

ORDINARY COUNCIL MEETING : 26 OCTOBER 2023

PART 2 OF THE AGENDA

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13.5

C05/10/23 REQUEST TO ENTER NEW LEASE AGREEMENT WITH GREY ELEPHANT INVESTMENTS (PTY) LTD FOR OFFICE ACCOMMODATION
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REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To request the Knysna Municipal Council to consider entering into a new lease agreement with Grey Elephant Investments (Pty) Ltd for office accommodation.

BACKGROUND

The Municipality is making use of three additional office spaces for office accommodation in order to house various staff members. All these agreements were on a deviation as no SCM process were followed to enter into lease agreements with these property owners.

The following properties are being leased:

- i. Albatros Property Trust (Erf 985, Knysna);
- ii. Old Standard Bank Building (Customer Care) – Erf 711, Knysna; and
- iii. Concilium Building (Portion of Erf 2984, Knysna)

All these leases expired on 30 September 2023 with the Municipal Council resolving on the 21 September 2023 to only approve an extension of three months with the current lessors.

Various Tender processes took place in order to source the leasing of suitable office space however, the tender was not awarded and thereafter cancelled. There are limited office space options available in the Knysna area. With the latest tender for office space, T48/2019/20, five bids were received with only two tenderers being responsive to the tender requirements, however, there was no budget provision for the alterations or renovations required for the office accommodation.

DISCUSSION

An alternative needs to be found as soon as possible.

The Municipality needs about 3 650 m² of office space with about 146 parking bays.

Grey Elephant Investments (Pty) Ltd is the current owners of Erf 16472, Knysna, better known as the Knysna Mall in the CBD of Knysna.

Grey Elephant Investments (Pty) Ltd have offered the leasing of their building from 1 January 2024 for either a five-year or a ten-year lease with a 6% escalation (**see Annexure A**).

It should be noted that Grey Elephant Investments (Pty) Ltd is offering 3250m² office space. The rental including the cost of fit out will be R168/m² for a five-year lease (includes fit-out allowance).

The municipality already followed two SCM processes (tender process) that were unsuccessful and would need to inform treasury should the municipality deems it fit to go out for a third time. This process including the SCM process for a new tender could take up to 6 months or more, which would not assist the municipality in saving in rental and maintenance cost.

The second option available is to follow a Deviation process (SCM process) which can be concluded and completed before the leases expire on 31 December 2023.

It is proposed that the municipality follow the deviation process in order to achieve a saving on the rental and maintenance cost for the leasing of office space from Grey Elephant Investments (Pty) Ltd (see Annexure B).

FINANCIAL IMPLICATIONS

We are currently leasing from three different lessors to accommodate our current office space requirement. It should however be noted that space in these three buildings are not enough.

Lessor	Office Space	Rental	Comments
Noble Spectatus Fund (Pty) Ltd	840m ²	R 203 131.08	We are experiencing generator problems at the Customer Care Centre.
Deon & Carina Boshoff	313m ²	R 39 324.19	No generators available for load shedding.
Albatros Property Trust	1 758m ²	R 364 441.33	No generators available for load shedding.
	2 911m²	R 606 896.60	Current rental for all office space per month.

Proposed rental at the offices of Grey Elephant Investments (Pty) Ltd compared to the current rental for all office space.

Options	Office Space	Rental (Year 1)	Comments
Current combined	2 911m ²	R 606 896.60	Current rental for all office space per month.
Grey Elephant Investments (Pty) Ltd (5 year lease)	3 250m ²	R 546 000.00	Rental including fit-out and extras

Although there is not enough money budgeted for the leasing of this space under vote number 35-74-50-18-7414 (9/274-226827-241017) for the rest of the financial year being 6 months (an additional R 1 543 253.58 should be added with the next adjustment budget), the Municipality is still in need of suitable office space that is currently available from Grey Elephant Investments (Pty) Ltd at R60 896.60 per month cheaper than from the current three lessors combined. It should be noted that the owner has offered the following;

- The required parking spaces as we currently do not have enough parking for staff on some of the leased properties;
- Security around the leased area;
- Cleaning services around the leased area;
- Lift and escalator maintenance of which we pay for at one of the lease properties;

- Connection to the mall generator.

The following have been excluded;

- Water & Electricity charges;
- Generator operation and consumption; and
- Internal maintenance of leased area;

The following charges are subject to negotiations. These charges are:

- a) HVAC Maintenance R1.31 per square meter per month; and
- b) Electrical meter reading services R0.31 per square meter per month.

The owner has also allowed a fit-out allowance of R3000/m² will be provided to cover the cost of installing of floor finishes, Ceilings in areas not already installed, Electrical, Air-conditioning and partitioning.

The Municipality will be liable for the municipal network infrastructure and signage.

The owner has also advised that they would make the leased area available from 1 November 2023.

The total budgeted for office accommodation left for this financial year amounts to R 3 599 344.38.

RELEVANT LEGISLATION

Local Government : Municipal Finance Management Act, 2003 and relevant Regulations.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the report and annexures regarding the request to consider entering into a new lease agreement with Grey Elephant Investments (Pty) Ltd for office accommodation, be noted;
- [b] That approval be given to enter into a new lease with Grey Elephant Investments (Pty) Ltd for a period of five years as from 1 January 2024 until 31 December 2028; and
- [c] That the Municipal Manager be authorised to approve a yearly deviation for the leasing of office space for the five years.

APPENDIX / ADDENDUM

Annexure A – Grey Elephant Investments (Pty) Ltd offer to lease their building;

Annexure B – Deviation Memo for Grey Elephant Investments (Pty) Ltd.

File Number : C. 122

Execution : Municipal Manager
Director : Corporate Services
Head : Properties

SCM Form 001- Application for Deviation

 Knysna Municipality • Munisipaliteit • uMasipala INCLUSIVE. INNOVATIVE. INSPIRED.		CORPORATE SERVICES DIRECTORATE KNYSNA MALL BUILDING (GREY ELEPHANT INVESTMENTS (PTY) LTD)		
			DATE:	11 October 2023
APPLICATION FOR DEVIATION IN TERMS OF SECTION 36 OF THE SCM POLICY				
In terms of Section 36(1)(a) of the Knysna Supply Chain Management Policy, The Accounting Officer may dispense with the official procurement processes established by the Policy to procure any required goods or services through any convenient process, which may include direct negotiations, but only in the following circumstances: (Mark with X where applicable)				
(i) Emergency A situation which is considered an unforeseeable and sudden event with <u>materially harmful or potentially materially harmful consequences</u> for the municipality which requires urgent action to address.				
(ii) Sole supplier Where it can be <u>demonstrated</u> that goods or services are produced or available from a single provider only, substantiated by a letter not older than 12 months from the supplier and signed by the supplier.				
(iii) Acquisition of special works of art or historical objects where specifications are difficult to compile.				
(iv) Acquisition of animals for zoos and/or nature and game reserves.				
(v) Exceptional case and it is impractical or impossible to follow the official procurement processes.				X
1. Background (Explain the current situation):				
The Municipality is making use of Albatros Property Trust (Erf 985, Knysna), Old Standard Bank Building (Customer Care) – Erf 711, Knysna and Concilium Building (Portion of Erf 2984, Knysna) for office accommodation in order to house various staff members. All these leases expired on 30 September 2023 with the Municipal Council on 21 September 2023 only approving an extension of three months. Various Tender processes was started in order to source the leasing of suitable office space but to no avail. There are only a few options available in the Knysna area. With the latest tender for office space, T48/2019/20, five bids were received with only two tenderers being responsive to the tender requirements, however, both could not accommodate all the staff in one building.				

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

SCM Form 001- Application for Deviation

2. Furnish and motivate reasons for required deviation:	
Grey Elephant Investments (Pty) Ltd is offering Knysna Municipality a five (5) year lease agreement for office accommodation at a portion of Erf 16472, Knysna (the Knysna Mall). The Municipality needs about 3 650m² of office space with about 146 parking bays. Grey Elephant Investments (Pty) Ltd is offering 3250m² office space at a cost of fit out of R168m² for a five-year lease. Although there is not enough money budgeted for the leasing of this space under vote number 35-74-50-18-7414 (9/274-226827-241017) for the rest of the financial year being 6 mnths (an additional R 1 543 253.58 should be added with the next adjustment budget), the Municipality is still in need of suitable office space that is currently available from Grey Elephant Investments (Pty) Ltd at R60 896.60 per month cheaper than from the current three lessors combined. It should be noted that Grey Elephant Investments (Pty) Ltd has offered the following: - The required parking spaces as we currently do not have enough parking for staff on some of the leased properties; - Security around the leased area; - Cleaning services around the leased area; - Lift and escalator maintenance of which we pay for at one of the lease properties; - Connection to the mall generator. The following have been excluded: - Water & Electricity charges; - Generator operation and consumption; - Internal maintenance of leased area; As indicated, various SCM processes were followed to acquire office space but no suitable building could be found that meets the needs of the Knysna Municipality. This deviation is requested for the payment of the rental as from 1 January 2024 until 30 June 2024. The owner has also allowed a fit-out allowance of R3000/m² will be provided to cover the cost of installing of floor finishes, Ceilings in areas not already installed, Electrical, Air-conditioning and partitioning. The Municipality will be liable for the municipal network infrastructure and signage.	
3. Corrective Action to Prevent Re-occurrence:	
None	
4. Recommended price (Please calculate the total value for the services rendered or the goods to be procured):	R 3 276 000.00
5. Delivery / Date of completion:	30 June 2024
DEPARTMENT:	PROPERTIES
NAME: REQUESTING OFFICIAL	Nonhlanhla Mndebela
SIGNATURE: REQUESTING OFFICIAL	
SIGNATURE: DIRECTOR CORPORATE SERVICES	
COMMENT: DIRECTOR CORPORATE SERVICES	
DATE:	
6. Budget section to confirm that funds are available on the indicated vote:	Yes ☐ No ☐
7. Signature: Budget section	
8. Vote number:	35-74-50-18-7414 (9/274-226827-241017)

SCM Form 001- Application for Deviation

9. SIGNATURE DELEGATED AUTHORITY	ASCM	ACFO	MM
10. DATE:			
11. COMMENT DELEGATED AUTHORITY:	ASCM		
	ACFO		
	MM		

2023/2024 Financial Year

Month	Monthly Rental (VAT Included)
January 2024	R 546 000.00
February 2024	R 546 000.00
March 2024	R 546 000.00
April 2024	R 546 000.00
May 2024	R 546 000.00
June 2024	R 546 000.00
Total Deviation	R 3 276 000.00

Rental Expenditure

15% VAT

Total Rental

R 2 784 600.00
R 491 400.00
R 3 276 000.00

SCM Form 001- Application for Deviation

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SCM Form 001- Application for Deviation



GREY ELEPHANT INVESTMENTS (PTY) Ltd
Reg. No. 2018/470172/07
VAT No. 4640287746

Main Road
Knysna

www.knysnamall.co.za

11 October 2023

Per Electronic Mail: mm@knysna.gov.za

Attention: Municipal Manager Mr. Ombali Sebola

Dear Sir

PROPOSED LETTING FOR KNYNSNA MUNICIPALITY (the "Tenant")
AT KNYNSNA MALL, MAIN ROAD, KNYNSNA

We write to you on behalf of the current registered owners of **Knysna Mall**, (hereinafter referred to as "the Landlord")

The Landlord hereby confirms its lease proposal as recorded below, detailing the essential terms and conditions upon which the Landlord may consider entering into an agreement of lease with yourselves, in respect of leased premises at **Knysna Mall**.

1. The Property

The building known as **Knysna Mall**, situated at **Main Road Knysna**. The building comprises, inter alia, approximately **28 388m²** of retail area.

2. The Parties

The Tenant shall be: **KNYSNA MUNICIPALITY**
Trading as : **Knysna Municipality**
Registration number :
Represented by : **Mr. Ombali Sebola**
who warrants that he/she is duly authorized thereto

The Landlord shall be: **Grey Elephant Investments (Pty) Limited**
Registration number : **2018/470172/07**
Represented by : **Neil Lurie / Samantha Human**
who warrants that he/ she is duly authorised thereto.

3. Timing

The anticipated timing for your lease is as follows:

SCM Form 001- Application for Deviation

Access Date (for purposes of fitting) : 01 November 2023

Lease Commencement Date : 01 January 2024

Termination Date : 31 December 2028

If the Landlord is for any reason unable to give the Tenant access to the premises on the access date as contemplated above, the Tenant shall have no claim for damages or right of cancellation and shall accept access on such later date on which the premises are available. In the event of such a delay, the commencement and termination dates above shall be adjusted accordingly.

4. The Premises

As indicated on the attached Plan and situated in the **Knysna Mall** as set out on the attached Location Plan and subject to the architects final measurements.

5. The Lease Agreement (Basic Conditions)

You will be required to sign the Landlord's standard lease. The lease will contain, inter alia, the following material terms and conditions:

5.1 Term

The lease period shall be **5 (Five) years**, commencing on **01 January 2024** subject to paragraph **3 above**.

5.2 Gross Rental & Charges

5.2.1 Gross rental (including rental, operating costs and rates)

- (a) The gross rental for the first year of the lease period for the premises shall be **R168.00** per m² per month plus VAT thereon.
- (b) The said gross rentals will escalate on each **01 January** (on each anniversary of the Commencement Date during the lease period) at the rate of **6%** per annum compounded.
- (c) ~~The deposit / bank guarantee payable would be **R0.00** before occupation of the premises. In the event that a bank guarantee is not received within 3 months of lease conclusion / occupation taken, the cash amount will be added to the rental account and payable as cash immediately.~~

5.2.2 Municipal Charges

The Tenant will be liable for metered electricity charges as per our independent Service provider its pro rata share of the rates and taxes, and other municipal charges in respect of the building. The Tenant's pro rata share will be calculated as being the same proportion of such charges as the lettable area of the premises bears to the lettable area of the building. The estimated liability of the Tenant in this regard as at the commencement date of the lease shall be as follows:

Rates increases.

Refuse charges as charged by Knysna Municipality and private waste contractor.

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Other Charges

HVAC Maintenance **R1.31** per square meter per month;

Electrical meter reading services **R0.31** per square meter per month.

These amounts shall be adjusted from time to time in accordance with the actual rates, municipal charges payable by the Landlord.

5.3 Turnover Rental

For the purposes of calculating the turnover rental payable, the Tenant shall pay the greater of ~~0%~~ of nett turnover achieved or the Gross Rental referred to in 5.2.1.

5.4 Consumption Charges

The Tenant shall be liable for the electricity and water and other services consumed within the premises and, if applicable, by any dedicated air-conditioning system serving the premises and the Tenant's signage. In the event that the premises are separately metered, the Tenant will pay for services based on the monthly sub-meter readings provided. Where there are no sub-meters, pro rata water and electricity charges will be payable, based on the proportion that the lettable area of the premises bears to the total lettable area served by a particular meter from time to time.

5.5 Use of premises

The Tenant shall use the premises for the following purposes and under the following trading name only: **Municipal Offices**.

5.6 Marketing Fund

~~The Tenant shall be required to pay a contribution to the Marketing Fund or Merchants Association of the Building, in an amount equal to 0% of the gross rental plus VAT thereon.~~

5.7 VAT

The Tenant will be liable to pay all Value Added Tax leviable in terms of Act 89 of 1991, as amended, or any other taxes leviable from time to time in law in respect of all amounts payable by the Tenant in terms of the lease. Please note that all amounts quoted herein are exclusive of VAT.

5.8 Rental and Other Payments

The Tenant shall pay to the Landlord all rental and other charges as required in terms of the lease agreement, on the first day of each month, for the duration of the lease.

Such payments to be affected by way of electronic funds transfer via a debit order instruction drawn on the tenant's bank for this purpose. Should payment not be affected in the abovementioned approved manner, all cost, charges and / or interest levied to the Landlord by the Financial Institution will be for the Tenant's account.

5.9 Interest

All amounts due by the Tenant to the Landlord in terms of the lease, shall, if not paid in full on due date, bear interest at **2%** (two percent) compounded per month or part thereof from due date to date of payment.

SCM Form 001- Application for Deviation

5.10 Breach

The standard lease agreement requires that all requisite payments due in terms of the lease are paid on due date and that all other breaches by the Tenant be remedied within 7 days of written notice, failing which the Landlord shall have the right, but shall not be obliged, to cancel the lease and resume possession of the premises forthwith. Any such action is without prejudice to the Landlord's claims for damages, arrears of rental or any other amounts owing in terms of the lease.

6. Generator

Should generator power be supplied for the premises, then:

1. Should the Landlord install a generator to provide the Leased Premises with some electricity during power failure, the Landlord shall be responsible for the maintenance and repair of the generator and at all times endeavour to keep the generator in a good working condition.
2. The Landlord shall be entitled to charge the tenant and the tenant shall be obliged to pay on demand, over and above the amounts stipulated in clause 5 (five) of the Schedule, its pro rata share, such pro-rata share being the allowance made to the tenant from the distribution board relating to the tenant's generator use and the proportion of the common area usage, of the landlord's maintenance, service, operating, repair, fuel and other consumables costs in respect of the generator.
3. Notwithstanding any of the other provisions in this agreement it is specifically recorded and agreed that the landlord is not responsible and cannot in any way guarantee the continuous supply of electricity to the leased premises. The generator will also only supply a limited amount of power and such supply will be less than the supply provided in the normal course of business by Eskom or the relevant local authority. Accordingly, during any periods when the generator is in use, the tenant shall not have the use of some of its equipment in the building, property and the leased premises but not limited to the air-conditioners.
4. The tenant shall not be entitled to install a generator or any other form of power supply, in addition to the supply provided for by the landlord, Eskom or the relevant local authority.
5. The tenant shall have no claim of whatever nature against the Landlord whether for remission of rent, inconvenience, financial loss or for any reason whatsoever, by reason of any interruption or failure of power supply and the generator services to the building, property or the leased premises.
6. The tenant shall use the aforesaid generator at its own risk and the tenant hereby indemnifies the landlord and holds the landlord harmless against:
 - a. Any and all claims of whatsoever nature arising from the tenants' use of the landlords' generator; and
 - b. Any and all claims of whatsoever nature arising from any interruption of the power supply to the leased premises.
7. Nothing contained in this agreement shall be interpreted in such a way as to place any obligation on the landlord to either:
 - a. Install a generator servicing the premises;
 - b. Keep any generator, if installed, in a serviceable, operable and working condition

SCM Form 001- Application for Deviation

- c. Take any steps whatsoever to ensure a supply of electricity to the leased premises; and/or
- d. Reimburse, refund or credit the tenant in respect of any failure or alleged failure by the landlord to do any of the foregoing.

7. Confidentiality

The parties agree that they shall keep the terms and conditions of this proposal strictly confidential and shall not disclose same to any third party prior to its acceptance by the Tenant. Should the final lease agreement be signed by both parties, any disclosure of its terms to any third party shall require the consent of the other party, which consent shall not be unreasonably withheld and unless a party is required by law to disclose either the existence of the agreement or the content thereof to a third party.

8. The Proposal

8.1 Signature of this proposal will constitute an irrevocable offer by the Tenant to the Landlord to enter into a lease on the terms and conditions contained and referred to herein and the Annexures hereto, which may be accepted by the Landlord at any time by written notice to the Tenant. Once the Landlord has accepted the Tenant's offer as embodied herein, a contractual relationship of lease will exist between the parties on the terms and conditions contained herein and, in the Annexures, hereto, if any. The Tenant shall be obliged to sign a formal written lease agreement prepared on the basis of the said terms and conditions. Should the Tenant fail or refuse to sign the formal lease agreement within one week of receipt of written notice calling upon it to do so, the Landlord shall be entitled, without prejudice to its other rights, to cancel the agreement as embodied herein and claim such damages as it shall have suffered as a result thereof or (at the Landlord's sole election) to treat this document and its annexures as the formal lease agreement between the parties.

8.2 Kindly note that prior to considering your offer as embodied herein, the Landlord requires that you complete and sign the attached "Tenant Application Form", attach all the requested documents thereto and return same together with the signed proposal letter. The Landlord's consideration of your offer will be subject to a favorable credit risk assessment.

~~8.3~~ Should the Landlord not accept the offer as embodied herein, the Tenant shall have no action for damages of whatsoever nature against the Landlord arising from the contents of this document or from any cause whatsoever.

9. Shop fitting and Installation

The Tenant's Access Date for purposes of shop fitting and installation works is anticipated as **01 November 2023** provided that the Tenant has complied with all legislative and policy requirements including but not limited to Financial Intelligence Centre Act 38 of 2001. To give effect to this date, the following programme milestones are important:

- 9.1 Return of signed proposal by no later than **19 October 2023**
- 9.2 Concept design submission by no later than **30 October 2023**
- 9.3 Access Date occupation for Tenant shop fitting and installation works by no later than **01 November 2023**.

SCM Form 001- Application for Deviation

The lease commencement date is anticipated as **01 January 2024**, and you are obliged to open for trading as from that date. The Tenant shall be liable for rental from that date notwithstanding the completion state of the premises unless delays have been caused by the Landlord or its agents.

The Tenant will in addition be liable for penalties in terms of the lease, should it not complete its shop fitting and start trading by the lease commencement date. Should the Tenant fail to remedy any delays within 7 days of receiving written notice, the Landlord shall be entitled, without prejudice to its other rights, to cancel the agreement as embodied herein and claim such damages as it shall have suffered as a result thereof.

10. FICA Documentation

FICA verification documents will be required, prior to the Landlord accepting the offer made by the applicant and prior to the Landlord signing the lease agreement.

11. Special Conditions

- 11.1 This proposal is subject to final Landlord Board Approval.
- 11.2 The premises are in the condition in which it is currently. The tenant hires the premises entirely at its own risk and the Tenant hereby agrees that it shall have no claim whatsoever, whether for damages or remission of rental, against the Landlord should any loss or damage of whatsoever nature be suffered by the Tenant howsoever caused.
- 11.3 The Landlord will provide a TI allowance of **R 3 000/m²** only towards the tenant's installation requirements.
- 11.4 The execution and validity of this Agreement are contingent upon the attachment of an official resolution duly authorizing the Municipal Manager, or the authorized representative, to sign and enter into this Lease Agreement on behalf of the Knysna Municipality (hereinafter referred to as the "Municipality"), which must be explicitly included as part of the proposal submitted by the tenant for consideration by the Landlord. This resolution must be duly approved by the governing body of the Municipality and accepted as part of the proposal. The resolution must be attached to the proposal at the time of submission, and any subsequent additions or amendments to the resolution shall not be considered unless they are accepted by both parties. This condition is not subject to force majeure, or any other unforeseen circumstances and it is the responsibility of the municipality to ensure the attachment of the resolution as specified herein. In the event that the resolution is not attached to the proposal, the Landlord shall promptly notify the Municipality, in writing, of the deficiency. Upon such notification, this Agreement shall be considered null and void, and neither party shall have any further obligations or liabilities under this Agreement. This special condition forms an integral part of this Lease Agreement and any failure to meet the conditions specified herein shall result in the non-execution of this Agreement.

Additional Inspection and Tenant Acknowledgment

It is recorded that both the owner as well as the Tenant may wish to obtain professional advice and/or to undertake a professional inspection of the property. The Tenant acknowledges that he/she is informed that professional expertise and/or technical skill and knowledge may be required to detect defects in, and non-compliant aspects concerning, the property.

SCM Form 001- Application for Deviation

The Applicant certifies and warrants that the information furnished is true and correct, that he/she has the authority to sign this application and that he/she has not misrepresented or concealed any material fact, which might have a bearing on the Landlord accepting this Offer.

