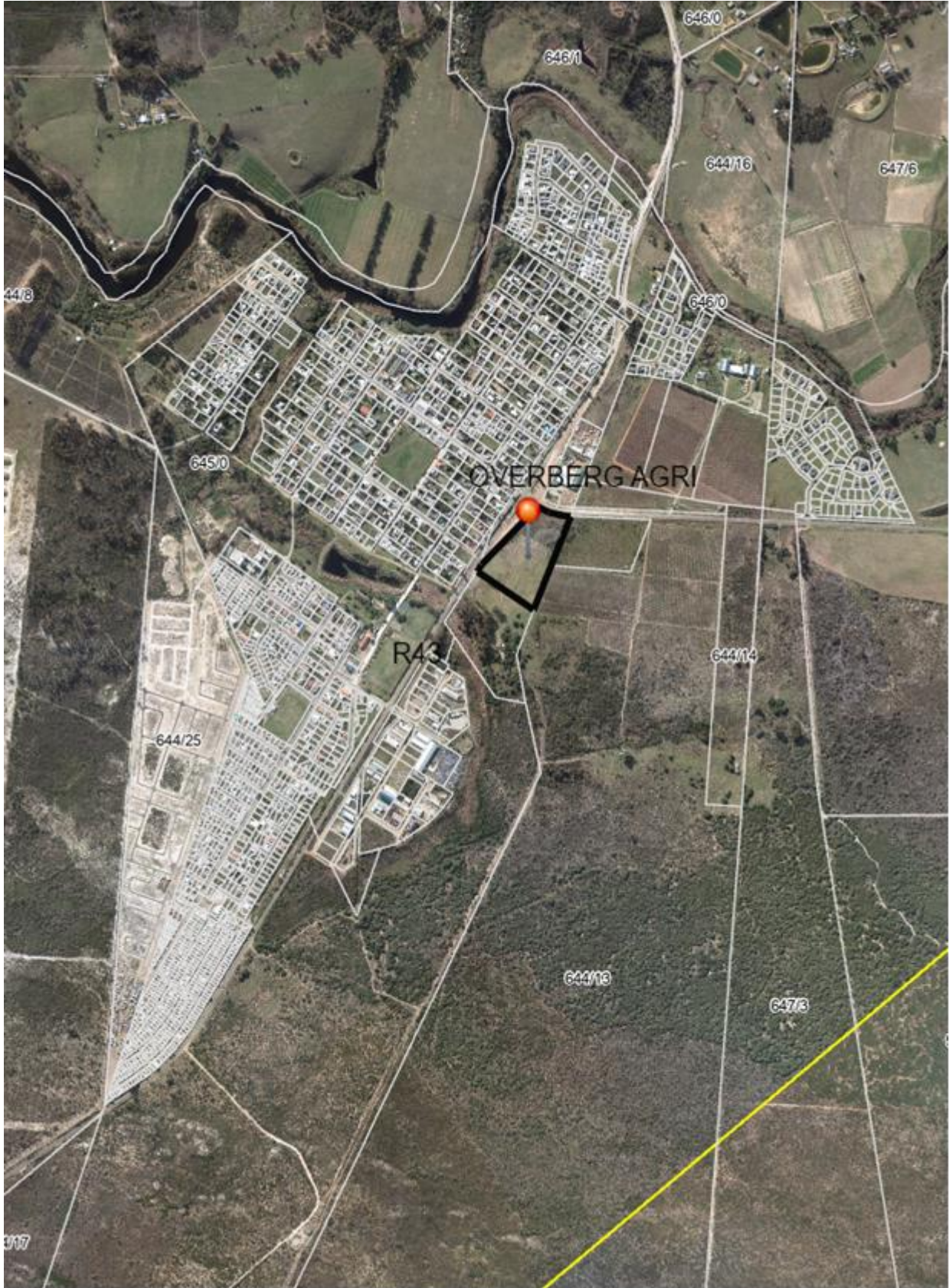
10. Annexures

Annexure A1 & 2: Locality Plan

RECOMMENDATION:

1. that the renewal of the lease of municipal property, being Erf 594 Stanford (3,7479ha in extent), situated next to the R43 Main Road, Stanford, to Christopher John Carstens for the purpose of planting indigenous vegetation and cultivation of buffalo grass at the rental amount of R3,065.00 (THREE THOUSAND AND SIXTY-FIVE RAND) (VAT Excluded) per month for a period of 5 (FIVE) years from 1 January 2024 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 annually on 1 July in accordance with the consumer price index (all items), the first escalation to be on 1 July 2024.

RESPONSIBLE OFFICIAL :	R OCTOBER
TARGET DATE FOR IMPLEMENTATION :	27 MARCH 2024
TARGET DATE TO INFORM APPLICANT :	3 APRIL 2024
TARGET DATE TO INFORM OBJECTOR :	N/A



ANNEXURE A2