The Applicant by its signature hereto authorizes Grey Elephant Investments (Pty) Ltd to conduct any reference / financial / credit checks on the business, the directors and sureties of the Applicant which they deem necessary, prior to the conclusion of any lease agreement, during the lease period, if applicable and/or renewals thereof.

Kindly confirm that the proposals set out herein are acceptable to you by initialing each page hereof together with all the attachments and appending your signature in full hereunder. The duly signed documents must be returned to us by no later than **19 October 2023**.

Please do not hesitate to contact me should you wish to discuss anything contained in this offer.

Yours faithfully

SAMANTHA HUMAN
GENERAL MANAGER

ACCEPTED AT _____ THIS _____ DAY OF _____

BY _____ WHO WARRANTS THAT HE/SHE IS DULY AUTHORISED TO ACCEPT
THIS PROPOSAL FOR AND ON BEHALF OF THE TENANT.

SIGNATURE ON BEHALF OF TENANT



GREY ELEPHANT INVESTMENTS (PTY) Ltd
Reg. No. 2018/470172/07
VAT No. 4640287746

Main Road
Knysna

www.knysnamall.co.za

11 October 2023

Per Electronic Mail: mm@knysna.gov.za

Attention: Municipal Manager Mr. Ombali Sebola

Dear Sir

PROPOSED LETTING FOR KNYSNA MUNICIPALITY (the "Tenant")
AT KNYSNA MALL, MAIN ROAD, KNYSNA

We write to you on behalf of the current registered owners of **Knysna Mall**, (hereinafter referred to as "the Landlord")

The Landlord hereby confirms its lease proposal as recorded below, detailing the essential terms and conditions upon which the Landlord may consider entering into an agreement of lease with yourselves, in respect of leased premises at **Knysna Mall**.

1. The Property

The building known as **Knysna Mall**, situated at **Main Road Knysna**. The building comprises, inter alia, approximately **28 388m²** of retail area.

2. The Parties

The Tenant shall be: **KNYSNA MUNICIPALITY**
Trading as : **Knysna Municipality**
Registration number :
Represented by : **Mr. Ombali Sebola**
who warrants that he/she is duly authorized thereto

The Landlord shall be: **Grey Elephant Investments (Pty) Limited**
Registration number : **2018/470172/07**
Represented by : **Neil Lurie / Samantha Human**
who warrants that he/ she is duly authorised thereto.

3. Timing

The anticipated timing for your lease is as follows:

Access Date (for purposes of fitting) : **01 November 2023**
Lease Commencement Date : **01 January 2024**
Termination Date : **31 December 2028**

If the Landlord is for any reason unable to give the Tenant access to the premises on the access date as contemplated above, the Tenant shall have no claim for damages or right of cancellation and shall accept access on such later date on which the premises are available. In the event of such a delay, the commencement and termination dates above shall be adjusted accordingly.

4. The Premises

As indicated on the attached Plan and situated in the **Knysna Mall** as set out on the attached Location Plan and subject to the architects final measurements.

5. The Lease Agreement (Basic Conditions)

You will be required to sign the Landlord's standard lease. The lease will contain, inter alia, the following material terms and conditions:

5.1 Term

The lease period shall be **5 (Five) years**, commencing on **01 January 2024** subject to paragraph **3 above**.

5.2 Gross Rental & Charges

5.2.1 Gross rental (including rental, operating costs and rates)

- (a) The gross rental for the first year of the lease period for the premises shall be **R168.00** per m² per month plus VAT thereon.
- (b) The said gross rentals will escalate on each **01 January** (on each anniversary of the Commencement Date during the lease period) at the rate of **6%** per annum compounded.
- (c) ~~The deposit / bank guarantee payable would be **R0.00** before occupation of the premises. In the event that a bank guarantee is not received within 3 months of lease conclusion / occupation taken, the cash amount will be added to the rental account and payable as cash immediately.~~

5.2.2 Municipal Charges

The Tenant will be liable for metered electricity charges as per our independent Service provider its pro rata share of the rates and taxes, and other municipal charges in respect of the building. The Tenant's pro rata share will be calculated as being the same proportion of such charges as the lettable area of the premises bears to the lettable area of the building. The estimated liability of the Tenant in this regard as at the commencement date of the lease shall be as follows:

Rates increases.

Refuse charges as charged by Knysna Municipality and private waste contractor.

Other Charges

HVAC Maintenance **R1.31 per** square meter per month;

Electrical meter reading services **R0.31** per square meter per month.

These amounts shall be adjusted from time to time in accordance with the actual rates, municipal charges payable by the Landlord.

5.3 Turnover Rental

~~For the purposes of calculating the turnover rental payable, the Tenant shall pay the greater of 0% of nett turnover achieved or the Gross Rental referred to in 5.2.1.~~

5.4 Consumption Charges

The Tenant shall be liable for the electricity and water and other services consumed within the premises and, if applicable, by any dedicated air-conditioning system serving the premises and the Tenant's signage. In the event that the premises are separately metered, the Tenant will pay for services based on the monthly sub-meter readings provided. Where there are no sub-meters, pro rata water and electricity charges will be payable, based on the proportion that the lettable area of the premises bears to the total lettable area served by a particular meter from time to time.

5.5 Use of premises

The Tenant shall use the premises for the following purposes and under the following trading name only: **Municipal Offices**.

5.6 Marketing Fund

~~The Tenant shall be required to pay a contribution to the Marketing Fund or Merchants Association of the Building, in an amount equal to 0% of the gross rental plus VAT thereon.~~

5.7 VAT

The Tenant will be liable to pay all Value Added Tax leviable in terms of Act 89 of 1991, as amended, or any other taxes leviable from time to time in law in respect of all amounts payable by the Tenant in terms of the lease. Please note that all amounts quoted herein are exclusive of VAT.

5.8 Rental and Other Payments

The Tenant shall pay to the Landlord all rental and other charges as required in terms of the lease agreement, on the first day of each month, for the duration of the lease.

Such payments to be affected by way of electronic funds transfer via a debit order instruction drawn on the tenant's bank for this purpose. Should payment not be affected in the abovementioned approved manner, all cost, charges and / or interest levied to the Landlord by the Financial Institution will be for the Tenant's account.

5.9 Interest

All amounts due by the Tenant to the Landlord in terms of the lease, shall, if not paid in full on due date, bear interest at **2%** (two percent) compounded per month or part thereof from due date to date of payment.

5.10 Breach

The standard lease agreement requires that all requisite payments due in terms of the lease are paid on due date and that all other breaches by the Tenant be remedied within 7 days of written notice, failing which the Landlord shall have the right, but shall not be obliged, to cancel the lease and resume possession of the premises forthwith. Any such action is without prejudice to the Landlord's claims for damages, arrears of rental or any other amounts owing in terms of the lease.

6. Generator

Should generator power be supplied for the premises, then:

1. Should the Landlord install a generator to provide the Leased Premises with some electricity during power failure, the Landlord shall be responsible for the maintenance and repair of the generator and at all times endeavour to keep the generator in a good working condition.
2. The Landlord shall be entitled to charge the tenant and the tenant shall be obliged to pay on demand, over and above the amounts stipulated in clause 5 (five) of the Schedule, its pro rata share, such pro-rata share being the allowance made to the tenant from the distribution board relating to the tenant's generator use and the proportion of the common area usage, of the landlord's maintenance, service, operating, repair, fuel and other consumables costs in respect of the generator.
3. Notwithstanding any of the other provisions in this agreement it is specifically recorded and agreed that the landlord is not responsible and cannot in any way guarantee the continuous supply of electricity to the leased premises. The generator will also only supply a limited amount of power and such supply will be less than the supply provided in the normal course of business by Eskom or the relevant local authority. Accordingly, during any periods when the generator is in use, the tenant shall not have the use of some of its equipment in the building, property and the leased premises but not limited to the air-conditioners.
4. The tenant shall not be entitled to install a generator or any other form of power supply, in addition to the supply provided for by the landlord, Eskom or the relevant local authority.
5. The tenant shall have no claim of whatever nature against the Landlord whether for remission of rent, inconvenience, financial loss or for any reason whatsoever, by reason of any interruption or failure of power supply and the generator services to the building, property or the leased premises.
6. The tenant shall use the aforesaid generator at its own risk and the tenant hereby indemnifies the landlord and holds the landlord harmless against:
 - a. Any and all claims of whatsoever nature arising from the tenants' use of the landlords' generator; and
 - b. Any and all claims of whatsoever nature arising from any interruption of the power supply to the leased premises.
7. Nothing contained in this agreement shall be interpreted in such a way as to place any obligation on the landlord to either:
 - a. Install a generator servicing the premises:
 - b. Keep any generator, if installed, in a serviceable, operable and working condition

- c. Take any steps whatsoever to ensure a supply of electricity to the leased premises; and/or
- d. Reimburse, refund or credit the tenant in respect of any failure or alleged failure by the landlord to do any of the foregoing.

7. Confidentiality

The parties agree that they shall keep the terms and conditions of this proposal strictly confidential and shall not disclose same to any third party prior to its acceptance by the Tenant. Should the final lease agreement be signed by both parties, any disclosure of its terms to any third party shall require the consent of the other party, which consent shall not be unreasonably withheld and unless a party is required by law to disclose either the existence of the agreement or the content thereof to a third party.

8. The Proposal

8.1 Signature of this proposal will constitute an irrevocable offer by the Tenant to the Landlord to enter into a lease on the terms and conditions contained and referred to herein and the Annexures hereto, which may be accepted by the Landlord at any time by written notice to the Tenant. Once the Landlord has accepted the Tenant's offer as embodied herein, a contractual relationship of lease will exist between the parties on the terms and conditions contained herein and, in the Annexures, hereto, if any. The Tenant shall be obliged to sign a formal written lease agreement prepared on the basis of the said terms and conditions. Should the Tenant fail or refuse to sign the formal lease agreement within one week of receipt of written notice calling upon it to do so, the Landlord shall be entitled, without prejudice to its other rights, to cancel the agreement as embodied herein and claim such damages as it shall have suffered as a result thereof or (at the Landlord's sole election) to treat this document and its annexures as the formal lease agreement between the parties.

8.2 Kindly note that prior to considering your offer as embodied herein, the Landlord requires that you complete and sign the attached "Tenant Application Form", attach all the requested documents thereto and return same together with the signed proposal letter. The Landlord's consideration of your offer will be subject to a favorable credit risk assessment.

~~8.3~~ Should the Landlord not accept the offer as embodied herein, the Tenant shall have no action for damages of whatsoever nature against the Landlord arising from the contents of this document or from any cause whatsoever.

9. Shop fitting and installation

The Tenant's Access Date for purposes of shop fitting and installation works is anticipated as **01 November 2023** provided that the Tenant has complied with all legislative and policy requirements including but not limited to Financial Intelligence Centre Act 38 of 2001. To give effect to this date, the following programme milestones are important:

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- 9.3 Access Date occupation for Tenant shop fitting and installation works by no later than **01 November 2023.**

The lease commencement date is anticipated as **01 January 2024**, and you are obliged to open for trading as from that date. The Tenant shall be liable for rental from that date notwithstanding the completion state of the premises unless delays have been caused by the Landlord or its agents.

The Tenant will in addition be liable for penalties in terms of the lease, should it not complete its shop fitting and start trading by the lease commencement date. Should the Tenant fail to remedy any delays within 7 days of receiving written notice, the Landlord shall be entitled, without prejudice to its other rights, to cancel the agreement as embodied herein and claim such damages as it shall have suffered as a result thereof.

10. FICA Documentation

FICA verification documents will be required, prior to the Landlord accepting the offer made by the applicant and prior to the Landlord signing the lease agreement.

11. Special Conditions

- 11.1 This proposal is subject to final Landlord Board Approval.
- 11.2 The premises are in the condition in which it is currently. The tenant hires the premises entirely at its own risk and the Tenant hereby agrees that it shall have no claim whatsoever, whether for damages or remission of rental, against the Landlord should any loss or damage of whatsoever nature be suffered by the Tenant howsoever caused.
- 11.3 The Landlord will provide a TI allowance of **R 3 000/m²** only towards the tenant's installation requirements.
- 11.4 The execution and validity of this Agreement are contingent upon the attachment of an official resolution duly authorizing the Municipal Manager, or the authorized representative, to sign and enter into this Lease Agreement on behalf of the Knysna Municipality (hereinafter referred to as the "Municipality"), which must be explicitly included as part of the proposal submitted by the tenant for consideration by the Landlord. This resolution must be duly approved by the governing body of the Municipality and accepted as part of the proposal. The resolution must be attached to the proposal at the time of submission, and any subsequent additions or amendments to the resolution shall not be considered unless they are accepted by both parties. This condition is not subject to force majeure, or any other unforeseen circumstances and it is the responsibility of the municipality to ensure the attachment of the resolution as specified herein. In the event that the resolution is not attached to the proposal, the Landlord shall promptly notify the Municipality, in writing, of the deficiency. Upon such notification, this Agreement shall be considered null and void, and neither party shall have any further obligations or liabilities under this Agreement. This special condition forms an integral part of this Lease Agreement and any failure to meet the conditions specified herein shall result in the non-execution of this Agreement.

Additional Inspection and Tenant Acknowledgment

It is recorded that both the owner as well as the Tenant may wish to obtain professional advice and/or to undertake a professional inspection of the property. The Tenant acknowledges that he/she is informed that professional expertise and/or technical skill and knowledge may be required to detect defects in, and non-compliant aspects concerning, the property.

The Applicant certifies and warrants that the information furnished is true and correct, that he/she has the authority to sign this application and that he/she has not misrepresented or concealed any material fact, which might have a bearing on the Landlord accepting this Offer.

The Applicant by its signature hereto authorizes Grey Elephant Investments (Pty) Ltd to conduct any reference / financial / credit checks on the business, the directors and sureties of the Applicant which they deem necessary, prior to the conclusion of any lease agreement, during the lease period, if applicable and/or renewals thereof.

Kindly confirm that the proposals set out herein are acceptable to you by initialing each page hereof together with all the attachments and appending your signature in full hereunder. The duly signed documents must be returned to us by no later than **19 October 2023**.

Please do not hesitate to contact me should you wish to discuss anything contained in this offer.

Yours faithfully

SAMANTHA HUMAN
GENERAL MANAGER

ACCEPTED AT _____ THIS _____ DAY OF _____

BY _____ WHO WARRANTS THAT HE/SHE IS DULY AUTHORISED TO ACCEPT
THIS PROPOSAL FOR AND ON BEHALF OF THE TENANT.

SIGNATURE ON BEHALF OF TENANT

13.6

C06/10/23 SHORT-TERM DEBT : BANK OVERDRAFT FACILITY
--

REPORT FROM THE ACTING DIRECTOR : FINANCIAL SERVICES

PURPOSE OF THE REPORT

To inform the Municipal Council of the Standard Bank approved temporary Bank Overdraft facility up to a maximum of R20 million until 15 March 2024, and to seek resolution on the spending thereof.

BACKGROUND

Section 45 of the Local Government: Municipal Finance Management Act (No 56 of 2003) in relation to Short-term Debt determines that :

- “(1) *A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act and only when necessary to bridge—*
- (a) *shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or*
 - (b) *capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.*
- (2) *A municipality may incur short-term debt only if—*
- (a) *a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and*
 - (b) *the accounting officer has signed the agreement or other document which creates or acknowledges the debt.*
- (3) *For the purpose of subsection (2)(a), a municipal council may—*
- (a) *approve a short-term debt transaction individually; or*
 - (b) *approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that—*
 - (i) *the credit limit must be specified in the resolution of the council;*
 - (ii) *the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and*
 - (iii) *if the council approves a credit facility that is limited to emergency use, the accounting officer must notify the council in writing as soon as practical of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as options for repaying such debt.*
- (4) *A municipality—*
- (a) *must pay off short-term debt within the financial year; and*

- (b) *may not renew or refinance short-term debt, whether its own debt or that of any other entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.*
- (5) (a) *No lender may wilfully extend credit to a municipality for the purpose of renewing or refinancing short-term debt that must be paid off in terms of subsection (4)(a).*
- (b) *If a lender wilfully extends credit to a municipality in contravention of paragraph (a), the municipality is not bound to repay the loan or interest on the loan.*
- (6) *Subsection (5)(b) does not apply if the lender—*
 - (a) *relied in good faith on written representations of the municipality as to the purpose of the borrowing; and*
 - (b) *did not know and had no reason to believe that the borrowing was for the purpose of renewing or refinancing short-term debt.”*

PREVIOUS RESOLUTIONS

C05/07/23 SHORT-TERM DEBT: BANK OVERDRAFT FACILITY

- [a] That Council approves a Short-Term Bank Overdraft Facility up to a maximum of R20 000 000, to be accessed as and when required;
- [b] That Council notes that the temporary Short-Term Bank Overdraft Facility must be repaid in full by 30 June 2024;
- [c] That Council notes that the Short-Term Bank Overdraft Facility will expire on 30 June 2024;
- [d] That the Municipal Manager be authorised to sign all the Standard Bank Overdraft facility agreements and supporting documents.

File Number: 9/1/2/10

DISCUSSION

Council resolved in July 2023 to apply for a short-term overdraft facility of R20 million, which was subsequently approved by Standard Bank. The approval was subject to the short-term overdraft facility being settled from the third tranche of the Equitable Share, which is expected to be received by 15 March 2024.

The Municipality continues to experience cashflow challenges, with multiple service providers / contractors not being paid timeously.

The Municipality has already received several complaints from disgruntled service providers / contractors due to non-payment, and are also threatening to initiate legal action or delay / terminate services. Service delivery is therefore expected to be negatively impacted.

To exacerbate matters, none of the financing institutions submitted bids for the provision of a R25 million loan to fund capital projects, which have been approved by Council for the 2023/24 financial year.

With the limited cash resources available to the Municipality, priority is currently afforded to the payment of Salaries, Loans, Eskom, SARS, Third Parties, and other interest-billing Creditors.

RELEVANT LEGISLATION

Municipal Finance Management Act (No. 56 of 2003)

FINANCIAL IMPLICATIONS

Initiation Fee: R252 000 (1.26% of R20 million)

Interest Charges : Prime Lending Rate

RECOMMENDATIONS OF THE MUNICIPAL MANAGER

- [a] That the Report on the Short Term Debt : Bank Overdraft facility, be noted;
- [b] That Council notes the approval of a temporary Bank Overdraft facility of R20 000 000 from Standard Bank;
- [c] That Council notes that the temporary Bank Overdraft facility must be repaid in full by 15 March 2024; and
- [d] That Council resolves on the way forward by considering one of the following options for the utilisation of the temporary Bank Overdraft facility, but not limited to :
 - i) Funding 80% of the capital projects which should have been funded from Borrowings [no bids received]; or
 - ii) Payments to creditors, with priority afforded to payments in relation to grant-funded projects, subject to cash availability (which includes the temporary Bank Overdraft facility).

APPENDIX / ADDENDUM

Annexure A – Banking Facilities Agreement

File Number : 9/1/2/10

Execution : Municipal Manager
Acting Director : Financial Services

Dear Sir/Madam

RE: documents for electronic signature

We enclose herewith documents to be completed by you collectively hereinafter referred to as the **Agreements**, in favour of The Standard Bank of South Africa Limited (**SBSA** or the **Bank**) subject to the following terms and conditions.

Important clauses, which may limit our responsibility; place an obligation on you to indemnify us; involve and acknowledgment of any fact; or involve some risk for you, will be in bold and italics or highlighted. You must pay special attention to these clauses

1. HOW TO ACCEPT

- 1.1 As a duly authorised member/director/trustee (as applicable) you will receive an email containing a link to your Agreements with the Bank.
- 1.2 Please open the link and read the contents of the Agreements. If you accept the terms and conditions of the agreement, please electronically sign each Agreement.
- 1.3 We must receive your signed agreement within 10 days of the date of the email sent to you, failure of which will mean that you will be required to submit a new application.
- 1.4 Once all the signatories have signed, a signed copy of the documents will be automatically emailed back to all parties.
- 1.5 You will receive an email confirmation from your relationship manager confirming that the documentation has been received, reviewed by the Bank, has been found acceptable by the Bank.

2. DIGITAL IDENTITY

You are and remain responsible for ensuring that you maintain the confidentiality and/or protection from compromise of any personal identification number and/or digital identity that may be issued to use and used, amongst other things, to authenticate you, and you shall be fully responsible for all activities when the personal identification number or digital identity (as applicable) is used with or without your knowledge.

3. GENERAL TERMS AND ACCEPTANCE

- 3.1 ***By signing the Agreement(s) each member / director / trustee / partner (as applicable) confirms that:-***
 - 3.1.1 ***they understand their rights and obligations, and risks and costs of the Agreement(s);***
 - 3.1.2 ***they have each been free to secure independent advice in respect of the content of the Agreement(s); and***
 - 3.1.3 ***you, and each and the legal entity you represent agree to be contractually bound to the terms and conditions that appear in the documents emailed to you under cover of this communication.***
 - 3.1.4 ***each of the members / directors / trustees / partner who sign the Agreement(s) have the necessary authority and capacity to enter into the Agreement(s).***
- 3.2 ***You, and the legal entity you represent (if applicable), shall be bound by all instructions transmitted by you or someone purporting/pretending to be you to the Bank by facsimile transceiver or by means of an e-mail message or any other electronic or telephonic instruction, and hereby waive any right you may have or obtain against the Bank arising directly or indirectly from any losses or damages which you may suffer as a result of the Bank acting on any purported faxed or e-mailed instruction. You further indemnify the Bank in respect of any claims, demands or actions made against the Bank or losses or damages suffered by the Bank as a result of the Bank acting on the said faxed or e-mailed instruction.***


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- 3.3 ***Notwithstanding the exclusion regarding electronic contracting in the email disclaimer and confidentiality note at the foot of this letter, the Agreement(s) may be executed in any number of counterparts, by facsimile, email, pdf or otherwise, and this has the same effect as if the signatures on the counterparts were on a single copy (or original, as the case may be) of that Agreement(s).***
4. ***You, and the legal entity you represent (if applicable) irrevocably and unconditional undertake in favour of the Bank to: cooperate with the Bank as required and promptly take on such action as the Bank may require in order to exercise, maintain, perfect or protect and enforce the Bank's rights including but limited to:-***
- 4.1 ***executing in favour of and delivering to the Bank such further additional documentation if so requested;***
- 4.2 ***giving all notices, orders and/or directions which the Bank may require, failure of which will constitute an event of default under the documentation concluded by you in your personal capacity and as the duly authorised representative of the legal entity (as the case may be).***
5. **DATA PROCESSING**
- 5.1 **We may contact any credit bureau, as well as the South African Fraud prevention service, to get and share information about your credit and payment history on your business and personal profile.**
- 5.2 **You consent to Standard Bank processing your personal information where lawful and reasonable in order to provide you with the product/service - this may include using your personal information for credit, fraud and compliance purposes.**

The Standard Bank email disclaimer and confidentiality note

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EXECUTION VERSION

BANKING FACILITIES AGREEMENT

by and between

THE STANDARD BANK OF SOUTH AFRICA LIMITED

and

KNYSNA MUNICIPALITY


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1. **PARTIES**

The parties to this agreement are:

- 1.1 The Standard Bank of South Africa Limited; and
- 1.2 Knysna Municipality.

2. **DEFINITIONS**

2.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context:

- 2.1.1 **Agreement** means this agreement, together with all appendices hereto and letters and notices given in terms hereof from time to time, all read together;
- 2.1.2 **Bank** means The Standard Bank of South Africa Limited (Registration Number 1962/000738/06), a public company duly incorporated with limited liability according to the company laws of South Africa and its successors in title and assigns;
- 2.1.3 **Borrower** means Knysna Municipality, a municipality established in accordance with the Local Government: Municipal Structures Act 117 of 1998 and the municipal laws of the Republic of South Africa;
- 2.1.4 **Borrower's Current Account** means the Borrower's current account number 303265043 held in the books of the Knysna branch of the Bank, in terms of which the Borrower undertakes to conduct all of its primary and day-to-day banking transactions;
- 2.1.5 **Business Day** means a day other than a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa;
- 2.1.6 **Calendar Month** means a full calendar month in any year, namely, January, February, March, April, May, June, July, August, September, October, November and December;
- 2.1.7 **Collateral** means any security, indemnity or undertaking provided to the Bank to secure the Borrower's payment and other obligations in terms of this Agreement;
- 2.1.8 **Collateral Provider** means each person or entity who is to provide Collateral to the Bank in respect of the due performance by the Borrower of its payment and other obligations in terms of this Agreement;
- 2.1.9 **Equitable Share** means the Borrower's share of local government's equitable share as contemplated in section 214(1)(a) of the Constitution of the Republic of South Africa, Act 108 of 1996;
- 2.1.10 **FICA** means the Financial Intelligence Centre Act 38 of 2001;
- 2.1.11 **Group** means Standard Bank Group Limited, its subsidiaries and their subsidiaries;
- 2.1.12 **Indebtedness** means the total balance of the capital amount outstanding on the Overdraft plus any interest, fees and costs in respect of the Overdraft which are owed by the Borrower to the Bank from time to time;
- 2.1.13 **Material Adverse Event** means any event, circumstance or matter or combination of events, circumstances or matters which in the reasonable opinion of the Bank has or may have a material adverse effect on the:
 - 2.1.13.1 business, assets, operations, property or financial condition of the Borrower taken as a whole;
 - 2.1.13.2 ability of the Borrower to perform its obligations in terms of this Agreement;
 - 2.1.13.3 ability of a Collateral Provider to perform its obligations in terms of the Collateral; or
 - 2.1.13.4 validity or enforceability of this Agreement or the Collateral or any other documents provided under this Agreement or the rights or remedies of the Bank thereunder;
- 2.1.14 **MFMA** means the Local Government: Municipal Finance Management Act 56 of 2003 including all schedules and regulations thereto;
- 2.1.15 **Overdraft** means the temporary Overdraft facility referred to in this Agreement;
- 2.1.16 **Parties** means the Bank and the Borrower and **Party** means any one of them as the context may indicate;
- 2.1.17 **Personal Information** means Information about an identifiable, natural person and where applicable, a juristic person, including, but not limited to information about: race; gender; sex; pregnancy; marital status; nationality; ethnic or social origin; colour; sexual orientation; age; physical or mental health; well-being; disability; religion; conscience; belief; culture; language; birth; education; medical, financial, criminal or employment history; any identifying number, symbol, e-mail, postal or physical address, telephone number; location; any online identifier; any other particular assignment of the person; biometric


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- information; personal opinions, views or preferences of the person or the views or opinions of another individual about the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; and the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;
- 2.1.18 **Prime Rate** means the publicly quoted variable base rate of interest per annum ruling from time to time at which the Bank lends on overdraft, available on the Bank's website: www.standardbank.co.za (or as certified by any manager or business unit head of the Bank, whose appointment it shall not be necessary to prove and which certification shall be binding on the Parties absent manifest error);
- 2.1.19 **Process** means any operation or activity, automated or not, concerning Personal Information, including alteration, blocking, collation, collection, consultation, degradation, destruction, dissemination by means of transmission, distribution or making available in any other form, erasure, linking, merging, organisation, receipt, recording, retrieval, storage, updating, modification, or the use of information. Processing and Processed will have a similar meaning;
- 2.1.20 **Rand** means the South African Rand, the currency of South Africa;
- 2.1.21 **Sanctioned** means listed on all or any one of the Sanction Lists and/or subject to any Sanctions;
- 2.1.22 **Sanction List** means the means the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control of the Department of Treasury of the United States of America and/or the United Nations Security Council list of persons or entities suspected to be involved in terrorist related activities or the funding thereof and/or any other list of His Majesty's Treasury of the United Kingdom and/or the European Union's Common Foreign and Security Policy;
- 2.1.23 **Service Fee** means the monthly service fee levied by the Bank in connection with the routine administration costs of maintaining the Facility(ies);
- 2.1.24 **Signature Date** means the date of signature of this Agreement by the Party signing last in time;
- 2.1.25 **South Africa** means the Republic of South Africa;
- 2.1.26 **Unutilised Facility Fee** means the fee which is charged on the difference between the approved limit of the Overdraft and the used portion of the limit of the Overdraft; and
- 2.1.27 **VAT** means value added tax in terms of the Value Added Tax Act, 89 of 1991.
- 2.2 Any reference in this Agreement to legislation or subordinate legislation is to such legislation or subordinate legislation at the Signature Date and as amended or re-enacted from time to time.
- 2.3 Words importing the singular shall include the plural, and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and *vice versa*, and words importing natural persons shall include legal persons, and *vice versa*.
- 2.4 The head notes to the clauses to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 2.5 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a Party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 2.6 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- 2.7 Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 2.8 The words **include** and **including** mean **include without limitation** and **including without limitation**. The use of the words **include** and **including** followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 2.9 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day.
- 2.10 If the due date for performance of any obligation in terms of this Agreement is a day which is not a Business Day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding Business Day.


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- 2.11 Any reference in this Agreement which requires that the Bank exercise its discretion in respect of any matter stated herein shall mean that the exercise thereof shall be as determined by the Bank in its reasonable discretion.
- 2.12 When any condition of this Agreement requires fulfilment by the Borrower, or any information, evidence, proof or documentation is required to be furnished by the Borrower, such condition shall be required to be fulfilled and information, evidence, proof or documentation shall be required to be furnished, in a form and substance to the satisfaction of the Bank.
- 2.13 Unless the context indicates a contrary intention, any reference in this Agreement to **material** or **materially** shall mean **material** or **materially** as determined by the Bank in its reasonable opinion.
- 2.14 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.
- 2.15 Any reference in this Agreement which requires that the Bank exercise its discretion in respect of any matter stated herein shall mean that the exercise thereof shall be as determined by the Bank in its reasonable discretion.
- 2.16 The terms and conditions of this Agreement having been negotiated by the Parties, no provision herein shall be construed against or interpreted to the disadvantage of any Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
3. **THE OVERDRAFT**
The Bank has agreed to grant the Borrower the Overdraft on a temporary basis in an amount of up to a maximum aggregate limit of R20,000,000 (twenty million Rand), upon and subject to the terms and conditions hereinafter set out.
4. **RANKING OF THE OVERDRAFT**
The Borrower represents, warrants, and undertakes that the Overdraft comprises senior debt and ranks at least equally with all other senior debt in terms of servicing, repayment and collateral rights and the claims of all of the Borrower's other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.
5. **AVAILMENT AND PURPOSE**
- 5.1 The Overdraft may only be utilised upon fulfilment to the satisfaction of the Bank and/or waiver by the Bank of the conditions precedent referred to in clause 9 below.
- 5.2 The Borrower may avail of the Overdraft by providing the Bank with 48 (forty eight) hours prior written notice of its intention to do so and which notice will stipulate the amount and date on which the Borrower will receive payment of Equitable Share, subject however, to the provisions of clause 5.1.
- 5.3 The Overdraft may only be utilised by the Borrower on a temporary basis for the sole purpose of funding its working capital requirements.
- 5.4 The Bank shall not, however, be under any obligation to verify or monitor that the Borrower will utilise the Overdraft for the aforesaid purposes.
6. **INTEREST**
- 6.1 The Overdraft shall bear interest at the Prime Rate. The Prime Rate is subject to change. Any amendment to the Prime Rate will be advised by the Bank to the Borrower in writing on the date of first availment of the Overdraft.
- 6.2 The interest payable by the Borrower is calculated on a nominal annual compounded monthly in arrears basis on the Indebtedness and is calculated on a 365 (three hundred and sixty five) day year, irrespective of whether it is a leap year and will be debited to the Borrower's Current Account once a month on a date convenient to the Bank.
- 6.3 The Bank may immediately amend the pricing structure of the Overdraft if there is a change in:
- 6.3.1 law or the issue of a directive with which the Bank must comply; or
- 6.3.2 market conditions resulting in an increasing cost to the Bank.
- 6.4 If the Bank amends the pricing structure of the Overdraft, it will advise the Borrower accordingly.
7. **DURATION AND REPAYMENT**
- 7.1 The Overdraft is repayable on demand.
- 7.2 All the Indebtedness under the Overdraft, shall be repaid by the Borrower to the Bank by no later than close of business on the 15th of March 2024 being the date that the Equitable Share is paid into the Borrower's Current


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Account; and/or forthwith upon demand, in accordance with clause 7.1 (whichever is the earlier), in which event the Bank shall not be obliged to give any notice in making, or prior to, demand.

8. INITIATION FEE

Upon the Signature Date, the Overdraft will attract an initiation fee of 1.26% (one point two six percent) of the Overdraft which will become due and payable in 1 (one) amount and will be debited to the Borrower's Current Account when first availment is made under the Overdraft or upon fulfilment and/or waiver of the conditions precedent referred to in clause 9 below, whichever is the earlier.

9. CONDITIONS PRECEDENT

9.1 The Borrower shall only be entitled to avail of/continue to avail of the Overdraft if all of the following conditions precedent are fulfilled or waived by the Bank, which conditions precedent shall be fulfilled or waived by no later than close of business on the 90th (ninetieth) day after the Signature Date:

9.1.1 that the Borrower has undergone the Bank's Know Your Customer ("KYC") process pursuant to the provisions of FICA;

9.1.2 that the Bank is provided with a copy of this Agreement, signed by the accounting officer of the Borrower accepting the terms and conditions stipulated herein, in accordance with section 45(2)(b) of the MFMA;

9.1.3 that the Bank has been provided with a certified copy of a resolution of the Municipal Council, signed by the Mayor, approving the Overdraft and this Agreement in accordance with section 45(2)(a) of the MFMA;

9.1.4 that the Bank has been provided, with a letter from the accounting officer of the Borrower, confirming that the Overdraft is to be utilised for the sole purpose of funding the Borrower's short-term working capital requirements;

9.2 The above conditions precedent are inserted for the benefit of the Bank, which may in writing on or before the dates for fulfilment of the conditions set out in clause 9.1, extend the period for fulfilment or waive any of the said conditions precedent in its sole discretion. Unless and until the above conditions precedent are either waived or fulfilled, the Borrower shall not be entitled to avail of/continue to avail of the Overdraft.

9.3 Notwithstanding any provision to the contrary, if the Bank, in the erroneous belief that all the conditions precedent have been fulfilled or waived (as the case may be), makes any advances or any portion of the Overdraft ("**Advanced Amount**") available to the Borrower and if it subsequently transpires that any one (or more) of the conditions precedent has in fact not been fulfilled or waived (as the case may be):

9.3.1 the terms and conditions of this Agreement shall apply in respect of the amount of the Advanced Amount (subject to clauses 9.3.2 and 9.3.3);

9.3.2 the Bank shall be entitled to declare the amount of the Advanced Amount to be immediately due and payable by the Borrower to the Bank; and

9.3.3 the Bank shall not be obliged to make any further advances to the Borrower.

10. ONGOING CONDITIONS AND FINANCIAL COVENANTS

10.1 Signing Authorities

In the event of there being any variation in the signing authorities during the currency of the Overdraft, the Borrower is then to furnish the Bank with written resolution and amended mandate instructions timeously.

10.2 Management Accounts

The Borrower undertakes that during the currency of the Overdraft it shall provide the Bank with the management accounts of the Borrower (in the format as agreed between the Parties from time to time) by no later than [insert] Business Days after the end of the Calendar Month to which they relate and which management accounts shall not differ materially from the signed financial statements (prepared in compliance with the relevant Financial Reporting Standard) of the Borrower for the particular year.

10.3 Financial Statements

10.3.1 The Borrower undertakes that during the currency of the Overdraft:

10.3.1.1 it shall provide the Bank with signed copies of its audited financial statements annually within a period of 180 (one hundred and eighty) days from the date that they are due in terms of the MFMA and any other information as the Bank may reasonably require; and

10.3.1.2 the draft audited financial statements as submitted to the Bank shall not differ materially from the signed, audited financial statements of the Borrower for the particular year.

10.4 Notification of event of default


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The Borrower hereby undertakes to the Bank that it will advise the Bank immediately on becoming aware of the occurrence of an event of default or of any circumstances that could potentially result in an event of default as contemplated in clause 11.

10.5 Reporting Requirements

While the Overdraft remains available or any amount or commitment remains outstanding to the Bank the following conditions shall apply, the Borrower shall:

- 10.5.1 inform the Bank, as soon as possible after identification of any financial problems facing the Borrower, including any emerging or impending financial problems in terms of the provisions of section 54 of the MFMA that could reasonably be expected to affect the Borrower's ability to repay any amounts outstanding under the Overdraft; and
- 10.5.2 provide the Bank with confirmation, at the request of the Bank, in form and substance acceptable to the Bank, that it submits to its mayor and the Provincial Treasury the monthly reports required in terms of section 71 of the MFMA within 10 (ten) days after the month to which they relate.

11. EVENTS OF DEFAULT

11.1 An event of default will occur if:

- 11.1.1 the Borrower fails to pay any sum due and payable by it to the Bank in terms of this Agreement;
- 11.1.2 the Borrower commits a breach of any of the other terms and conditions of this Agreement, and such breach is not remedied within a period of 14 (fourteen) days of written notice having been given to the Borrower to do so;
- 11.1.3 the Borrower or any Collateral Provider commits a breach of any of the terms and conditions of any Collateral and such breach is not remedied within a period of 14 (fourteen) days' of written notice having been given to the Borrower to do so;
- 11.1.4 the Borrower ceases to carry on its business in a normal and regular manner;
- 11.1.5 the Borrower defaults in the due payment of any amount falling due for payment under any suretyship or guarantee to which it is a party;
- 11.1.6 the Borrower suffers any default judgment against it which remains unsatisfied for 21 (twenty one) days, or is refused a rescission of any default judgment;
- 11.1.7 the Borrower permits any of its assets to be attached under a warrant of execution which is not set aside within a period of 21 (twenty one) days after service thereof on the Borrower;
- 11.1.8 the Borrower defaults in the due and punctual performance under any other agreement including but not limited to any other agreement concluded between the Borrower and a third party or any other loan/credit facility between the Borrower and the Bank and (if such default is capable of being remedied) same has not been remedied to the satisfaction of the Bank within 14 (fourteen) days' from the date of any written notice given by the Bank to the Borrower to remedy the default;
- 11.1.9 the Borrower meets the conditions of a mandatory provincial intervention (as contemplated in section 139 and 140 of the MFMA);
- 11.1.10 any representation or warranty or undertaking made either in respect of the Borrower or in connection with this Agreement or in any documents delivered under this Agreement, is not complied with or is, materially incorrect in any respect;
- 11.1.11 the Borrower's auditors in any financial statements of the Borrower published after the date of the last set of financial statements furnished to the Bank or if none have been so furnished, after the Signature Date, materially qualifies that annual statement in any respect, or inserts a note in the supporting documents to that financial statement relating to any material irregularity;
- 11.1.12 there is a material deterioration in the Borrower's financial position;
- 11.1.13 the whole or any part of the Collateral furnished is judicially attached, or becomes subject to any lien, hypothec or other encumbrance without the Bank's prior written consent;
- 11.1.14 if at any time, the amount outstanding under the Overdraft exceeds the amount stated in clause 3;
- 11.1.15 if the Borrower, is unable to pay its debts, suspends or threatens to suspend payment of all or a material part of (or of a particular type of) its indebtedness to any other creditors, commences negotiations or takes any other step with the view to the deferral, rescheduling or other re-adjustment of all of (or all of a particular type of) its indebtedness to creditors (or of any part of such indebtedness which it will or might otherwise be unable to pay when due), proposes or makes a general assignment or an arrangement or


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- composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a part of the indebtedness of the Borrower;
- 11.1.16 if the Overdraft and/or charges related to or associated with the Overdraft is not budgeted for in the Borrower's budget in any particular year;
- 11.1.17 if the Borrower becomes aware of any over expenditure or potential over expenditure in respect of its budget or adjustments budget;
- 11.1.18 if the payment of all amounts under the Overdraft and or charges is not retrospectively approved by means of an adjustments budget within the prescribed time period in terms of the MFMA; or
- 11.1.19 if there is at any time a change in the demarcation of the area falling within the jurisdiction of the Borrower as at the Signature Date;
- 11.1.20 if at any time after the Signature Date there is any change in (including but not limited to repeal of legislation) or addition to, the legislation to which the Borrower is subject and which in the reasonable opinion of the Bank could be expected to adversely affect the ability of the Borrower to comply with any of its obligations hereunder;
- 11.1.21 if the Borrower defaults in the due payment or due performance of any amount payable or obligation to be performed under any agreement, which amount or which obligation the Bank considers to be material in its reasonable opinion;
- 11.1.22 if any material indebtedness or obligation for monies borrowed constituting indebtedness of the Borrower shall become due and payable prior to its specified maturity by reason of default, or shall not be paid when due;
- 11.1.23 any Collateral Provider who may have provided additional Collateral for, the whole or part of the Indebtedness commits any act, or omits to do anything, referred to in this clause 11 or if any of the events referred to in this clause 11 occurs in respect of any such person, or in relation to that person's own affairs;
- 11.1.24 a Material Adverse Event occurs;
- 11.1.25 the Borrower generally does or omits to do anything which may cause the Bank to suffer any loss or damage; or
- 11.1.26 the Borrower or any Collateral Provider becomes or is, in the opinion of the Bank, likely to become Sanctioned, or the Bank in any way knows or suspects that the Borrower's Current Account is being used fraudulently, negligently, for illegal or terrorist activities, or for any purpose that does not comply with the law or the Borrower is involved in any illegal or terrorist activities.
- 11.2 The Bank, may without prejudice to any other rights hereunder or at law, at any time after the happening of an event of default, by written notice to the Borrower:
- 11.2.1 decline any request by the Borrower to avail any further monies under the Overdraft or terminate any of the Overdraft forthwith;
- 11.2.2 require immediate repayment all the Indebtedness, which Indebtedness shall become immediately become due, owing and payable; or
- 11.2.3 increase the rate of interest charged.
- 11.3 The Bank's rights under this clause shall not be exhaustive but shall be in addition to and without prejudice to any other rights which it may have under this Agreement or the law.
- 11.4 If any of the events specified in clause 11.1 (other than in clause 11.1.2) become applicable in respect of any Collateral Provider (and for such purpose, a reference to "Borrower" in clause 11.1 shall be read and construed as a reference to such person), then, on the occurrence of such event, an event of default shall be deemed to have taken place for the purposes of this Agreement thereby entitling the Bank to avail itself of the remedies specified in clause 11.2.
- 11.5 **Penalty Interest**
- At any time after the occurrence of an event of default set out in clause 11.1 above or otherwise as contemplated in this Agreement, the Bank shall be entitled, but not be obliged, in respect of any amount falling due or payable to the Bank, to increase the interest rate in clause 6.1 by a rate of 2.5% (two point five percent) per annum on such overdue amount (compounded monthly from the due date to the date of payment to the Bank), without prejudice to any rights which the Bank may otherwise have as a result of that event of default.


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12. REPRESENTATIONS AND WARRANTIES AND UNDERTAKINGS

- 12.1 The Borrower represents and warrants to the Bank that as at the Signature Date, on each date of availment of the Overdraft and for the currency of the Overdraft:
- 12.1.1 it is a Municipality duly constituted and existing under the laws of South Africa;
 - 12.1.2 it has full power to enter into and perform in terms of this Agreement and has taken all necessary corporate, regulatory and other actions to authorise the borrowings hereunder;
 - 12.1.3 the execution, delivery and performance of any agreements applicable to the Overdraft do not violate any law, including the MFMA;
 - 12.1.4 it has complied with all the provisions of the MFMA in relation to the Overdraft and undertakes that it will continue to do so for the currency of the Overdraft;
 - 12.1.5 that the terms of this Agreement (including the Credit Limit) may only be changed by municipal council resolution;
 - 12.1.6 it has disclosed all guarantees, suretyships and other off-balance sheet items to the Bank;
 - 12.1.7 its annual budget as well as its approved annual budget contains all of the information referred to in section 17 of the MFMA;
 - 12.1.8 there are no circumstances resulting in a Material Adverse Event, and in the reasonably exercised opinion of the Borrower no such circumstances are likely to arise;
 - 12.1.9 it is not in breach of any law applicable to it, nor in breach of any material contract by which it is bound, or to which it is a party, and in its reasonably exercised opinion, no such breach is likely to occur or arise;
 - 12.1.10 the terms of this Agreement do not conflict with and do not constitute a breach of the terms of any other agreement or undertaking or act or legislation that is binding on the Borrower;
 - 12.1.11 there is no material industrial action or litigation or similar proceedings, to the knowledge of the Borrower, presently pending or threatened which would result in a Material Adverse Event;
 - 12.1.12 no event of default specified in 11.1 above has occurred and is continuing;
 - 12.1.13 the Overdraft and the charges associated with the Overdraft have been provided for in an approved budget, which has been properly approved in terms of the MFMA and that payment of the amount of the Overdraft and any charges associated with the Overdraft will not result in the total amount of the budget being exceeded; These requirements will be met for the duration of the Overdraft;
 - 12.1.14 it will not utilise savings with regards to an unrelated expenditure in a budget to defray any excess expenditure that may be required for satisfying a claim under a loan agreement;
 - 12.1.15 its acceptance in terms of the Overdraft has been duly authorised and to the best of its knowledge and belief does not contravene any law or any contractual obligation binding upon it;
 - 12.1.16 the Overdraft is not a form of debt renewal or refinancing and the Borrower will ensure that the Overdraft is not used for this purpose;
 - 12.1.17 the terms and conditions applicable to any loans provided by any other long term funders or third parties, are not, and shall not, be more favourable than the terms and conditions applicable to the Overdraft;
 - 12.1.18 the Overdraft shall be used solely for the purposes set out in clause 5;
 - 12.1.19 all information supplied or to be supplied to the Bank by the Borrower concerning the Borrower's business as contained in the Borrower's balance sheets, trading and profit and loss accounts, cash flows and other financial statements or accounts, is true and correct in all material respects and will in future be true and correct in all material respects;
 - 12.1.20 the Borrower has, in relation to the conduct of its business, obtained and complied with all the necessary consents, registrations, filings, certificates, licences, approvals, permits and insurances;
 - 12.1.21 there has been no material deterioration in the financial position of the Borrower;
 - 12.1.22 this Agreement constitutes legal, valid, binding and enforceable obligations of the Borrower;
 - 12.1.23 it is in full compliance with all applicable laws, regulations and practices relating to the protection of the environment applicable to in it each jurisdiction in which the Borrower conducts business (its "Environmental Responsibility") and hereby undertakes to continue to do so for so long as the Borrower is indebted to or owes any obligations to the Bank under or in terms of this Agreement;


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- 12.1.24 that it is not aware of any circumstances which may prevent full compliance with its Environmental Responsibility in future;
- 12.1.25 it will ensure that the Collateral Providers, at all times comply with all legislation and other laws, including anti-money laundering and combating the financing of terrorism regulations; or
- 12.1.26 neither the Borrower nor any of the Collateral Providers are subject to any law prohibiting the borrowing of funds or ownership of the property by non-resident individuals or limiting the borrowing of funds by companies and other entities in which non-residents have a 75% (seventy five percent) or greater interest or, if such law does apply, that the Borrower shall deliver to the Bank before the first advance written evidence to the Bank's satisfaction of the written permission of the exchange control authorities entitling the Borrower to obtain the Overdraft.
- 12.1.27 that it shall open and continue to operate its Borrower's Current Account with the Bank during currency of the Overdraft and until all Indebtedness to the Bank has been settled in full.
- 12.1.28 it will not use (or otherwise make available) the Overdraft for the purposes of financing, directly or indirectly, the activities of any person or entity which is Sanctioned or in a country which is subject to any Sanctions;
- 12.1.29 it will not contribute or otherwise make available, directly or indirectly, the Overdraft to any other person or entity if such party uses or intends to use such proceeds for the purpose of financing the activities of any person or entity which is subject to any Sanctions;
- 12.1.30 it is not involved in any illegal or terrorist activities; and
- 12.1.31 none of the bank accounts held by the Borrower with the Bank are being used fraudulently, negligently, for illegal or terrorist activities, or for any purpose that does not comply with any law.

13. INDEMNITIES

- 13.1 The Borrower hereby indemnifies the Bank against any loss, damage, claims, costs or any other liability, which may arise (because of this or any other banking facility and/or the Bank having an interest in the Borrower's assets) in respect of a breach of, or a failure, by the Borrower to meet its Environmental Responsibility.
- 13.2 The Borrower hereby indemnifies and holds the Bank harmless against any actions, proceedings, claims and/or demands that may be brought against the Bank and all losses, damages, costs and expenses which the Bank may incur or sustain, in connection with or arising out of:
 - 13.2.1 the seizure, blocking or withholding of any funds by any Sanctioning Body; and
 - 13.2.2 the breach of any warranties as set out in clause 12 above;
- 13.3 The Borrower shall be bound by all instructions transmitted by it to the Bank by facsimile transceiver or by means of an e-mail message, and hereby waives any rights it may have or obtain against the Bank arising directly or indirectly from any losses or damages which the Borrower may suffer as a result of the Bank acting on any purported faxed or e-mailed instruction. The Borrower further indemnifies the Bank in respect of any claims, demands or actions made against the Bank or losses or damages suffered by the Bank as a result of the Bank acting on the said faxed or e-mailed instruction.

14. CHANGE(S) IN CIRCUMSTANCES

- 14.1 If at any time or times during the currency of the Overdraft there is:
 - 14.1.1 any change in or introduction of any law, regulation, ruling, directive, policy, requirement, request or guidelines (whether or not having the force of law) or any other similar event with which the Bank or any of its divisions is obliged to comply or which is in accordance with the practice of a responsible banker, or any interpretation or administration thereof,

without derogating from the generality of the foregoing:
 - 14.1.2 any change in banking practice, as it affects or is applied generally by any financial institution in South Africa;
 - 14.1.3 a requirement or a request by any authority, to pay taxes or other amounts whatsoever or to maintain special deposits or reserve assets;
 - 14.1.4 any compliance by the Bank with any reserve, cash ratio, special deposit or liquidity requirements (or any other similar requirements) in respect of the Overdraft;
 - 14.1.5 any compliance with or application of (whether mandatory or not) any capital adequacy or similar requirements, including but not limited to the provisions of the International Convergence of Capital Measurement and Capital Standards (a revised framework) (i.e. BASEL II) or any other standards or guidelines published by the Basel Committee on Banking Supervision (including BASEL III) by the Bank


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- or any of its divisions, or any interpretation or administration thereof, results in any increase in the Bank's costs in providing the Overdraft to the Borrower;
- 14.1.6 any change to any present or future law, ruling or regulation;
- 14.1.7 any change in the interpretation or administration of any law, ruling or regulation by any relevant monetary or fiscal authority;
- 14.1.8 any amendment to the Banks Act, 94 of 1990; or
- 14.1.9 any compliance by the Bank with any directive or request, whether or not having the force of law, from any monetary or fiscal authority;

which would or does:

- 14.1.10 subject the Bank to any taxes, duties, or other charges in respect of the Overdraft or change the basis of taxation of the Bank in respect of payments of principal or interest/fees payable to the Bank (except for changes in the rate of taxation on the overall net income of the Bank);
- 14.1.11 impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by the Bank; or
- 14.1.12 impose on the Bank any other obligation or condition affecting the Overdraft or its commitment in terms of this Agreement,

and the result of any of the above is to increase the cost to the Bank of making any advance or maintaining the Overdraft or to reduce any amount or amounts received or receivable or loanable by the Bank hereunder by a material sum, then the Borrower shall pay to the Bank on demand and while such circumstances continue, such fee as the Bank may impose or such additional amount or amounts which will compensate the Bank for such additional cost or reduced receipts.

- 14.2 The Bank shall give the Borrower 30 (thirty) days' written notice of all amounts payable in terms of clause 14.1. A certificate signed by any manager or divisional head of the Bank (whose appointment it shall not be necessary to prove) as to such additional amount/s shall be prima facie proof for all purposes in the absence of manifest error.
- 14.3 If the Borrower is required to pay additional amount/s to the Bank pursuant to clause 14.1, it shall be entitled to prepay any amounts owed in terms hereof without penalty, or to forthwith cancel any unutilised portion of the Overdraft by giving the Bank 30 (thirty) days' written notice thereof.
- 14.4 Without detracting from any other rights that the Bank may have, the Borrower furthermore acknowledges that the Bank has approved and is providing the Overdraft based on the present circumstances of the Borrower and the industry and environment within which it operates. The Borrower understands and agrees that certain circumstances, including but not limited to those circumstances set out in clause 14.1.1, may arise that would have the effect of materially altering the basis on which said Overdraft was/is given. Should any event or series of events accordingly occur which, in the reasonable opinion of the Bank have or may be expected to have an adverse effect on the ability of the Borrower to comply with its obligations hereunder the Bank shall, by giving reasonable written notice, have the right to change the terms of the Overdraft with the Borrower. Should the new terms on which the Bank is prepared to continue to make the Overdraft available not be acceptable to the Borrower, all outstanding amounts will, without further notice, immediately become due and payable and the Borrower, or any other entities indebted in terms of the Overdraft will immediately effect payment of such outstanding amounts.

15. CERTIFICATE OF INDEBTEDNESS

A certificate signed by any manager or business unit head of the Bank (whose authority, qualification or appointment need not be proved) setting out the amount of any Indebtedness of the Borrower to the Bank in terms hereof, the rates of interest and any other fact, shall, on its mere presentation, be sufficient proof, unless the contrary is proved, of the Indebtedness and of such other facts contained therein.

16. GENERAL TERMS

16.1 Matters requiring the Bank's consent

The Borrower may not without the Bank's prior written consent, which shall not be unreasonably withheld:

- 16.1.1 cease carrying on business;
- 16.1.2 change the nature of its business;
- 16.1.3 become surety, guarantor for or give any indemnity on behalf of any third party whomsoever or render itself liable in any way whatsoever for the debts or engagements of any other party, other than encumbrances as agreed to by the Bank;


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- 16.1.4 pledge, cede, mortgage, hypothecate or otherwise encumber or further encumber any of its movable or immovable assets to secure any liability of any nature;
- 16.1.5 sell or otherwise dispose of or attempt to sell or dispose of any of its assets except in the ordinary course of its business;
- 16.1.6 incur any further borrowings, including but not limited to guarantees provided, other than permitted indebtedness as agreed to by the Bank. This restriction shall include off-balance sheet commitments;
- 16.1.7 advance credit to third parties other than in the ordinary course of business; or
- 16.1.8 make material changes to the accounting policies, standards or conventions of the Borrower or any Collateral Provider.
- 16.2 **Legal Charges**
- 16.2.1 Each Party shall bear its own costs and expenses of and incidental to the negotiation, preparation and completion of this Agreement.
- 16.2.2 All legal costs (on the attorney and own client scale), commissions or fees and other charges and expenses in connection with this Agreement including but not limited to all costs incurred by the Bank in the enforcement of any of its rights hereunder, the preparation of any documentation relating hereto, will be for the account of the Borrower and payable on demand.
- 16.3 **Fees and Charges**
- 16.3.1 The Bank may charge and recover fees and charges in respect of this Agreement, which fees may include but are not limited to: Service Fees and Unutilised Facility Fees.
- 16.3.2 All fees and charges will be debited to the Borrower's Current Account.
- 16.3.3 Where there is a change in the frequency or time for payment of a fee or charge, the Bank will give the Borrower written notice setting out the particulars of the change.
- 16.3.4 The Borrower must pay to the Bank all applicable fees and charges set out in this Agreement.
- 16.3.5 The Bank may charge and recover from the Borrower interest on and in respect of any unpaid fees and charges referred to in this Agreement.
- 16.3.6 The fees and charges applicable will be set out in the Bank's annual pricing schedule (amended from time to time) which will be issued to the Borrower or available on the Bank's website www.standardbank.co.za.
- 16.3.7 The Bank reserves the right to charge separate fees for any indulgences granted, or additional services provided by the Bank in connection with this Agreement. The Bank shall advise the Borrower in writing of these fees, as well as the payment terms associated therewith.
- 16.4 **Free of Deduction**
- All amounts paid to the Bank under this Agreement shall be made free of deduction or set-off. Should the Borrower be compelled by law to withhold or deduct any taxes or other charges from any amounts payable to the Bank, the amounts payable to the Bank shall be increased to the extent necessary to ensure that the Bank receives the amounts payable, free of such withholding or deduction.
- 16.5 **Allocation of Payments**
- The Bank will be entitled to allocate any payments received under this Agreement to any indebtedness of the Borrower to the Bank and the Borrower waives any rights it may have to name the debt in respect of which payment is made.
- 16.6 **Set-off and Realisation**
- Should the Borrower commit an event of default as set out in clause 11.1 or elsewhere in this Agreement and the Bank exercise its rights in terms of the provisions of clause 11.2, the Bank may in addition to any rights the Bank has:
- 16.6.1 set-off any credit balances held in any other account which the Borrower has with the Bank that are due and payable, against the Indebtedness; or
- 16.6.2 realise any Collateral held by the Bank and use the proceeds in payment of the Indebtedness, on written notice to the Borrower.
- 16.7 **Collateral**


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On the inurrence of an event of default in clause 11.1, or if the value of any Collateral held by the Bank to secure the Indebtedness is no longer adequate, or if in the opinion of the Bank the Borrower's account conduct increases the Bank's risk regarding the Indebtedness or any other amount owing to the Bank by the Borrower in terms of any other agreement, the Bank shall have the right to:

- 16.7.1 request the Borrower to provide the Bank with additional Collateral to secure repayment of the Indebtedness; and/or
- 16.7.2 reduce the Overdraft; and/or
- 16.7.3 require repayment of all or some of the Overdraft; and/or
- 16.7.4 increase the interest rate in accordance with the provisions of clause 11.5.

16.8 Renunciation of benefits

The Borrower hereby renounces the benefits of the following legal defences to any claim brought by the Bank:

- 16.8.1 the Borrower has received no value for its obligations to the Bank;
- 16.8.2 no money has been paid to the Borrower;
- 16.8.3 there is no underlying cause for the Borrower's obligation to the Bank; and
- 16.8.4 the Bank made an error in calculating the Indebtedness. The Bank will revise its accounts in respect of the Indebtedness if they are incorrect.

16.9 Whole Agreement, Variation of Terms

- 16.9.1 This Agreement by the Borrower and the Bank shall constitute the whole agreement between the Bank and the Borrower relating to the subject matter hereof.
- 16.9.2 No addition to, variation, or amendment, or consensual cancellation of any of the terms contained in this Agreement, shall be of any force or effect unless it is recorded in writing and is signed on behalf of the Bank by one of its authorised officials and accepted by the Borrower. This requirement will only be satisfied if such amendment or variation is made in a written, paper based form. The provisions of the Electronic Communications and Transactions Act, 25 of 2002 do not apply to this clause.

16.10 Illegality

If at any time after the Signature Date it is or becomes unlawful in any jurisdiction, or contrary to any lawful and binding request from or requirement of the South African Reserve Bank or other South African governmental department or authority, for the Bank to perform any of its obligations under this Agreement, then the Bank shall promptly after becoming aware of the same notify the Borrower by way of a certificate signed by any manager or divisional head of the Bank (whose authority, qualification or appointment need not be proved) and the Borrower shall repay any and all amounts due under this Agreement as required by law.

16.11 No Indulgence

- 16.11.1 No indulgence shown or extension of time given by the Bank shall operate as an estoppel against the Bank or waiver of any of the Bank's rights unless recorded in writing and signed by the Bank.
- 16.11.2 The Bank shall not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the conclusion of any agreement created by acceptance of the Overdraft or whether it was negligent or not.

16.12 Good Faith

The Parties undertake at all times to do all such reasonable things, perform all such reasonable actions and take all such reasonable steps open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions or import of this Agreement, provided that nothing herein shall prevent the Bank from exercising its rights under the Agreement in the event of the occurrence of an event of default.

16.13 Severability

Each provision of this Agreement is severable, the one from the other and, if at any time any provision is or becomes or is found to be illegal, invalid, defective or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect.

16.14 Governing Law

The terms of this Agreement shall be governed by and interpreted in accordance with the laws of South Africa.

16.15 Domicilium and Notices


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- 16.15.1 The Parties choose as their *domicilium citandi et executandi* (address for the purpose of legal proceedings) their respective addresses set out below, at which addresses all processes and legal notices arising out of or in connection with this Agreement, its breach or termination may validly be served on or delivered to the Parties:
- 16.15.1.1 as regards the Bank:
Attention: Group Governance / Legal
Standard Bank Centre,
9th Floor, Reception 1, 5 Simmonds Street, Johannesburg, 2001
With a copy to be sent to:
Attention: Natalie Neves-Oakes : PBB Head Public Sector
30 Baker Street, Rosebank, 2196
Telephone Number: 011 721 8210; and
- 16.15.1.2 as regards the Borrower:
Attention: The Accounting Officer: Mr AP Sebola
5 Clyde Street, Knysna, 6571;
Telephone Number: (044) 302 6590;
or at such other physical address, not being a post office box or *poste restante*, of which the Party concerned may notify the other Party in writing.
- 16.15.2 Any other written notices in connection with this Agreement shall be addressed as follows:
- 16.15.2.1 as regards the Bank:
at the address set out in clause 16.15.1.1
Email address: natalie.neves-oakes@standardbank.co.za; and
- 16.15.2.2 as regards the Borrower:
at the address set out in clause 16.15.1.2
Email address: mm@knysna.gov.za
or at such other address of which the Party concerned may notify the other in writing.
- 16.15.3 Any notice given in terms of this Agreement shall be in writing and shall:
- 16.15.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
- 16.15.3.2 if delivered by a recognised international courier service, be deemed to have been received by the addressee on the first business day following the date of such delivery by the courier service concerned;
- 16.15.3.3 if posted by prepaid registered post will be deemed to have been received by the addressee on the 8th (eighth) Business Day following the date of such posting; and
- 16.15.3.4 if sent electronically, shall be deemed to have been received on the first Business Day following the successful transmission thereof as evidenced by the electronic confirmation of receipt (unless the contrary is proven). It is recorded, for the avoidance of doubt, that a legal notice sent by a Party shall not be regarded as valid legal notice, if sent electronically in terms of this clause 16.15.
- 16.15.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen address set out above, shall be an adequate written notice of communication to such Party.
- 16.15.5 Where the post office does not effect street deliveries at the Borrower's Notice Address, the Bank may send any notices in terms of this Agreement to the Borrower's post office box number.
- 16.16 **Counterparts**
This Agreement may be signed by the signatories hereto in counterparts and each signed copy shall together constitute one document.
- 16.17 **Cession**


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- 16.17.1 The Borrower shall not be entitled to cede or assign its rights or obligations in terms of this Agreement to any party.
- 16.17.2 The Bank shall, on written notification to the Borrower, be entitled at any time to cede any or all of its rights or delegate any or all of its obligations under or in terms of this Agreement to any party.
- 16.17.3 To the extent that any cession, assignment or transfer by the Bank of its rights or obligations under or in terms of this Agreement to any party results (whether directly or indirectly) in a splitting of claims against the Borrower, the Borrower hereby irrevocably and unconditionally consents to such splitting of claims.
- 16.17.4 On cession, assignment or transfer in accordance with the provisions of clause 16.17.3, and without limitation to clause 16.18, the Bank shall be entitled to divulge and disclose such information or documents relating to the Borrower or any of its subsidiaries, which would otherwise be deemed to be confidential, to the cessionary, assignee or transferee as the Bank may deem necessary.
- 16.18 Data protection**
- 16.18.1 The Borrowers consent to the Bank collecting the Borrower's Personal Information from the Borrower and where lawful and reasonable, from public sources for credit, fraud and compliance purposes, as well as the purposes set out below.
- 16.18.2 If the Borrower gives the Bank Personal Information about or on behalf of another person (including, but not limited to, account signatories, shareholders, principal executive officers, trustees and beneficiaries), the Borrower confirms that it is authorised to: (a) give the Bank the Personal Information; (b) consent on their behalf to the Processing of their Personal Information, specifically any cross-border transfer of Personal Information into and outside the country where the products or services are provided; and (c) receive any privacy notices on their behalf.
- 16.18.3 The Borrower consents to the Bank Processing the Borrower's Personal Information:
- 16.18.3.1 to provide products and services to the Borrower in terms of this Agreement and any other products and services for which the Borrower may apply;
- 16.18.3.2 to carry out statistical and other analyses to identify potential markets and trends, evaluate and improve our business (this includes improving existing and developing new products and services);
- 16.18.3.3 in countries outside the country where the products or services are provided. These countries may not have the same data protection laws as the country where the products or services are provided. Where the Bank can, the Bank will ask the receiving party to agree to the Bank's privacy policies;
- 16.18.3.4 by sharing the Borrower's Personal Information with the Bank's third-party service providers, and insurers, locally and outside the country where the products or services are provided. The Bank asks people who provide services to the Bank, including its insurers, to agree to the Bank's privacy policies if they need access to any Personal Information to carry out their services; and
- 16.18.3.5 within the Group.
- 16.18.4 The Borrower consents to the Bank disclosing its Personal Information to Collateral Providers.
- 16.18.5 The Borrower will find the Bank's Processing practices in the Group and the Bank's privacy statements. These statements are available on the Group's websites or on request.
- 16.18.6 If the Borrower is unsure about its tax or legal position because the Borrower's Personal Information is Processed in countries other than where the Borrower lives or conducts business, the Borrower should get independent advice.
- 16.19 Recordal of Conversations**
- The Borrower agrees that the Bank may record telephone conversations with the Borrower's representative for the purpose of creating a record of the Borrower's instructions or requests given telephonically by the Borrower to the Bank.
- 16.20 Independent Advice**
- 16.20.1 The Borrower acknowledges and agrees that it has not relied in any way on any information or advice given by the Bank in preparation, negotiation or implementation of this Agreement and that it has taken all reasonable actions to satisfy itself as to the consequences of entering into this Agreement.
- 16.20.2 The Borrower further acknowledges that:
- 16.20.2.1 the Bank does not provide any tax advice. The Borrower is responsible for any tax consequences associated with any account the Borrower has with the Bank.

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- 16.20.2.2 it has been free to secure independent legal, tax and other advice as to the nature and effect of all the provisions of this Agreement, and that it has taken such independent legal, tax and other advice or dispensed with the necessity of doing so; and
- 16.20.2.3 all of the provisions of this Agreement, and the restrictions herein contained, are fair and reasonable in all the circumstances and are part of the overall intention of the Parties in connection with this Agreement.


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ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

Page 16

SIGNED AT George ON THE 27 DAY OF September 2023



Signature

Gerrit du Toit

Full Names

Relationship Manager

Designation

For and on behalf of:

THE STANDARD BANK OF SOUTH AFRICA LIMITED

Who warrants his/her authority hereto

As witnesses:

1 _____ Full names: _____
ID number: _____

2 _____ Full names: _____
ID number: _____

SIGNED AT Knysna ON THE 27 DAY OF September 2023



sebolaop (Sep 27, 2023 16:16 GMT+2)

Signature

Mr Ombali Sebola

Full Names

Municipal Manager

Designation

For and on behalf of:

KNYSNA MUNICIPALITY

Who warrants his/her authority hereto

As witnesses:

1 _____ Full names: _____
ID number: _____

2 _____ Full names: _____
ID number: _____


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Knysna Municipality - Facilities Agreement, covering email

Final Audit Report

2023-09-27

Created:	2023-09-27
By:	Elmarie Barnes (elmarie.barnes@standardbank.co.za)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdINEfNNEx-terKj8ZAXg1dVLMWV-28NY

"Knysna Municipality - Facilities Agreement, covering email" History

 Document created by Elmarie Barnes (elmarie.barnes@standardbank.co.za)
2023-09-27 - 1:41:46 PM GMT - IP address: 196.216.238.180

 Document emailed to gerrit.dutoit2@standardbank.co.za for signature
2023-09-27 - 1:53:39 PM GMT

 Email viewed by gerrit.dutoit2@standardbank.co.za
2023-09-27 - 1:54:06 PM GMT - IP address: 196.216.238.180

 Signer gerrit.dutoit2@standardbank.co.za entered name at signing as GP DU TOIT
2023-09-27 - 1:59:05 PM GMT - IP address: 196.216.238.180

 Document e-signed by GP DU TOIT (gerrit.dutoit2@standardbank.co.za)
Signature Date: 2023-09-27 - 1:59:07 PM GMT - Time Source: server- IP address: 196.216.238.180

 Document emailed to mm@knysna.gov.za for signature
2023-09-27 - 1:59:08 PM GMT

 Email viewed by mm@knysna.gov.za
2023-09-27 - 2:13:47 PM GMT - IP address: 146.19.37.171

 Signer mm@knysna.gov.za entered name at signing as sebolaop
2023-09-27 - 2:16:47 PM GMT - IP address: 197.155.53.11

 Document e-signed by sebolaop (mm@knysna.gov.za)
Signature Date: 2023-09-27 - 2:16:49 PM GMT - Time Source: server- IP address: 197.155.53.11

 Agreement completed.
2023-09-27 - 2:16:49 PM GMT

13.7

C07/10/23 OUTCOME : BORROWINGS TENDER – 2023/2024

REPORT FROM THE ACTING DIRECTOR : FINANCIAL SERVICES

PURPOSE OF THE REPORT

To inform the Municipal Council of the non-submission of Bids in relation to Tender T02 of 2023/2024: Provision of Loan Finance, and to obtain resolution on the way forward.

BACKGROUND

Section 46(1) of the Municipal Finance Management Act (No.56 of 2003) determines that:

“A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of this Act, including Section 19, and only for the purpose of-

- (a) capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution, including costs referred to in sub-section (4); or*
- (b) re-financing existing long-term debt subject to subsection (5).”*

PREVIOUS RESOLUTIONS

Council resolved, on 31 May 2023, to approve capital projects to be funded from Borrowings for a total amount of R25 005 000.

DISCUSSION

Knysna Municipality advertised T02 of 2023/24 on 27 July 2023, which was followed by a Compulsory Bid Clarification meeting that was held on 10 August 2023 via Microsoft Teams. Representatives from various financing institutions attended and participated in the meeting.

The closing date for bids was 30 August 2023 however, none of the financing institutions submitted bids. The Municipality subsequently requested reasons from each of the respective financing institutions to explain why they opted not to bid. Their responses are attached hereto as Annexure A.

Following receipt of the correspondence from the respective financing institutions, the Directorates were requested to temporarily suspend spending on loan-funded capital projects until such time that a Council resolution is received on the way forward. Furthermore, all votes relating to these capital projects have been temporarily blocked (no further expenditure can be captured). This cautionary approach was implemented to avoid a negative impact on current cashflow.

Due to current cashflow constraints, the Municipality is not in a position to allocate own funds to fund these respective capital projects. It is also highly unlikely that Provincial or National Government will consider funding these capital projects through grant funding.

As at 30 September 2023, R4,110,721 was spent (actual and committed) in relation to these capital projects (funded from own funds). A detailed breakdown is attached hereto as Annexure B.

FINANCIAL IMPLICATIONS

Budget total = R25 005 000
Spending total = R 4,110,721

LEGISLATION

Municipal Finance Management Act (No. 56 of 2003).

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the Report on the Outcome : Borrowings Tender 2023/2024, be noted;
- [b] That Council takes note that no bids have been received in relation to Tender T02 of 2023/2024 : Provision of Loan Finance;
- [c] That Council takes note of the correspondence received from the financing institutions, and the reasons for not participating in the tender process;
- [d] That Council takes note of the expenditure already incurred and also committed against the affected capital project votes;
- [e] That Council takes notes that spending on the affected capital projects have been temporarily suspended;
- [f] That Council resolves on the way forward by considering one of the following options, but not limited to :
 - i) Remove the affected capital projects from the next Adjustments Budget (own funding will have to be used to accommodate the expenditure already incurred and/or to be incurred (as a result of contractual obligations). This is necessary in order to avoid unauthorised expenditure; or
 - ii) Continue with the temporary suspension of spending on the capital projects and re-advertise the tender in December 2023. Financing institutions may possibly reconsider bidding following receipt of the 2022/23 Annual Financial Statements; or
 - iii) Identify savings elsewhere (capital and operating) which can be utilised to fund these capital projects [can only be actioned in an Adjustments Budget]; or
 - iv) Utilise the total Overdraft Facility (R20 million) to fund 80% of the affected capital projects, and the remaining 20% to be funded from own funds [this is a very high risk option as it will have a detrimental impact on the current cashflow position].

APPENDIX / ADDENDUM

Annexure A – Correspondence from financing institutions; and
Annexure B – Detailed breakdown of loan-funded capital projects.

File Number : 9/1/2/10
Execution : Acting Director: Financial Services

'Annexure A'



Retail and Business Banking

2nd Floor, Moffett Office Park
Cor William Moffett and
Overbaakens Roads
Fairview, Port Elizabeth
PO Box 27866
Greenacres, 6057
South Africa

T +27 41 502 1111
Swift address: ABSAZAJJ
absa.co.za

01 September 2023
Knysna Municipality
2 Queen Street
Knysna
6571

Attention : Municipal Manager

Dear Sir

RE: T02 of 2023/2024 – Provision of Loan Finance

After careful consideration and review of the current circumstances, we regret to inform you that we have decided not to submit a tender for T02 of 2023/2024 - Provision of Loan Finance

- Due to the exposure, we have with the municipality we needed the 2023 draft AFS to review application.
- Due to the fact that this information was unviable at the time we could not review the application.

Therefore, we believe that our submission would not meet the high standards of quality and accuracy that we pride ourselves on.

We understand the importance of a comprehensive and well-prepared tender, and as a responsible lender we wanted to ensure that we can provide the best possible proposal thus we hope you understand our decision.

We remain committed to exploring future opportunities for collaboration and are open to participating in future tender processes.

Thank you for your understanding, and please feel free to reach out if you have any questions or require further information.

A handwritten signature in black ink, appearing to read 'Byron Andrews'.

Byron Andrews

Relationship Executive

ABSA Public Sector Banking Eastern & Southern Cape



30 August 2023

The Municipal Manager
Knysna Local Municipality
Clyde Street
Knysna
6570

Attention: Mr. O.P. Sebola

“TENDER NUMBER: T 02 of 2023/24 – PROVISION OF LOAN FINANCE”

We refer to your tender: T 02 OF 2023/24: PROVISION OF LOAN FINANCE closing 30 August 2023.

Regrettably, after a detailed due diligence process the DBSA is unable to participate in the above-referred tender. This is due to a deterioration of the financial and liquidity position of the municipality resulting in inadequate capacity to absorb additional debt.

As a Development Finance Institution (DFI), DBSA is providing a comprehensive suite of interventions well-crafted to suit the municipalities needs. The Knysna Municipality's revenue enhancement support application, one of these, was approved by DBSA on 2 September 2020, and it is currently in implementation.

The objective of the programme is to assist the municipality through-out the revenue management value chain to create operational efficiencies, identify and implement initiatives with achievable short-term benefits while also developing and implementing solutions for long term sustainability. This might contribute to the municipality's credit position and future loan application support by DBSA.

The DBSA remains open to explore ways it can assist the municipality with both bilateral loans and non-lending support.

For additional information or clarity, do not hesitate to contact Nico Jooste on 082 909 6094 or by email NicoJ@dbsa.org or Keitumetse Molatlhwa on 079 577 9823 or by email at KeitumetseM@dbsa.org.

Yours sincerely,

Chucheka Mhlongo
Head: Local Government Support Unit





31 August 2023

The Municipal Manager
The Knysna Municipality
Clyde Street
Knysna
6570

Dear Mr. O.P. Sebola

TENDER NO: T 02 OF 2023/24: PROVISION OF LOAN FINANCE.

We are grateful for the opportunity to participate in the bid for the appointment of a service provider for the provision of loan finance. Unfortunately, at this time, we are unable to submit a responsive proposal. Our standard pre-credit evaluation process includes a thorough assessment of the municipality's financial standing and capacity for debt repayment. In our assessment, we identified certain concerns related to key financial ratios, including the current ratio, cash coverage ratio and the declining cash position over the next two years.

We are open to engaging with your finance team to discuss our financial assessment in order to provide a more comprehensive perspective on our decision not to participate in this particular tender.

Although we are not participating in this tender, we remain interested in staying informed about future bidding opportunities that align with our offerings.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Junaid Soday'.

Junaid Soday
Provincial Head Public Sector
Western Cape

Standard Bank Centre 1st Floor 5 Simmonds Street Johannesburg 2001 / PO Box 61690 Marshalltown 2107 South Africa
Tel. Switchboard: +27 (0)11 636 9112 Fax +27 (0)11 636 4207 / Name.Surname@standardbank.co.za / standardbank.co.za

The Standard Bank of South Africa Limited (Reg. No. 1962/000736/06) Authorized financial services and registered credit provider (NCRCP18)

Directors: NMC Nyembezi (Chairman) L Fuzile* (Chief Executive Officer) LL Bam PLH Cook A Daehrike* GJ Fraser-Moleketi Xueqing Guan† GMB Kennealy BJ Kruger LLLP
JH Maree NNA Matyunda ML Odur-Otieno* ANA Peterside CON* SK Tshabalala*

Company Secretary: K Froneman - 2023/0612

*Executive Director †Chinese ‡Kenyani §Nigerian

Standard Bank

FNB Public Sector
Pebble Mill House
Quartzite Drive, Selborne
East London
Email: aspangenberg@fnb.co.za
Tel: 087 730 7233
Web: www.fnb.co.za



28 August 2023

The Municipal Manager
Mr OB Sebola
KNYSNA MUNICIPALITY
5 Clyde Street
Knysna

Sir,

RE: TENDER TO2 OF 2023/24 PROVISION OF AN EXTERNAL LOAN:

We regret to advise that FirstRand Bank Limited is unable to submit a bid for this tender.

Based on feedback received on queries with regards to the current financial position of the Municipality, specifically referring to the updated Financial Recovery Plan, we are unable to obtain credit appetite for the facilities required as set out in the Terms of Reference.

We trust that you will find the above in order and look forward to future opportunities to do business with the Municipality.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Spangenberg', is written over a faint, larger version of the same name.

Mrs Annie Spangenberg
Provincial Head



31/08/2023

Municipal Manager
MR. O.P. SEBOLA
Clyde Street
KNYSNA
6570

T02 of 2023/2024 - Provision of Loan Finance

With reference to the above-mentioned bid, Nedbank remains committed to being the banker of choice to the Public Sector. However, after careful consideration of the requirements and deliverables outlined in the tender notice, Nedbank would not be able to meet some of the key requirements.

Considering the above we have unfortunately taken the decision not to respond to the request for proposal.

We extend a warm invitation for you to contact us for any of your other banking or investment requirements.

Regards,

Lelee Mosesi
Provincial Manager: Public Sector

Commercial Banking | Western Cape | Southern Peninsula

South Wing 3rd Floor Nedbank Clocktower Clocktower Precinct V&A Waterfront 8002
T 021 416 6000 F 021 416 8071

Directors: PM Makwana (Chairperson) MWT Brown (Chief Executive) HR Brody (Lead Independent Director) BA Dames MH Davis (Chief Financial Officer) NP Dongwana EM Kruger P Langeni
RAG Leith L Makalima Prof T Marwala Dr MA Matsoane MC Nkuhlu (Chief Operating Officer) M Nyati S Subramoney
Company Secretary: J Katzin 01.10.2022.

nedbank.co.za

NEDBANK

Nedbank Ltd Reg No 19512/000029/06 Licensed financial services and registered credit provider (NCRCP16)

3rd Floor.docx Page 1 of 1

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

LOAN-FUNDED CAPITAL PROJECTS - 2023/2024

Row Number	Directorate / Department	Capital Project Item Description	Vote Number	Annual Budget 2023/2024	Expenditure as at 30/09/2023
Column Reference	A	B	C	D	E
1	5.2 - Environmental Management	Rehabilitation of the Bongani river Phase 1 of implementation	9/183-2-2	5,000	0
2	6.14 - Cleansing Refuse Removal Services	New Front end Loader - Waste Facilities	9/113-29-29	1,400,000	0
3	6.8 - Safety Fire Brigade Services	Establishment of fire stations - Rheenendal	9/120-21-21	1,000,000	0
4	6.8 - Safety Fire Brigade Services	Establishment of fire stations - Khayaletu	9/120-22-22	1,000,000	0
5	Cemetery	Cemetery Fencing (Hunters Home & Karatara)	9/124-14-14	800,000	0
6	7.3 - Electricity Distribution	MV Substations	9/104-77-94	400,000	0
7	7.3 - Electricity Distribution	Electrification of Formal Housing	9/104-112-138	500,000	57,845
8	7.3 - Electricity Distribution	Western Feeder 11kV line refurbishments	9/104-141-141	400,000	0
9	7.3 - Electricity Distribution	Groenvlei 11kv line replacement	9/104-144-144	400,000	0
10	7.3 - Electricity Distribution	Phatom pass 11kV line Upgrade	9/104-228-228	1,500,000	519,434
11	7.3 - Electricity Distribution	Drone	9/104-229-229	500,000	0
12	7.3 - Electricity Distribution	Salt River switch gear Plant Upgrade	9/104-230-230	2,500,000	0
13	7.3 - Electricity Distribution	Solar/UPS/Street and traffic Light	9/104-302-302	500,000	377,903
14	7.3 - Electricity Distribution	RMU Transformer	9/104-146-146	1,500,000	420,000
15	8.5 - Roads, Sewerage/Water Drainage: Streets	Upgrade Gravel Roads Ward 3	9/110-99-99	200,000	173,913
16	8.5 - Roads, Sewerage/Water Drainage: Streets	Upgrade Gravel Roads Ward 4	9/110-100-100	200,000	196,597
17	8.5 - Roads, Sewerage/Water Drainage: Streets	Upgrade Gravel Roads Ward 7	9/110-102-102	200,000	196,597
18	8.5 - Roads, Sewerage/Water Drainage: Streets	Upgrade Gravel Roads Ward 8	9/110-103-103	200,000	41,251
19	8.5 - Roads, Sewerage/Water Drainage: Streets	Resealing of Streets	9/110-107-107	2,500,000	1,764,974
20	8.7 - Sewerage Reticulation Services	Upgrade main sewer p/station and sewers	9/112-25-17	750,000	0
21	8.7 - Sewerage Reticulation Services	MCC Replacement	9/112-59-59	750,000	0
22	8.7 - Sewerage Reticulation Services	Replacement of Pump, Valves and rails	9/112-60-60	750,000	0
23	8.7 - Sewerage Reticulation Services	Brenton on Lake to Belvedere Sewer Link	9/112-65-65	250,000	217,391
24	8.7 - Sewerage Reticulation Services	Knysna Windheuwel WWTW	9/112-67-67	250,000	0
25	8.4 - Roads, Sewerage/Water Drainage: Stormwater	Brenton Stormwater Project	9/117-32-32	250,000	0
26	8.9 - Water Purification Works	Knysna Dam Phasing	9/118-56-56	500,000	0
27	8.9 - Water Purification Works	Retaining Wall Knysna Heights	9/118-57-57	250,000	0
28	8.9 - Water Purification Works	Knysna WTW - refurbishment of building	9/118-91-91	150,000	130,435
29	8.9 - Water Purification Works	Buffalo Bay Upgrade WTW	9/118-92-92	250,000	0

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

LOAN-FUNDED CAPITAL PROJECTS - 2023/2024

Row Number	Directorate / Department	Capital Project Item Description	Vote Number	Annual Budget 2023/2024	Expenditure as at 30/09/2023
Column Reference	A	B	C	D	E
30	8.10 - Water Reticulation	Upgrade of pipeline from Khayaletu Pumpstation (Tyi-Tyi Street) to L	9/119-46-46	450,000	0
31	8.10 - Water Reticulation	Water Demand management devices	9/119-49-49	1,500,000	14,380
32	8.10 - Water Reticulation	Refurbish Fire Damaged Infrastructure	9/119-73-73	300,000	0
33	8.10 - Water Reticulation	Re-align Karawater pipeline	9/119-82-82	800,000	0
34	8.10 - Water Reticulation	Pipeline from PG Bison to Akkerkloof 600m. 150 mm pipeline to Tsitsi	9/119-83-83	300,000	0
35	8.10 - Water Reticulation	Old Place Pipe replacement - Melkhoud, Old Toll Road, Camdeboo, Sa	9/119-85-85	750,000	0
36	8.10 - Water Reticulation	Buffalo bay replacement of pipeline(s)	9/119-89-89	750,000	0
37	8.5 - Roads, Sewerage/Water Drainage: Streets	Upgrade Roads - Bigai Heights	9/110-137-137	300,000	0
38	Total =			25,005,000	4,110,721

13.8

C08/10/23 REPORT ON PAYMENT OF NIGHTSHIFT ALLOWANCE : FIRE DEPARTMENT OFFICIALS

REPORT FROM THE OFFICE OF THE DIRECTOR : CORPORATE SERVICES

PURPOSE OF THE REPORT

To request the Municipal Council to consider, deliberate and make a ruling on the payment of a Nightshift Allowance for fire department officials earning above the threshold as per Basic Conditions of Employment Act and Western Cape Conditions of Service Collective Agreement, retrospectively for a back pay of period of 12 months at the rate of R1000 for each months which amounts to R12000 for each employee, effective 1 October 2023 to September 2022.

Section 9(1) Western Cape Conditions of Service Collective Agreement (WCCSCA), provides that only Posts where the earning fall below the earnings threshold in terms of the agreement shall be eligible for the payment of a night-work allowance. Section 2.5 of the Act stipulates that *“Earning threshold shall mean the top notch of the salary scale (T-grade) within which the Basic Conditions of Employment Act, 1997 earnings threshold determination falls, as amended from time to time”*.

In terms of Section 6(3) of the Basic Conditions of Employment Act, 1997, each year the Minister of Employment and Labour, *“determine that all employees earning in excess of R241 110,59 (Two hundred and forty-one thousand, one hundred and ten rands, fifty-nine cents per annum be excluded from sections 9,10, 11,12,14,15,16,17 and 18 of this Act which this year effect it it takes effect from 1 March 2023”*.

This law has been promulgated as from year 2000, these employees have been affected with this loss of income for many years. The council is requested to approve to compensate these employees continuously as from 1st November 2023, the intention is to include this in the overtime and standby policy which is currently on review.

BACKGROUND

Knysna Municipality overtime and standby policy prohibits compensation for employees above the earning threshold. It has come to our attention that, some of the officials working at fire department that are affected by the earning threshold are required to work nightshift, but due to the threshold do not qualify for the payment of a night shift allowance because of a minor amount over the threshold, sometimes as little as R50.

It is therefore recommended that the payment of a night shift allowance for those earning above the threshold, retrospectively for a back pay of period of 12 months at the rate of R1000 for each months which amounts to R12000 for each employee, this

LEGISLATION

SALGA Collective Agreement for the Western Cape
Government Gazette 48092, Dated 20 February 2023
Determination of Earning Threshold

FINANCIAL IMPLICATIONS

Payment of the night shift allowance to employees above threshold.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the Report on Payment of Nightshift Allowance for Fire Department Officials, be noted;
- [b] That Council notes the report on the payment of backpay for the night shift allowance for those workers who earn above the threshold;
- [c] That Council approve of the payment of backpay of a night shift allowance for those workers in the Fire Department who earn in excess of the threshold, retrospectively for a back pay of period of 12 months at the rate of R1000 for each months which amounts to R12000 for each employee, and that a continuous payment of night shift allowance be made to employees effective from 1 November 2023; and
- [d] That should the Council agree to implement, the application of exemption in terms of the SALGA collective agreement, we will have to inform SALGA of our decision.

File Number : 9/1/2/9

Execution : Director : Corporate Services



IMATU

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION
Social Transformation Through Sustainable Local Government

PO Box 6083
Main Street Paarl 7622

**WESTERN CAPE
REGION**

6 Dorp Street
Paarl 7646

Tel: 021 871 1920
Fax: 021 872 9039

Email: nafia@imatuwcaps.co.za
www.imatu.co.za

Our Ref No.: OMSEND 02/16

Your Ref No.:

Enquiries: E. BRUWER/na

OMSENDSKRYWE 02/2016

AAN: TAKVOORSITTERS

VAN: STREEKBESTUURDER

**RE: "SALGBC CIRCULAR 02-2016"
"CONDITIONS OF SERVICE COLLECTIVE AGREEMENT OF THE
WESTERN CAPE"**

Vind aangeheg bovermelde aanvaarde kollektiewe ooreenkoms vir implementering
vanaf 1 April 2016.

Geliewe die dokument as 'n besprekingspunt te plaas op die agenda van die LLF
vergadering.

Die uwe

**E. BRUWER
STREEKBESTUURDER
IMATU: WES-KAAP EN METRO STREEK**

Bylae: "SALGBC Circular 02-2016"

WORKING TOGETHER FOR YOU

Registration number: LR2/6/2/533

IMATU is an authorised Financial Services Provider – License no. 32333 • IMATU is a Registered Credit Provider – Registration no. NCRCP3037

REPRESENTATIVES: S Khoza (President), K Swanepoel (Deputy President), J Koen (General Secretary), D Carstens (NEC), H. Coffee (NEC),
F Willemse (Regional Chairperson & NEC), P. Buys (NEC), E Bruwer (Regional Manager)

From:

To: 0218729039

30/03/2016 09:08

#450 P.002/016



**SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL**

WESTERN CAPE REGIONAL OFFICE

PO 19
SANLAMHOF
BELLVILLE
7532

7 De Villiers Street
Bellville
7530

Tel: (021) 917 1141
Fax: (021) 917 1145
E-mail: eloise@salgbc.org.za

Enquiries: Ms E. Roos

CIRCULAR: 02/2016 - WESTERN CAPE DIVISION

29 MARCH 2016

- TO: (A) THE MAYORS**
(B) MANAGER OF MUNICIPALITIES AND DISTRICT MUNICIPALITIES
(C) CHAIRPERSONS OF IMATU AND SAMWU BRANCHES
(C) SECRETARIAT OF IMATU, SAMWU AND SALGA

1. THE CONDITIONS OF SERVICE COLLECTIVE AGREEMENT OF THE WESTERN CAPE DIVISION

Attached please find the Conditions of Service Collective Agreement as concluded at the Bargaining Meeting of the Western Cape Division on 23 March 2016.

Please be advised that the agreement should be implemented on 1 April 2016.

Your co-operation is appreciated.

Yours faithfully

MS W BRINK
REGIONAL SECRETARY

Address correspondence to the Regional Secretary

From:

To: 0218729039

30/03/2016 09:08

#450 P.003/016

THE SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL
(hereinafter referred to as "the Council")

**COLLECTIVE AGREEMENT ON
CONDITIONS OF SERVICE FOR THE WESTERN CAPE DIVISION OF THE
SALGBC**

In accordance with the provisions of the Labour Relations Act, 1995 made and
entered into by and between the:-

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION
(hereinafter referred to as "SALGA", the Employers' Organisation)

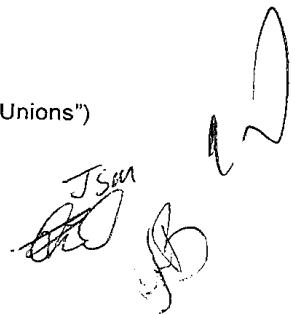
and

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION
(hereinafter referred to as "IMATU")

and

SOUTH AFRICAN MUNICIPAL WORKERS' UNION
(hereinafter referred to as "SAMWU")

(IMATU and SAMWU will together be referred to as the "Trade Unions")



From:

To: 0218729039

30/03/2016 09:09

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2.

1. SCOPE OF AGREEMENT

- 1.1 This agreement shall apply to all employees and employers who fall within the scope of the Western Cape Division of the SALGBC in the Republic of South Africa.

2. DEFINITIONS

- 2.1 All expressions used in this agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in the Act, unless the contrary intention is clear.
- 2.2 Words indicating the masculine gender shall include the feminine gender.
- 2.3 All references to days shall be to working days.
- 2.4 Special leave means the different categories of leave as listed under clause 5.
- 2.5 Definition of Registered Medical Practitioner – means a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Services Professions Act, 1974 (Act No 56 of 1974).
- 2.6 Earnings threshold shall mean the top notch of the salary scale (T-grade) within which the Basic Conditions of Employment Act, 1997 earnings threshold determination falls, as amended from time to time.

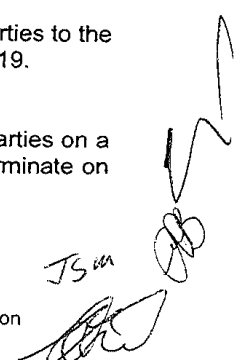
3. OBJECTIVE

- 3.1 To establish common and uniform conditions of service as referred to herein for employees within the scope of the Division, and to replace all existing conditions of service referred to herein.

4. PERIOD OF OPERATION

- 4.1 This agreement shall come into operation in respect of the parties to the agreement on 1 April 2016 and shall terminate on 30 June 2019.
- 4.2 The agreement shall come into operation in respect of non-parties on a date to be determined by the Minister of Labour and shall terminate on 30 June 2019.

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division



From:

To: 0218729039

30/03/2016 09:09

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3.

5. SPECIAL LEAVE

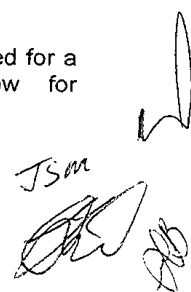
5.1 Study Leave

- 5.1.1 Study leave shall be granted in accordance with Council policy. Where no policy exists study leave shall be granted by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld.
- 5.1.2 Study leave shall be granted on the basis of one day paid special leave for each day that an employee writes an examination plus an equivalent amount of days for preparation for examination, subject to clause 5.1.3. When two subjects/modules are written on one day, study leave shall be granted on the basis of one day paid special leave for the day of the examination plus an equivalent amount of days for preparation per subject/module for preparation for that examination.
- 5.1.3 When an employee is required to write only one examination on one day in a calendar year, he shall be entitled to three days' special paid leave which shall include the day of examination.
- 5.1.4 The said leave for writing examinations in terms of clause 5.1.1 must be approved in advance by the Municipal Manager or his assignee, and the request for leave must be accompanied by the examination roster or sufficient proof of the examination being written.

5.2 Leave of absence for obligatory course/study requirements

- 5.2.1 The fields of study must be approved in advance in accordance with Council policy and must be in accordance with requirements of the curriculum of the approved course. Where no policy exists the fields of study must be approved in advance by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld.
- 5.2.2 An employee attending a training or study course subject to Council policy shall be granted up to ten (10) days' and thereafter one (1) day's paid special leave for every day's leave taken by the employee.
- 5.2.3 Leave referred to in clauses 5.1 and 5.2 shall be granted for a maximum of twice per subject/module to allow for supplementary examinations.

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

JSm


From:

To: 0218729039

30/03/2016 09:09

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5.2.4 Clause 5.2 does not apply to compulsory training initiated by the employer. An employee attending compulsory training initiated by the employer shall be granted paid special leave for the full duration of the obligatory attendance requirements.

5.3 To attend a court of law to give evidence on being summonsed as a witness

5.3.1 On receipt of a written subpoena, any employee who is summonsed to attend a Court of Law as a witness shall be granted paid special leave for the period of absence from duty, provided that a witness fee received, excluding a travel and subsistence allowance, shall be reimbursed or recovered from the employee whatever the case may be.

5.3.2 Any employee who is arrested and appears in court as a result of charges laid by his employer and who is later acquitted shall be granted paid special leave for the period of incarceration.

5.4 Sports participation

Any employee who is elected by a recognized sports association, which sports association must be recognized by the South African Sports Confederation and Olympic Committee (SASCOC), to:

5.4.1 Represent South Africa or the Province as participant in SASCOC recognized international or national sports competitions inside as well as outside the Republic of South Africa;

5.4.2 Accompany teams that will represent South Africa at SASCOC recognized international sports competitions inside as well as outside the Republic of South Africa as coach or manager;

5.4.3 Officiate at SASCOC recognized international sporting event where the employee represents South Africa and a National South African sports team participate;

Shall be granted paid special leave for the duration of the event for these purposes, subject to clause 5.8.4.

5.5 Quarantine and isolation under medical instructions

Where a registered medical practitioner has placed an employee under quarantine/in isolation in terms of the Public Health Act, 1977 (Act No 63 of 1977) or any regulations in force thereunder, such an employee shall be granted paid special leave, provided that the medical

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From:

To: 0218729039

30/03/2016 09:09

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5.

certificate issued details the period of absence and the reason therefore.

5.6 Compensation for occupational injuries and diseases

Any employee who sustains an injury or contracts an illness in the course of his official duties such as to entitle the employee to compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993, shall be granted paid special leave for the period of incapacitation.

5.7 Leave without pay

(Remuneration for this purpose as referred to in the Basic Conditions of Employment Act, 1997.)

Leave without pay as approved by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld, shall be subject to the following conditions:

5.7.1 Leave without pay shall be granted only when all available vacation and/or sick leave has been exhausted.

5.7.2 For the period of leave without pay Council shall continue to make employer's contributions only to the employee's group life insurance scheme, pension and medical aid fund, provided that the employee also makes his contributions to the said funds, as well as any payment in terms of a collective agreement.

5.8 Application for Special Leave

5.8.1 Exigencies of the service must be taken into consideration.

5.8.2 Supporting documents must be provided with the application.

5.8.3 Application for special leave must be approved by the Municipal Manager or his assignee, shall be considered in a bona fide manner, and shall not be unreasonably refused.

5.8.4 Special leave shall not exceed 20 working days in a leave cycle; however, this limitation does not apply to clauses 5.5, 5.6 and 5.7.1.

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

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[Handwritten signatures and initials]

From:

To: 0218729039

30/03/2016 09:09

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6. ADDITIONAL SICK LEAVE

Employees who have not taken more than 20 days' sick leave at the end of a three year cycle shall receive an additional ten working days' paid sick leave to which they will be entitled in the ensuing cycle, provided that in respect of any sick leave cycle no employee shall become entitled to more than 120 working days' sick leave on full pay in a sick leave cycle.

7. ADMINISTRATIVE MEASURES FOR TAKING SICK LEAVE

- 7.1 If an employee to whom annual leave has been granted is certified sick by a registered medical practitioner after his annual leave has commenced, that part of his annual leave during which he was thus certified sick shall be converted into sick leave on submission of the prescribed certificate by such a registered medical practitioner.
- 7.2 If due to illness an employee is unable to take annual leave already deducted, he shall be credited with an equal number of days' annual leave.
- 7.3 An employee may not during any period of sick leave approved in terms of these conditions resume service without the written approval of a registered medical practitioner. If an employee reports for duty earlier than what is provided for on the sick leave certificate, the employee must provide a letter from the medical practitioner proving fitness for work.
- 7.4 If an employee leaves the workplace on sick leave within three hours after he has assumed his normal hours of work, the employee shall be granted paid sick leave for the day, provided that he completes a sick leave form in respect of that day, and subject to having sick leave to his credit.
- 7.5 An employee who is absent from service because of illness must take all reasonable steps to notify his immediate supervisor (or assignee) within three hours after he should have commenced duty.
- 7.6 Any employee to whom the maximum period of sick leave on full pay has been granted shall be granted sick leave without pay, subject to clause 5.7 of the Western Cape Conditions of Service Collective Agreement, provided that the employee is examined by a registered medical practitioner appointed by the Municipality. The cost of such examination shall be borne by the Municipality.
- 7.7 Medical certificates must be issued by a registered medical or dental practitioner or a Traditional Healer registered with a recognized professional council in terms of legislation.

TSM
[Signature]
[Signature]

From:

To: 0218729039

30/03/2016 09:09

#450 P.009/016

7.

8. ACTING ALLOWANCE

- 8.1 An employee is entitled to an acting allowance when he is requested by written instruction by his superior in terms of Council's delegation policy to act in a higher post for a period of at least ten consecutive working days, including public holidays and compulsory closing of office during the festive season.
- 8.2 An acting allowance equal to the difference between his pensionable salary and the commencing notch of the salary scale of the post in which he is acting shall be paid to the employee for the period of acting.
- 8.3 Where an employee's salary is higher than the commencing notch of the salary of the post in which he is required to act, an acting allowance amounting to five per cent of his pensionable salary shall be paid.
- 8.4 If an employee is requested to act in terms of clause 8.1, the employer shall not unreasonably stop or interrupt the acting period of the employee resulting in the non-payment of an acting allowance.
- 8.5 Council, subject to the Local Government: Municipal Systems Act, 2000 and in consultation with the Municipal Manager, may resolve that an employee should act in a section 56 post in terms of clauses 8.1 and 8.2, in which case the following shall apply:
 - 8.5.1 The employee shall in addition to his salary receive an acting allowance for the period of acting.
 - 8.5.2 The salary component for determining the acting allowance will be 60 per cent of the remuneration package of the post in which the employee is acting.
- 8.6 Subject to clause 8.7 an employee will not be paid an acting allowance whilst he is on any form of leave or any other absence during the acting period.
- 8.7 If an employee has acted for a continuous period of three months or longer, he will qualify for an acting allowance while on paid leave.
- 8.8 The acting period referred to in clause 8 must not exceed nine consecutive working months, whereafter the post must be advertised and filled on a competitive basis. This is only applicable to acting as from the date of the commencement of this agreement.
- 8.9 Every municipality shall determine a delegation policy for the purposes of clause 8.1. Where there is no such policy in place, any written instruction by a superior to act in a higher post shall qualify as an instruction for the purposes of clause 8.1. Such a policy must be communicated to all employees.

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

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From:

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9. NIGHT-WORK ALLOWANCE

- 9.1 For the purpose of this clause **only** posts where the earnings fall below the earnings threshold in terms of this agreement shall be eligible for the payment of a night-work allowance.
- 9.2 An employee is entitled to a night-work allowance when by written instruction by his superior he is requested in terms of Council's delegation policy to perform night-work.
- 9.3 The employee shall be compensated in the form of a night-work allowance for night-work according to the following formula:
- Pensionable annual salary ÷ number of working days (calendar days – public holidays – weekends) ÷ 8 x 18% = hourly night-work allowance.
- NOTE: The formula in clause 9.3 could also be expressed as follows:
- $18/100 \times (\text{annual pensionable salary} \div 249 \div 8) \times \text{actual number of hours working night-work.}$
- 9.4 Every municipality shall determine a delegation policy for the purposes of clause 9.2. If no such policy is in place, any written instruction by a superior to perform night-work shall qualify as an instruction for the purposes of clause 9.2. Such a policy must be communicated to all employees.
- 9.5 Only employees whose working hours fall between 18:00 and 06:00 the next day shall qualify for compensation in terms of this policy.
- 9.6 In terms of section 6(2) of the Basic Conditions of Employment Act, "Sections 9, 10(1), 14(1), 15(1), 17(1) and 18(1) shall not apply to work that must be done without delay due to circumstances which the employer could not reasonably be expected to provide for and which could not be performed by employees during their normal working hours." Section 17(2) deals with the payment of a night-work allowance. Therefore, employees on standby who work overtime between 18:00 and 06:00 shall receive a night work allowance, subject to clause 9.7 and 9.8.
- 9.7 When it is required of an employee to perform work on a regular basis after 23:00 and before 06:00 the next day, a manager must:
- 9.7.1 Inform the employee in writing or orally if the employee is not able to understand a written communication, in a language that the employee understands:

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

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9.7.1.1 of any health and safety hazards associated with the work that the employee is required to perform; and

9.7.1.2 of the employee's right to undergo a medical examination in terms of clause 9.7.2.

9.7.2 At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards:

9.7.2.1 before the employee starts, or within a reasonable period of the employee starting such work, and at appropriate intervals while the employee continues to perform such work; and

9.7.2.2 at appropriate intervals while the employee continues to perform such work.

9.7.3 Transfer the employee to suitable day work within a reasonable time of the employee suffering from a health condition associated with the performance of night-work, provided that it is practical for the employer to do so *and after due consultation has taken place.*

9.8 For the purpose of clause 9.7 an employee performs night-work on a regular basis if the employee works for a period of more than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year, including employees on standby.

10. STANDBY DUTY

10.1 An employee is entitled to a standby allowance when he is requested by written instruction by the Municipal Manager or his superior to be available for the performance of duty outside his normal working hours.

10.2 The standby allowance shall be payable on the following conditions only:

10.2.1 When the employee is required to be available for duty for a period of at least eight hours during a 24 hour period (based on a 40-hour working week) after normal working hours.

10.2.2 Standby shall not exceed a calendar week provided that an employee shall not be on standby for more than two weeks per month, save where operational requirements dictate otherwise.

10.3 Every municipality shall determine a delegation policy for the purposes of clause 10.1. Where no such policy is in place, any written instruction by a supervisor to perform standby duty shall qualify as an instruction

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

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ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

From:

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for the purposes of clause 10.1. Such a policy must be communicated to all employees.

10.4 Standby is calculated:

10.4.1 From the normal closing time of the employee's place of work;
or

10.4.2 On a day on which the employee is not normally required to work.

10.5 The standby allowance shall not affect or be affected by any remuneration for overtime worked by the employee during the period of standby duty.

10.6 The standby allowance shall be equal to 15 per cent of the normal hourly rate based on the pensionable salary formula:

10.6.1 Pensionable annual salary ÷ number of working days (calendar days – public holidays – weekends) ÷ 8 x 15% = hourly standby allowance; and

10.6.2 Shall be paid in a proportionate manner according to the actual number of hours on standby.

NOTE: The formula in clause 10.6.1 above could also be expressed as:

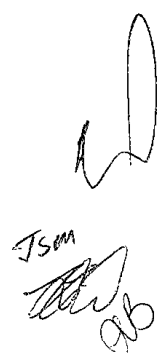
$[15 / 100 \times (\text{annual pensionable salary} \div 249 \div 8)] \times \text{actual number of hours on standby.}$

11. LONG-SERVICE RECOGNITION

11.1 In addition to normal vacation leave, an employee shall qualify for the following additional leave as recognition for continuous long service at the same employer or legal predecessor, which shall be credited once on the date on which the various periods of continuous service are completed. The long service leave must be taken within one year of receiving such leave or may be wholly or partially encashed.

After	10 years	10 working days
	15 years	15 working days
	20 years	20 working days
	25 years	25 working days
	30 years	30 working days
	35 years	35 working days
	40 years	40 working days
	45 years	45 working days

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division



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- 11.2 In addition to the above, an employee shall be entitled to a 14th cheque for continuous employment on 30, 35, 40 and 45 years.

12. OVERTIME

- 12.1 An employee shall be entitled to paid overtime when he is requested by written instruction by the Municipal Manager or his superior to perform duty outside his normal working hours.
- 12.2 Overtime is generally regulated by the Basic Conditions of Employment Act, 1997 (Section 10) and these provisions govern overtime payment.
- 12.3 Overtime shall be paid or time-off granted to all employees except senior managerial employees as defined in the Basic Conditions of Employment Act, 1997 and employees earning in excess of the threshold as determined from time to time.
- 12.4 Time-off may be granted to senior managerial employees as defined in the Basic Conditions of Employment Act, 1997 and employees earning in excess of the earnings threshold as determined from time to time by Council policy.
- 12.5 Employees on standby in terms of clause 10 shall receive overtime payment when called out, irrespective of the statutory threshold.

13. LEGAL INDEMNITY

13.1 Objectives

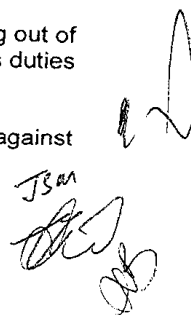
- 13.1.1 Employees' liability to third parties shall be indemnified and legal assistance shall be provided where appropriate.
- 13.1.2 The municipality or the Council's interests as well as the employees' interests must be protected and the potential or actual liability arising from the acts or omissions of the municipality or the Council's employees must be indemnified.

13.2 Qualifying Requirements

Provided that the employee acted in good faith and without malice arising out of any act or deed done or omitted by an employee within the scope of his duties or employment, it shall be the municipality or Council's policy to:

- 13.2.1 Indemnify the municipality or Council's employees against personal civil liability so incurred;

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division



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13.2.2 Make no claim against employees based on such personal liability;

13.2.3 Provide legal assistance to employees in the following circumstances:

13.2.3.1 When they are required to appear before or be interviewed in connection with a judicial, investigative, or other inquest or inquiry;

13.2.3.2 When they are sued or threatened with a suit;

13.2.3.3 When they are charged or likely to be charged with an offence; or

13.2.3.4 When they are faced with other circumstances that are sufficiently serious as to require legal assistance.

13.2.4 These provisions shall not apply to legal assistance for claims or actions that employees initiate.

13.3 Process Requirements

13.3.1 Any employee shall be entitled to obtain legal indemnification. To be eligible to receive legal assistance an employee must:

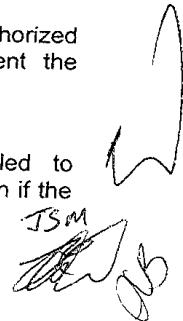
13.3.1.1 Inform the Head of Department (HOD) or relevant supervisor of the matter at the earliest reasonable opportunity after the employee becomes aware of a possible claim or proceeding as a result of any alleged act or omission within the scope of the employee's duties or employment;

13.3.1.2 Make a complete report to the HOD of the incident leading to the requirement for indemnification or legal assistance, and the relevant superior must ensure that a report is submitted to the HOD; and

13.3.1.3 Accept the legal representative authorized by the delegated authority to represent the employee.

13.3.2 The Municipal Manager shall be compelled to approve an application for legal indemnification if the

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

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application complies with the requirements of this policy.

- 13.3.3 The Municipal Manager can only authorize legal assistance at the municipality or the Council's expense when it has been determined that the employee acted in good faith and without malice within the scope of his duties or employment.

**14. WORKING HOURS: LAW ENFORCEMENT PERSONNEL
(Traffic and Police Services)**

All Law Enforcement personnel shall commence working a 40-hour working week within six months of the implementation of this agreement.

15. DISPUTE ABOUT IMPLEMENTATION AND APPLICATION OF THIS AGREEMENT

- 15.1 Any person or party may refer a dispute about the interpretation or application of this collective agreement to the Regional Secretary of the Council.
- 15.2 The Regional Secretary shall in the event of a dispute not being resolved:
- 15.2.1 Appoint a conciliator from the appropriate panel of conciliators, (doing so as far as possible on a rotational basis); or
- 15.2.2 If the dispute remains unresolved, refer the dispute to arbitration.
- 15.3 Once a conciliator has been appointed, the Regional Secretary shall decide the date, time and venue of the conciliation meeting and shall serve notices of these particulars on the parties to the dispute.
- 15.4 If the dispute is referred to arbitration, the Regional Secretary shall appoint an arbitrator from the appropriate panel of arbitrators, doing so as far as possible on a rotational basis.
- 15.5 The Regional Secretary, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing.
- 15.6 The arbitrator shall:
- 15.6.1 Endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated; and

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

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15.6.2 If the dispute remains unresolved, resolve the dispute through arbitration.

15.7 The arbitrator may make any appropriate arbitration award in terms of the Act that gives effect to the collective agreement.

16. EXEMPTIONS

16.1 Any person bound by this agreement shall be entitled to apply for exemption from this agreement.

16.2 All applications for exemption from any provisions of this agreement must be in writing and lodged with the Regional Secretary, which applications shall be regulated by the Exemptions from Non-wage Collective Agreements of the SALGBC Western Cape Collective Agreement.

SIGNED AT Belville ON THIS 23 DAY OF MARCH 2016.

A. COETSEE
N3 (MECH) B.PROC (SA)
SEL: 083 283 5237

MEMBER OF THE COUNCIL
(REPRESENTING SALGA)

MEMBER OF THE COUNCIL
(REPRESENTING IMATU)

MEMBER OF THE COUNCIL
(REPRESENTING SAMWU)

REGIONAL SECRETARY OF THE COUNCIL

Collective Agreement on Conditions of Service for SALGBC: Western Cape Division

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. 3067

20 February 2023

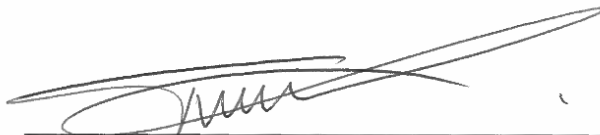
BASIC CONDITIONS OF EMPLOYMENT ACT NO. 75 OF 1997

DETERMINATION: EARNINGS THRESHOLD

I, Thembelani Waltermade Nxesi, Minister of Employment and Labour, hereby in terms of Section 6 (3) of the Basic Conditions of Employment Act, No. 75 of 1997, (the Act), determine that all employees earning in excess of R241 110, 59 (Two hundred and forty-one thousand, one hundred and ten rands, fifty-nine cents) per annum be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17(2) and 18(3) of this Act with effect from 1 March 2023.

For the purposes of this notice:

“**Earnings**” means the regular annual remuneration before deductions i.e income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice.



MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 13/02/2023

13.9

C09/10/23	REPORT ON THE PROGRESS OF THE PROCESS FOR THE RECRUITMENT AND SELECTION OF THE POSITION OF DIRECTOR INFRASTRUCTURE SERVICES
------------------	--

REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To report to the Municipal Council on the progress of the process for the Recruitment and Selection of the position of Director : Infrastructure Services.

BACKGROUND

Council at its meeting held on 16 August 2023 through resolution SC02/08/23 resolved as follows:

- [a] That Council notes the report submitted by the Municipal Manager;*
- [b] That Council notes the contents of the Regulations for Local Government Regulations on appointment and conditions of employment of Senior Managers as well as Government Gazette regarding the Upper Limits of Total Remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers;*
- [c] That Council appoint the Selection Panel as follows:*
 - [i] The Municipal Manager who will be the Chairperson;*
 - [ii] A member of the Mayoral Committee or Councillor who is the Portfolio head of the relevant Directorate;*
 - [iii] At least one other person, who is not a Councillor or a staff member of the Municipality, and who has expertise or experience in the area of the advertised post;*
- [d] That the selection process set out in the report mentioned in (a) above be adopted and implemented by the Municipal Manager compliant with the timelines as provided for in the regulations."*

In terms of the Regulations on the Appointment of Senior Managers as regulated in Government Gazette 37245 dated 17 January 2014, Section 12, Council needed to nominate: *"at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post."*

In terms of Section 13(2) *"The shortlisting must be finalized within 30 days of the closing date of the advertisement."* In the light of the advertisement which closed on 14 September 2023, the 30 day window period for shortlisting have lapsed. Council to date has not nominated an Expert in terms of Section 12 and in the light of the lapse of the 30 day window period, Council needs to express itself on the readvertisement of the position in terms of a Council Resolution.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the Report on the Progress of the process for the Recruitment and Selection of the position of Director : Infrastructure Services, be noted;
- [b] That Council resolve to re-advertise the position of Director Infrastructure;
- [c] That Council nominates the following selection panel for the vacant position of Director Infrastructure :
 - [1] That Council notes the report submitted by the Municipal Manager;
 - [2] That Council notes the contents of the Regulations for Local Government Regulations on appointment and conditions of employment of Senior Managers as well as Government Gazette regarding the Upper Limits of Total Remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers;
 - [3] That Council appoint the Selection Panel as follows:
 - [i] The Municipal Manager who will be the Chairperson;
 - [ii] A member of the Mayoral Committee or Councillor who is the Portfolio head of the relevant Directorate;
 - [iii] At least one other person, who is not a Councillor or a staff member of the Municipality, and who has expertise or experience in the area of the advertised post;
- [d] That Council resolve to appoint as a person with expertise or experience in the area of the advertised post to serve as Expert on the panel; and
- [e] That the selection process set out in the report mentioned in (a) above be adopted and implemented by the Municipal Manager compliant with the timelines as provided for in the regulations.

File Number : 9/1/2/14
Execution : Municipal Manager
Director : Corporate Services
Manager : Human Resources

13.10

C10/10/23	AMENDMENT OF TENDER T21 OF 2022/2023 OVERSIGHT, COORDINATION AND SUPERVISION MAINTENANCE ACTIVITIES ON WATER AND WASTEWATER INFRASTRUCTURE
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REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

The purpose of the report is to request the Municipal Council to consider the amendment of Tender T21 of 2022/23 for Megaflow for the Oversee, Coordinate and supervise maintenance activities on water, wastewater infrastructure and solid waste infrastructure and reticulation network of Knysna for a period of three years.

BACKGROUND

The tender was awarded for a period of 3-years and expires 30 June 2025. The contract was awarded and capped on R10million (Annexure 2). The Municipality currently does not have the human resources to deal with the work undertaken by this Contract in its own capacity.

MOTIVATION

The user Department advertised the tender on a 5ME or higher, due to available budget. The Department has already cut the overtime costs by 50% for this specific Contract in order to contain costs. With the current season approaching, the Municipality does not have the capacity to undertake the Operations, therefore will require assistance from the appointed Service Provider. The current contract contains a rate-based sections of ad-hoc services rendered which is used to maintain water and sewer infrastructure.

In addition, the following reasons for the request is to permit the following:

- 3.1 Ensure that the infrastructure is maintained
- 3.2 Ensure health and safety of the Community
- 3.3 Reduce the number failures and stoppages at pump stations
- 3.4 Extension of time as some pump stations require daily supervision.

The reason the Department has reached its cap of R10million for the financial year is due to the following:

- Varying stages of Loadshedding
- Late award and establishment of Mechanical and Electrical Contractor (T22)
- Vandalism of pump stages

FINANCIAL AND LEGAL IMPLICATIONS

Municipal Finance Management Act (116) Contracts & Contract Management

“A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—

(a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and

- (b) *the local community—*
- (i) *has been given reasonable notice of the intention to amend the contract or agreement; and*
- (ii) *has been invited to submit representations to the municipality or municipal entity”*

As per MFMA 116, SCM advertised the intention of Knysna Municipality to amend T 21 of 2022/23. The advert attached as Annexure 1. No comments or objections received to date.

RELEVANT LEGISLATION

The Constitution
MFMA
NEMA
Water Act

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the Report on the Amendment of Tender T21 of 2022/2023 Oversight, Coordination and Supervision Maintenance activities on Water and Wastewater Infrastructure, be noted;
- [b] That the Contract be amended in order to lift the cap of R10million until the end of the Contract, June 2025, and
- [c] That the Contract be amended in order to lift the R10million cap for a period of 8 months until the tender is re-advertised.

File Number : 9/1/214

Execution : Municipal Manager

Acting Director : Infrastructure Services

Action Ads

Annexure 1

**Knysna**
Municipality || Munisipaliteit || uMasipala
inclusive || innovative || inspired

NOTICE OF AMENDMENT OF THE EXISTING CONTRACT

NOTICE IN TERMS OF SECTION 116(3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 56 OF 2003) THAT THE MUNICIPALITY INTENDS TO AMEND THE FOLLOWING CONTRACT::

TENDER NO	DESCRIPTION	SUPPLIER NAME	REASON FOR AMENDMENT
T 21 of 2022.23	Oversee, Coordinate and Supervise Maintenance activities on the existing Water and Wastewater Infrastructure and Reticulation network of Knysna Municipality	Keineli Investments CC T/A Megaflow	T 21 of 2022.23 was awarded for the period ending 30 June 2025 with a cap on expenditure of R 10 000 000. Current expenditure to date is R 9 551 805, 03. Projections indicates that the expenditure will exceed the approved contract amount of R 10 000 000 and a 20% variation

Notice is hereby further given in terms of Section 21 and 21A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that the local community and affected parties are invited to submit comments or representations on the proposed amendment of the contract.

CLOSING DATE FOR COMMENTS

Written comments or representations on the proposed amendments can be submitted on or before 13h30 on Thursday 26 October 2023 to S Fourie at sfourie@knysna.gov.za or visit the Knysna Municipal Website at www.knysna.gov.za – Do Business – Contract Management. Persons who cannot write may contact the SCM Office during office hours, where the responsible official will assist you in putting your comments in writing.

MR OP SEBOLA
MUNICIPAL MANAGE


www.knysna.gov.za

SONDLO & KNOPP ADVERTISING

[Handwritten Signature]
10/10/2023

Annexure 2



Knysna
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Collab No:
File Ref: T 21/2022/23
V.Nobatana

KEINELI INVESTMENTS CC T/A MEGAFLOW
18 Mangaanbaan, Alton
Richards bay
3900

Per electronic mail: admin@megaflow.co.za

ATTENTION: Keith Naicker

Dear Sir/Madam

TENDER 21/2022/23: OVERSEE, COORDINATE & SUPERVISE MAINTENANCE ACTIVITIES ON EXISTING WATER, WASTEWATER AND SOLID WASTE INFRASTRUCTURE & RETICULATION NETWORK OF KNYSNA MUNICIPALITY FOR A PERIOD OF 3 YEARS.

Our previous letter dated 23/02/2023 has reference.

On behalf of Knysna Municipality I am pleased to advise you that your bid has been accepted.

The bid is awarded to yourselves as you have scored the highest points, on an amount of R 139,527.14 (Incl 15% VAT), costs will be incurred in accordance with the tendered rates on an as and when required basis and subject to budget availability for a period ending 30 June 2025. Expenditure to be capped at the maximum of R10 million.

Kindly contact Mr. M. Nzuzo should you require clarity on the Information provided at telephone number 044 302 6392.

Yours faithfully

OMBALI PHINEAS SEBOLA
MUNICIPAL MANAGER

DATE: 26/04/2023

Please address all correspondence to the Municipal Manager and quote the above reference
P O Box 21 • Knysna • 6570 • Tel: 044 302 6300 • Fax: 044 302 6333 • E-mail: knysna@knysna.gov.za

13.11

C11/10/23	QUARTER 1 SECTION 52 (D) REPORT, PERIOD 01 JULY 2023 – 30 SEPTEMBER 2023
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REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

The purpose of this report is to present to the Municipal Council the Quarter 1 Section 52(d) Report for the period 01 July 2023 to 30 September 2023. This report details the implementation and outcome of the approved 2023/2024 Service Delivery and Budget Implementation Plan (SDBIP) of the Knysna Local Municipality.

BACKGROUND

Section 52 (d) of the Local Government: Municipal Finance Management Act, Act No. 56 of 2003 ("the MFMA"), determines that the Mayor of a municipality must within 30(thirty) days of the end of each quarter submit a report to Council on the implementation of the budget. This report details the implementation of the budget as per the Top Level SDBIP for the quarter ending September 2023.

DISCUSSION

This report details the non-financial quarterly performance outcome of Knysna Municipality for quarter 1 (One), as for the period, 01 July 2023 to 30 September 2023. The report is for discussion of the recorded quarterly performance of the Municipality by Council. The report contains the set Top Level SDBIP, Key Performance Indicators and targets as approved for the 2023-2024 financial year.

FINANCIAL IMPLICATIONS

None

RELEVANT LEGISLATION

Municipal Finance Management Act No. 2003 (Act 56 of 2003), Section 52 Municipal Budget and Reporting Regulations.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the quarter One (1) Section 52(d) Report submitted to Council is for discussion;
- [b] That Council notes this Quarter One (1) Section 52(d) Report; and
- [c] That Council sanctions the submission of this noted report to National Treasury and the Western Cape Provincial Treasury within five days of the tabling of the report in Council; further permitting the Administration that this Noted Quarter 1 Section 52(d) report be placed on the municipal website.

APPENDIX / ADDENDUM

Quarter 1 - Section 52(d) Report for the quarter ending 30 September 2023 (*To be circulated separately*)

File Number : 15/2/6/1/3

Execution : Manager : IDP/PMS & IGR

13.12

C12/10/23 REPORT ON SALE OF ERVEN 3002, 3326 AND 3327 (17301) AND ERF 3409 TO OWN HAVEN HOUSING ASSOCIATION

REPORT FROM MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To report to the Municipal Council on the alienation of erven 3002, 3326, 3327 and 3409 to Own Haven Housing Association.

Background / Discussion

On Friday, 13 October 2023, the administration lead by Directors Corporate – and Community Services, the Ward 6 councillor amongst other councillors, met with the Fraaisig Height Committee, **Annexure “A”**.

The committee raised various concerns experienced by Hornlee residents. Of importance was the housing issue and the availability of land in the area. During the discussions, the committee/representatives informed the administration and councillors that there is a shortage of land in Hornlee and those who have invaded land without Council's consent, is living in inhumane conditions. These conditions include but is not limited to the following:

- Living without basic services like, water, electricity and toilets and sanitation;
- Living without the option of becoming a property owner.

It was subsequently requested by these residents that Council assist them with basic services as it is Council's statutory obligation.

It was brought to the attention of the administration that Council, a couple of years back, sold erven to a company called Own Haven. It is alleged that the sales of these erven were subject to specific conditions, which were allegedly not been met and the Fraaisig Height Committee requested that Council considers the cancelation of these sales.

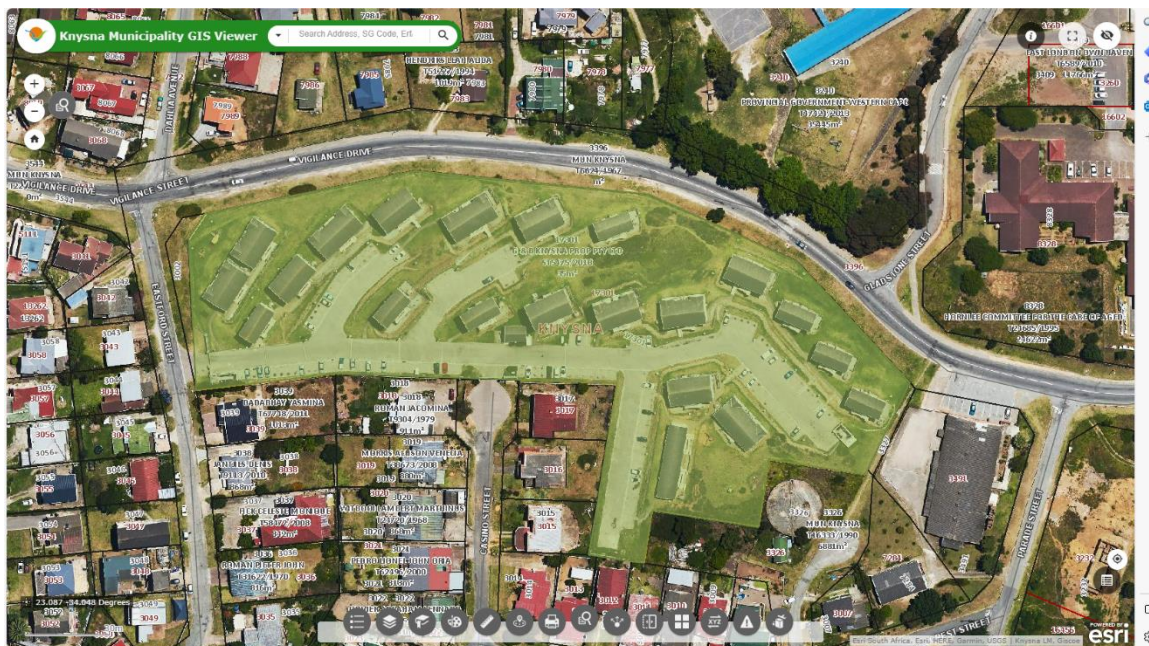
The administration, Corporate- and Legal Services subsequently indicated that the sale agreements and all available documentation, shall be reviewed.

Below an outline of the historical facts

A. Erf 3002, 3326, 3327 – Phase 1

Alienated as per council resolution: 25 January 2005

Consolidated erf after registration of sale: **Erf 17301, Knysna.**



From the records at our disposal, it is noted that on 30 September 2003, presentations were made before Council by one Reverend Bantom, Chairperson of the Western Cape Social Housing Company as well as Andrew Weisman from Own Haven Housing Association – **Annexure “B”**.

It appears that Council on 25 November 2003, **Annexure “C”**, *inter alia* resolved “that in-principle approval be granted regarding the appointment of Own Haven Housing Association as a development partner to Council in the development of social housing projects on even 3002 and portion of erf 3409, Knysna.”

On 6 April 2004, **Annexure “D”**, Council appointed Own Haven as the development partner for a “social housing project” for erven 5084 and a portion of 3409.

On 25 January 2005, Council approved the conclusion of a *Land Availability and Cooperation Agreement*, which is enclosed hereto as **Annexure “E”**, with Own Haven Housing Association, and resolved as follows, **Annexure “F”**:

- a) That council approves and enter into the *Land Availability and Cooperation Agreement* with Own Haven Housing Association;
- b) That Erf 3002 along Vigilance Drive be considered as the first phase of the project;
- c) That the request of Own Haven for the inclusion of public open spaces erven 3326 and 3327 favorable considered by Council;
- d) That the question of ownership of portion of erf 3409 be resolved to allow for future extension to the project;
- e) That the land prices for erven 3002, 3326 and 3327 be determined at R 66 545 which is 10% of the current market value as determined by an independent valuer;
- f) That Own Haven enter into discussions with residents adjacent to and in close proximity to erven 3002, 3326 and 3327;
- g) That the Council waives the payment of augmentation, connections and building plan fees;
- h) That Council submits applications to Provincial and National Treasury requesting approval to dispose erf 3002, 3326 and 3327 below market value.

Above council resolution was actioned and a *Deed of Sale* was concluded in July 2006, marked as **Annexure “G”**, between Knysna Municipality and East London Own Haven.

In terms of the Deed of Sale erven 3002, 3326 and 3327 was sold for R 66 545, 00.

Demands by the Fraaisig Heights Committee:

After the transfer of the properties to Own Haven, the developer subsequently constricted 112 middle income housing apartments which are currently being leased to tenants. The development is currently known as Lagoon View.

The committee requested that the sale agreement concluded with Own Haven for Erven 3002, 3326 and 3327, be reviewed as they are of the view that Own Haven were to sell the housing units to the tenants after a certain period of time. In order to determine whether this is correct, the administration perused the Council Resolution dated 25 January 2005, the *Land Availability and Cooperation Agreement*, 17 February 2005, and the Deed of Sale concluded during July 2005.

Hereunder it must be noted as follows:

- Neither the Council Resolution dated 25 January 2005, the *Land Availability and Cooperation Agreement*, 17 February 2005, or the Deed of Sale concluded during July 2005, makes reference to the sale of the units once developed by Own Haven. With regards to the transfer of the properties, the Deed of Sale provides as follows:

“Unless otherwise agreed in writing, transfer of the property sold in terms hereof shall not take place until the development proposal provided for in the existing agreement has been approved, the rezoning of erven 3326 and 3317 to general residential has been successfully completed and the conditions listed in clause 2.1 of the existing agreement have been fulfilled”.

The existing agreement refers to the *Land Availability and Cooperation Agreement* concluded on 17 February 2005, clause 2.1 provides as follows:

Conditions

2.1. This agreement is subject to the fulfilment of each and every of the following conditions:

- 2.1.1. OHHA filing a development proposal;*
- 2.1.2. the development proposal being approved by the municipality or whichever other public authority is required to approve the application;*
- 2.1.3. OHHA obtaining all consents and approval for land development purposes to enable the erven within the land development are to become registrable;*
- 2.1.4. OHHS concluding a services agreements with the municipality for the provision of link and bulk services.*

2.2. The conditions listed in clause 2.1 shall be deemed not to have been fulfilled if the municipality on the one hand and OHHA on the other, has given 60(sixty) days written notice to the other party, informing the other party of the nonfulfilment of any one or more of the above conditions and if any of such conditions remain unfulfilled at the end of the 60(sixty) days’ notice period,

then and in such event this agreement shall lapse and be of no force and effect between the parties, subject to the provisions contained in clause 2.3 hereunder.

The administration could not find any documentary evidence that the conditions as outlined above, was not fulfilled. In the absence of anything to the contrary, it is therefore assumed that Own Haven fulfilled the conditions as imposed and as alluded to above, the documentation at our disposal does not state that the housing units to be developed, must be sold to the tenants.

Current ownership:

It was established that erf 17301, (consolidated 3002, 3326 and 3327) was transferred to Own Haven from the municipality on 15 March 2011. However, on 10 April 2018, the property was registered into the name of G&B Knysna Prop Pty Ltd, as per **Annexure “H”**.

B.Memorandum dated 28 August 2009

Enclosed as **Annexure “I”** is an internal memorandum dated 28 August 2009. Under clause 2 of the memorandum it is stated as follows:

“At a discussion with the developer on 26 October 2006 (after signature of *Land Availability and Cooperation Agreement*, 17 February 2005, and Deed of Sale concluded during July 2005) , it was agreed that there had been ‘misperception and miscommunication’ regarding the intent of the development. It was stated that the intention was to sell units between R 350 000 and R 500 000, with the average being R 450 000. At this stage the intention was to sell the units.

On 8 April 2008 a meeting was held between the partners and the cost of units were discussed. Based upon the initial estimated average cost of a unit (R450 000) and an assumed income of R 15 000, a household would need to earn almost R 18 000 in order to purchase a unit. At a joint income of R 18 000, the NCA restrictions meant that the household would only be able to leverage a first-time bond of R 350 000. The implication is that the household would have to earn R 3 000 more per month, in order to afford a unit valued at R 100 000 less.

The decision was confirmed that other tenure options needed to be considered, including shared ownership and rent-to-buy. At the meeting Own Haven confirmed that they wished to consider erf 3409 as Phase II of the project, which would be aimed at the lower-income bracket, and requested that council confirm the ownership of erf 3409 in order to allow for the sale to proceed.”

From the content of the memorandum it appears that there was an intention between the parties that the units be sold to tenants. However, this ‘condition’ was not reduced to writing in the Council Resolution dated 25 January 2005, the *Land Availability and Cooperation Agreement*, 17 February 2005, or the Deed of Sale concluded during July 2005.

We could also not locate an addendums which might have been concluded between the parties to incorporate the sale of the units to the tenants. The only Addendum was signed on 30 November 2023, **Annexure “J”** and merely stated as follows:

“In order to simplify matters, East London Own Haven shall (on the same terms and conditions as set out as the existing agreement) take transfer of erven 17298 (a portion of

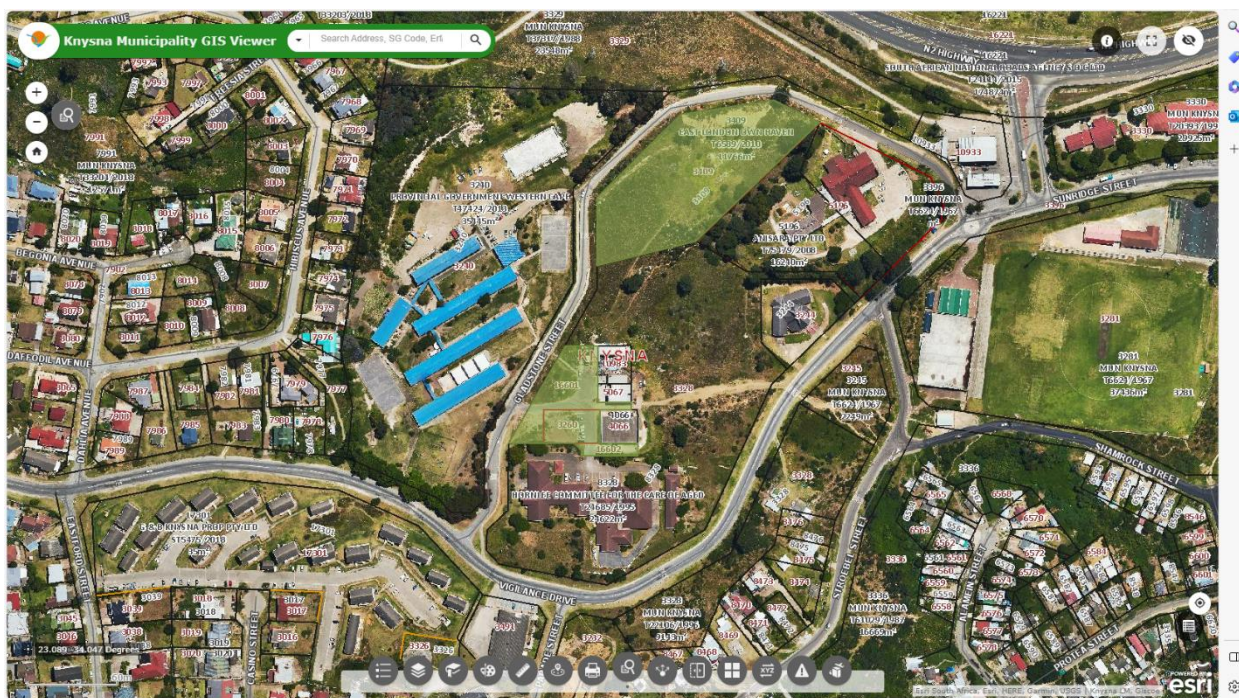
erf 3002), 17299 (a portion of 3326) and 17300 (a portion of erf 3327) and not even 3002, 3326 and 3327 as contemplated in the Land Availability and Co-operation in that the remainders would have had to again be transferred back to the Knysna Municipality after subdivision”.

Conclusion:

From the documentation at our disposal it seems as if the conditions as agreed to between the parties, were met and that the Council Resolution dated 25 January 2005, the *Land Availability and Cooperation Agreement*, 17 February 2005, and the Deed of Sale concluded during July 2005, did not make provision for the sale of the housing units to the tenants.

The memorandum dated 28 August 2009 states that “at the meeting Own Haven confirmed that they wished to consider erf 3409 as Phase II of the project, which would be aimed at the lower-income bracket, and requested that council confirm the ownership of erf 3409 in order to allow for the sale to proceed” – which creates the impression that the parties wanted the housing units to be erected on erf 3409, to be sold to tenants.

C. Erf 3409 – Phase II



On 2 October 2008, **Annexure “K”**, Council disposed of Erf 3409 by resolving as follows:

- a) that Council note the vesting of Erf 3409 Knysna;
- b) that Council note the intent of Own Haven Housing Association to commence with Phase Two on the remainder of Erf 3409 Knysna;
- c) that Council approve the sale of Erf 3409 Knysna for the purposes of affordable housing;
- d) that Council approve the waiving of augmentation fees for all the affected properties for phase One and Phase Two;
- e) that Council approve the extension of the period for rezoning from eighteen to thirty-six months, as per clause six of the Deed of Sale; and

- f) *that, prior to the transfer of the land, Own Haven Housing Association and Council enter into an agreement regarding the sale price and leasing price of the units, with an escalation clause in accordance with Council's definition of affordable housing.*

Note** As per above underlined, the parties agreed to the sale and leasing price of the units in the subsequent Deed of Sale.

A Deed of Sale was subsequently concluded on 25 May 2009 and is enclosed hereto as **Annexure "L"**, whereby Erf 3409 was sold to Own Haven for R 50 000,00.

Clause 7 of the Deed of Sale provides as follows:

Use of property

OHHA may only use the property for housing development as provided for herein and in the existing agreement. The development shall furthermore be subject to the following special conditions:

- 7.1 40% (forty percent) of the property, calculated according to the area, shall be utilized for residential units which OHHA commits to sell for a sale price not exceeding R 400 000, 00 (four hundred thousand rand) for any one unit, subject to target beneficiary affordability. The remaining 60% (sixty percent) may not be sold and may only be leased).*
- 7.2 The parties hereto agree that the leasing price of the units will not exceed a maximum of 30% of gross family income together with escalation as referred to in clause 7.4.13.*
- 7.3 All rental units provided for herein shall be administered by OHHA and may not be converted into sale units.*
- 7.4 The allocation of units, whether for sale or rental, shall always be in terms of council policy of the municipality. Such policy shall include but not necessarily be limited to the council's draft policy on affordable housing and "Criteria for Allocation on Affordable Housing", as set out hereunder, where the conditions will not be unnecessarily onerous on the beneficiaries or the development.*

From above clause 7.1 it is clear that the parties agreed that 40% of the property shall be used for residential units which Own Haven committed to sell. The Deed of Sale under *Construction*, provides as follows:

"Construction of the development shall be commenced within six months from the date of signature of this agreement or upon registration of transfer, whichever shall occur first".

The Deed of Sale was signed on 25 May 2009 and registration took place on 11 February 2010, **Annexure "M"**; both periods materialized without fulfilment of this provision.

It is common cause that currently the property remains undeveloped and that construction did not take place as per the Deeds of Sale. Council can therefore consider placing Own Haven on terms for its non-compliance with contractual terms.

Concerns raised by the community:

During the meeting held with the Fraaisig Height Committee, it was established that community members invade the property and currently about 15 structures have been erected. Those residing on the properties do so without the provision of basic municipal services.

Hereunder it must be noted that section 73 of the *Municipal Systems Act, 32 of 2000*, provides as follows:

General duty

- 1) *A municipality must give effect to the provisions of the Constitution and:*
 - a) *give priority to the basic needs of the local community;*
 - b) *promote the development of the local community; and*
 - c) *ensure that all members of the local community have access to atleast the minimum level of basic municipal services.*
- 2) *Municipal services must:*
 - a) *be equitable and accessible;*
 - b) *be provided in a manner that is conducive to:*
 - i) *the prudent, economic, efficient and effective use of available resources;*
 - ii) *the improvement of standards of quality over time.*
 - c) *be financially sustainable; and*
 - d) *be environmentally sustainable; and*
 - e) *be regularly reviewed with a view to upgrading, extention and improvement.*

Above provision is enshrined in section 152 of our Constitution, 1996, which states that one of the objects of local government is to ensure the provision of services to communities in a sustainable manner.

The following demands were accordingly made by the Fraaisig Height Committee:

- that Council considers the cancellation of the sale of Erf 3409 to Own Haven due to their failure to develop the property; and
- the provision of temporary basic municipal services to those residing on Erf 3409.

This report on Erf 17301, (consolidated 3002, 3326, 3327) on the Lagoon View Flats and Erf 3409, which is registered in the name of Own Haven, is accordingly submitted to Council for consideration taking cognizance of the housing needs in Hornlee.

Disclaimer:	It must be noted that apart from the documents attached to this report, the only other information in the properties file contains transfer documentations (POA's, Transfer documents, Annual Reports etc.)
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FINANCIAL IMPLICATIONS

None.

RELEVANT LEGISLATION

Municipal Structures Act, 117 of 1998
Municipal Finance Management Act, 56 of 2003

RECOMMENDATION BY THE MUNICIPAL MANAGER

- [a] That the Report on the sale of Erven 3002, 3326 and 3327 (17301) and Erf 3409 to Own Haven Housing Association, be noted;
- [b] That the Municipal Council notes that after the registration of erven 3002, 3326 and 3327, the properties were consolidated and is currently known as Erf 17301, Knysna, Lagoon View;
- i) that the Council Resolution dated 25 January 2005, the *Land Availability and Cooperation Agreement*, 17 February 2005, and the Deed of Sale concluded during July 2005, did not make provision for the sale of the housing units to the tenants;
- [c] That Council notes the report on Erf 3409 as sold to Own Haven and that no development has taken place; and
- i) that the Council mandates the Municipal Manager to write to Own Haven and put them to terms for the non-compliance with contractual provisions and allow them 30 days to rectify the breach; and
- ii) failing which, the Council mandates the Municipal Manager to appoint a legal firm to cancel the sale of Erf 3409 concluded between Own Haven and Knysna Municipality;
- [d] That Council approves the provision of basic municipal services to those residents currently occupying Erf 3409.

APPENDIX / ADDENDUM

Annexure "A": Minutes of meeting held on 13 October 2023;
Annexure "B": Council resolution dated 30 September 2003;
Annexure "C": Council resolution dated 25 November 2003;
Annexure "D": Council resolution dated 6 April 2004;
Annexure "E": Land Availability & Cooperation Agreement, 17 February 2005;
Annexure "F": Council resolution dated 25 January 2005;
Annexure "G": Deed of Sale: Erven 3002, 3326 & 3327, July 2006;
Annexure "H": Confirmation of Registration: Erven 3002, 3326 & 3327 (17301);
Annexure "I": Memorandum dated 28 August 2009;
Annexure "J": Addendum to Deed of Sale, 30 November 2009;
Annexure "K": Council resolution dated 2 October 2008;
Annexure "L": Deed of Sale, Erf 3409, 25 May 2009
Annexure "M": Confirmation of Registration: Erf 3409.

File Number : 9/1/2/14

Execution : Municipal Manager
Director : Corporate Services
Acting Manager : Legal Services

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

Annexure "A"

KNYSNA MUNICIPALITY – WHERE PEOPLE & NATURE PROSPER



Fraaisig Heights / Own Haven

MEETING :

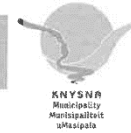
DATE: 13/10/2023 TIME: 10:15 VENUE: Committee Room

NAME & SURNAME	ORGANISATION/SECTION	E-MAIL	OPT IN FOR EMAILS? X		OFFICE NR CELL NR	SIGNATURE
Kay Andrews	IHS CHAIR.	Kandrews@kynsna.gov.za	YES	NO		
SANDILE NGQELE	DIRECTOR: COMM. SERVICES		YES	NO		
Luvuyo Lohu	DCS		YES	NO		
Rochelle Solomons	FRAAISIG HEIGHTS		YES	NO		
Avril Terblanche	Fraaisig Heights		YES	NO	0792802783	
Shusluy Wansol	Fraaisig Heights		YES	NO	0720921005	
MARIUS LEEN	FRAAISIG HEIGHTS	MARIUSLEEN@GMAIL.COM	X	NO	0742870936	
ALBERTO MARZI	KM	amarsi@kynsna.gov.za	YES	NO	0609583375	
			YES	NO		

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Anti Fraud & Corruption Hotline: 0800 21 47 64

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

KNYSNA MUNICIPALITY – WHERE PEOPLE & NATURE PROSPER



Fraaisig Heights / Oornvliet

MEETING :

DATE: 13/10/2023

TIME: 10:15

VENUE: Committee Room

NAME & SURNAME	ORGANISATION/SECTION	E-MAIL	OPT IN FOR EMAILS? X		OFFICE NR CELL NR	SIGNATURE
Mantyn Botha	KM Legal ✓	mbatha@knyssa.gov.za	YES	NO		mbatha
Leon LeVae	Fraaisig Heights ✓		YES	NO		LeVae
Joseph Jacobs	" "		YES	NO		Jacobs
Misc Black	Fraaisig Heights ✓		YES	NO	0812343190	Black
DAERIE-TOEN van Ruyven	" "		YES	NO	0727861660	van Ruyven
Kirsty Hofhuis	KM ✓	khofhuis@knyssa.gov.za	YES	NO		Hofhuis
King Dr. Neville	Khoisan ✓		YES	NO	0727601749	Neville
Jakie Dantluis			YES	NO	0655621850	Dantluis
Thando Matibane	KM ✓	tmaticane@knyssa.gov.za	YES	NO		Matibane

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FRAAISIG HEIGHTS MEETING

Date: Friday, 13 October 2023

Venue: Committee Room

Present:

Deputy Mayor – Cllr. Alberto Marbi – (DM) ; MMC IHS – Cllr. Kay Andrews (KA)

MMC Finance & Corporate Governance – Cllr. Thando Matika (TM); Director Corporate Services Luvuyo Loliwe (DCS); Director Community Services – Sandilile Ngqele (DCORP); Acting Manager Legal Services – Marilyn Botha (MB); King Dr. Neville Korkee; Rochelle Solomon; Avril Terblanche ; Shudley Windvoge; Marius Leen; Leon Le Vack; Joseph Jacobs ; Lisel Blake; Darryl Van Rooyen; Julie Danhaussen; Kirsty Hofhuis – Knysna Municipality

1. Welcome	- The Chairperson opened the meeting at and welcomed everyone present. - As the meeting had a quorum, the chairperson declared it officially constituted.
2. Apologies	None
3. Confirmation of previous minutes	N/A
4. Fraaisig Committee	- The land currently belongs to Owen Haven, no permission was given from beneficiaries to sell the land - The beneficiaries want to own the land - No development to take place 15 people currently staying on the land - Toilets and water need to be implemented as a matter of urgency as the residence have no dignity at this current stage. this is basic service delivery - Proper housing to be built - King. Dr Neville Korkee requesting a public apology for the way he was treated by the MM. - Fraaisig Heights request that Corporate services review the file for Owen Haven. - Draft an item for council meeting - Eviction order to be with drawn

Please address all correspondence to the Municipal Manager and quote the above reference
P O Box 21 • Knysna • 6570 • Tel: 044 302 6300 • Fax: 044 302 6333 • E-mail: knysna@knysna.gov.za

5. Knysna Municipality	• Knysna Municipality have committed to the following • DM: finality on ownership of the property he has requested 7 working days for corporate services and legal to look at documents • obtain all resolutions on the content of purchase • DCS – PIAI application must be addressed and an answer will be given to Marlo Leen to forward to the community of fraaisig heights • DCS and legal to table an item to council on a way forward this will be tabled at the council meeting on the 26th October 2023 • DCS- confirms that basic services should be investigated and we must try and include this on the item • DCS is not aware of any eviction order • DCS will relay message to mm for apology to king Dr Neville korkee • KA – expressed that she understands the frustration of the community and that she would endeavour to find a solution for every-one. she expressed that it won't be easy but that it can be done • DM - expressed his support and that the council is here for all their people
6. Conclusion	• Ralph Stander thanked every-one for attending the meeting and then concluded the meeting at 11h20

Annexure "B"

1

COUNCIL MEETING

MINUTES

30TH SEPTEMBER 2003

8..II.14 **PRESENTATIONS : VARIOUS ENTITIES : SOCIAL / AFFORDABLE HOUSING
INITIATIVE FOR KNYSNA**

Manager : Community Services

Presentations were made by Reverend Bantom, Chairman of the Western Cape Social Housing Company as well as Andrew Weisman from Own Haven Housing Association.

RESOLVED

- [a] That the presentations made by Reverend Bantom, Chairman of the Western Cape Social Housing Company as well as Andrew Weisman from Own Haven Housing Association, be noted;
- [b] That it be noted that the Executive Mayor, the Speaker, Manager : Community Services as well as the Chief Health & Housing will be attending a site visit in East London relating to the houses built by Own Haven Housing Association.

Annexure "C"

1

COUNCIL MEETING

MINUTES

25 NOVEMBER 2003

8.III.8 SOCIAL / AFFORDABLE HOUSING INITIATIVE FOR KNYSNA
Manager Community Services : 17/4/R

RESOLVED

(BY THE MAYORAL COMMITTEE ON 18 NOVEMBER 2003)

- [a] That the Mayoral Committee notes the report from Manager Community Services with regard to a social / affordable housing initiative for Knysna as contained in the agenda of the Mayoral Committee of 18 November 2003;
- [b] That in-principle approval be granted regarding the appointment of Own Haven Housing Association as a development partner to Council in the development of social housing projects on erven 3002 and portion of erf 3409, Knysna;
- [c] That Messrs Own Haven Housing Association be invited to address the Executive Mayor whereafter the way forward be determined.

Annexure "5"

1

COUNCIL MEETING

MINUTES

6 APRIL 2004

8.1.9 PROGRESS REPORT ON DEVELOPMENT OF A SOCIAL HOUSING PROJECT

Manager : Community Services[Health & Housing] :

RESOLVED

(By the Mayoral Committee on 3 February 2004)

- [a] That the Council appoints Own Haven Housing Association as the Development Partner for the Social Housing Project envisaged for erven 5082 and portion of 3409;
- [b] That the Council nominates Councillor A Finn in his capacity as chairperson of the Public Amenities & Social Services Committee to serve on a joint committee along with the Association Partner on the already appointed Technical Company.



34
Annexure "E"

LAND AVAILABILITY AND CO-OPERATION AGREEMENT

17 Feb 2005

ENTERED INTO BY AND BETWEEN

THE KNYSNA MUNICIPALITY
(**"the MUNICIPALITY"**)

AND

EAST LONDON OWN HAVEN

trading as OWN HAVEN HOUSING ASSOCIATION

Registration No. 2001/002084/08

registered in terms of Section 21 of the Companies Act, No 61 of 1973

(**"OHHA"**)

3002
3326
3327

PREAMBLE

- a. Whereas the Municipality has a duty and obligation to give effect to national, provincial and local policies in respect of the provision of housing particularly to members of previously disadvantaged groups; and
- b. Whereas OHHA has been founded with the specific purpose of *inter alia* playing a role in addressing the backlog in the provision of social housing, in an effective and sustainable way, by developing, providing, maintaining and managing residential accommodation; and
- c. Whereas the Municipality has by resolution of its Council decided to co-operate with OHHA as the vehicle to facilitate a social housing development within the area of jurisdiction of the Municipality; and
- d. Whereas the MUNICIPALITY is the registered owner of the land defined hereunder; and
- e. Whereas the MUNICIPALITY wishes to make the land available to OHHA for development purposes, in particular for social housing purposes; and
- f. Whereas OHHA as a housing institution is willing and able to undertake the land development under the terms and conditions as are described hereinafter,

The parties hereby conclude this agreement to make land available to be developed to provide for the provision of such housing on the basis of regulating the relationship between the Municipality and OHHA on a transparent and *bona fide* basis, adhering to sound commercial principles.

OR A 17

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

1. INTERPRETATION AND DEFINITIONS

- 1.1 The headings of the clauses in this agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this agreement nor any clause hereof.
- 1.2 Unless inconsistent with the context, any expression herein contained, including any expression and any definition thereof in sub-clause 1.6, which denotes:
- 1.2.1 any gender, includes the other genders;
- 1.2.2 a natural person, includes an artificial person and vice versa;
- 1.2.3. the singular, includes the plural and vice versa.
- 1.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the interpretation clause.
- 1.4 If any period is referred to in this agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or a public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or a public holiday.
- 1.5 This agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.
- 1.6 Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:
- | | |
|--------------------------------|---|
| 1.6.1 "affordable" | affordable to the target market segment which under normal circumstances will not enjoy access to bank/financial institution finance to obtain housing; |
| 1.6.2 "bulk services" | all those primary existing water, sewer, electrical, storm water and road network in the immediate vicinity and/or on the boundary of the land; |
| 1.6.3 "Construction Agreement" | an agreement to be concluded between OHHA and an approved building contractor for the construction of the housing units and internal services; |
| 1.6.4 "development proposal" | the proposal for the development of the land submitted by OHHA to the MUNICIPALITY which may include application for subdivision in |
- AP
- AP A 11

	accordance with the Ordinance and the Survey Act;
1.6.5 "Funder"	the National Housing Finance Corporation or any other financial institution or funder;
1.6.6 "housing subsidy scheme"	means a housing subsidy arrangement, provided for in terms of the National Housing Code, issued by the Department of Housing and executed at the Provincial level; "land" the property known as erf 3002, 3326, 3327 to be acquired by OHHA for purposes of development thereof;
1.6.7 "housing unit"	a residential structure constructed or to be constructed by OHHA on the land;
1.6.8 "internal services"	those engineering services within the boundaries of the land to be installed for purposes of the land development;
1.6.9 "land"	the property to be acquired by OHHA for purposes of development thereof as described in Schedule 1;
1.6.10 "land development"	the development of the land to be undertaken under the terms and conditions of this agreement;
1.6.11 "land use conditions"	those conditions imposed and/or approved by the MUNICIPALITY or any other appropriate public body entitled to impose conditions in the process of the sub-division of the land and/or the land development or in terms of any other process and/or procedure as may be applicable;
1.6.12 "link services"	those engineering services connecting the bulk services to the boundary of the land;
1.6.13 "Municipality"	Knysna Municipality, a municipality, established under the provisions of the Local Government Transition Act No 209 of 1993 read with Proclamations 27/1996 and 39/ 1996 promulgated in the Provincial Gazettes dated 28 May 1996 and 27 September 1996 respectively, herein represented by DAVID DANIELS in his/her capacity as Municipal Manager he/she having been duly authorised thereto in terms of a Municipal Resolution dated 25 JANUARY 2005;
1.6.14 "NHBRC"	the National Home Builders Regulatory Council;

- 1.6.15 "non-residential erf" any erf in the development not being a residential erf;
- 1.6.15 "OHHA" East London Own Haven t/a Own Haven Housing Association (reg. no. 2001/002084/08), registered in terms of Section 21 of the Companies Act, No 61 of 1973, herein represented by Andrew Leslie Wiseman he having been duly authorised thereto;
- 1.6.17 "Ordinance" the Provincial Legislation in terms of which sub-division or re-zoning of the land is to be done in order to achieve the objectives of this agreement;
- 1.6.18 "parties" OHHA and the Municipality and "Party" shall have a corresponding meaning;
- 1.6.19 "purchaser" a person purchasing a erf in the land development from OHHA and subsequently taking transfer of that erf purchased;
- 1.6.20 "qualifying beneficiaries" those persons who are identified by OHHA from time to time;
- 1.6.21 "qualifying beneficiaries lists" lists of qualifying beneficiaries under any housing scheme identified by OHHA from time to time;
- 1.6.22 "Services Agreement" an agreement to be entered into between OHHA and the MUNICIPALITY regulating the installation of internal services and the provision of link and bulk services;
- 1.6.23 "site development plan" a layout plan depicting the development to be executed on the land, approved by the MUNICIPALITY;
- 1.6.24 "social housing" the process of improving the quality of life and the integration of communities by providing affordable, good quality housing through viable and sustainable independent institutions, while encouraging the participation of residents in the management of their own communities. A variety of forms of tenure, other than immediate individual ownership is contemplated;
- 1.6.25 "sub-divisional diagram" the sub-divisional diagram pertaining to the land for purposes of the development;

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1.6.26 "transfer" the transfer of the land to OHHA;

2. CONDITIONS

2.1 This agreement is subject to the fulfilment of each and every of the following conditions:

2.1.1 OHHA filing a development proposal; ✓

2.1.2 the development proposal being approved by the MUNICIPALITY or whichever other public authority is required to approve the application; ✓

2.1.3 OHHA obtaining all consents and approval for land development purposes to enable the erven within the land development area to become registerable; ✓

2.1.4 OHHA concluding a Services Agreement with the MUNICIPALITY for the provision of link and bulk services. ✓

2.2 The conditions listed in clause 2.1 shall be deemed not to have been fulfilled if the MUNICIPALITY on the one hand or OHHA on the other, has given 60 (sixty) days written notice to the other party, informing the other party of the non-fulfilment of any one or more of the above conditions and if any of such conditions remain unfulfilled at the end of the 60(sixty) days notice period, then and in such event this agreement shall lapse and be of no force and effect between the parties, subject to the provisions contained in clause 2.3 hereunder. X

2.3 The notice as described in clause 2.2 above shall not be given by either party to the other before 9 (nine) months has elapsed after date of signature of this agreement by the last party signing this agreement and if such notice be given before the said period, then and in such event such notice shall be deemed to be *pro non scripto* for the purpose of this agreement.

2.4 Nothing herein contained shall be construed as constituting a general partnership or limiting the right or power of any party to carry on its separate business.

3. SPECIFIC ROLES AND RESPONSIBILITIES OF THE PARTIES

3.1 OHHA

OHHA shall, without derogating from the generality of obligations appearing elsewhere in this agreement, manage, operate and conduct the housing development contemplated hereby on sound commercial principles giving due consideration to all guidelines issued by the Municipality from time to time and the social upliftment and development focus underpinning the provision of housing;

The roles and functions of OHHA shall comprise;

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- 3.1.1 At the sole cost and expense of OHHA, carry out the following steps pertaining to Town Planning and Environmental issues, namely:
- 3.1.1.1 make a development proposal including a sub-division of land application, if necessary, through the MUNICIPALITY or appropriate body for the purposes of developing the area substantially in accordance with the development proposal. In this regard:
 - 3.1.1.1.1 file together with the proposal all the prescribed documentation and information as may be required by the MUNICIPALITY in terms of the Ordinance;
 - 3.1.1.1.2 advise the MUNICIPALITY of any objections with regards to the application immediately, or as soon as is practicable, after any such objection has been made and/or referred to OHHA in the process of land development;
 - 3.1.1.1.3 appear before any body or Tribunal of the MUNICIPALITY as may be required in the process of the land development;
 - 3.1.1.1.4 refer back to the MUNICIPALITY any or all conditions imposed by such body or Tribunal as described in 3.1.1.1.3 above, particularly with regards to suspension and/or cancellation of any title conditions or any other condition which involves the co-operation and/or approval of the MUNICIPALITY.
 - 3.1.1.2 file a site development plan;
 - 3.1.1.3 comply fully with the filing of all required documentation under and in terms of any conditions or terms imposed by the MUNICIPALITY in the approval process of the development;
 - 3.1.1.4 make application for the suspension/ or cancellation of any restrictive conditions if any such suspensions or cancellations are applicable.
- 3.1.2 At the sole cost and expense of OHHA, attend to all matters necessary for the internal survey of the land. In this regard:
- 3.1.2.1 appoint a professional land surveyor, as the principal contracting party and be responsible for the costs of such land surveyor;
 - 3.1.2.2 cause a sub-divisional diagram to be filed, if necessary, with the appropriate bodies including the surveyor general for approval as well as with the MUNICIPALITY

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where any plan and/or diagram is required to be approved by the MUNICIPALITY.

- 3.1.3 At the sole cost and expense of OHHA and to the extent and within the time periods as described in the Services Agreement, install all internal services, and in accordance with the level and standard and professional designs and specifications approved of by the MUNICIPALITY;
- 3.1.4 Embarking upon and doing all the marketing and sales promotions for the erven and/or rental units developed in the land development and in so doing cause purchasers to conclude Purchase Agreements, where relevant, for the housing units;
- 3.1.5 Entering into a Construction Agreement with one or more building contractors for purposes of constructing housing units in accordance with the necessary prescribed standards and conditions, including the requirements of NHBRC standards of approval, if applicable;
- 3.1.6 Indemnifying and holding harmless the MUNICIPALITY against any claim pertaining to or in connection with a construction agreement emanating from the construction of housing units;
- 3.1.7 Purchasing the land from the MUNICIPALITY for an amount calculated at *R 2,29/m²* (Rand) per square metre measured over the extent of each residential erf or general residential erf, as described in Schedule 1, which amount shall be guaranteed to be paid against transfer of that erf in the form of a financial guarantee that the compensation shall be paid to the MUNICIPALITY against transfer; *AF 9-14*
- 3.1.8 Taking transfer and possession of the land from the Municipality and paying the costs incidental thereto against the fulfilment of the conditions described in this agreement and guarantees in an acceptable form issued by a financial institution approved by the Municipality having been issued in favour of the MUNICIPALITY pro-rata the purchase price per erf, as is described in clause 3.1.7, such transfer of the land being effectuated by the MUNICIPALITY's conveyancers in cooperation with OHHA's attorneys, who have a watching brief over the conveyancing process at the cost of OHHA, and in this regard both parties undertake to do all that is necessary and required to be done for purposes of the transfer being made as soon as reasonably possible;
- 3.1.9 Concluding and finalising the land development in accordance with a development programme to be submitted and approved by the MUNICIPALITY. In this regard it is specifically agreed that the development may be completed in phases and where circumstances may arise which are beyond the control of OHHA (such as lack of demand for housing units when offered at a financially viable price or rental as applicable, or the non- *AF 9-14*

availability of loans) then OHHA shall be entitled to cancel or suspend any phase of the development for which construction has not physically been commenced with. Each phase where construction has commenced shall be fully completed provided that each phase shall be so designed that a phase is capable of operating as a separate entity independent of any other phase being developed. Ownership of those erven not developed as a result of a phase/s being cancelled shall revert to the Municipality, the costs of such transfer being for the account of OHHA. ;

- 3.1.10 Either itself or through the operational procedures of the MUNICIPALITY causing community participation to take place;
- 3.1.11 Indemnifying and holding harmless the MUNICIPALITY against any claim of whatever nature which a beneficiary or any third party may have against the MUNICIPALITY arising from this agreement; and
- 3.1.12 Jointly with the Municipality, being responsible to protect the land against land invasions and squatting from the date of taking possession thereof.

3.2 THE MUNICIPALITY

The roles and function of the MUNICIPALITY shall comprise:

- 3.2.1 Making the land available to OHHA for development purposes, on the terms and conditions described in this agreement and co-operating and assisting OHHA where it is reasonable and necessarily required for the purposes of OHHA administering and developing a social housing scheme/project undertaken within the area of jurisdiction of the Municipality within the agreed development period;
- 3.2.2 Ensuring that, at the cost of the Municipality, the land to be made available to OHHA in terms of this agreement is described in terms of a registered survey diagram;
- 3.2.3 Granting OHHA all the written Powers of Attorney which may be necessary and required for purposes of making applications and executing the land development process in accordance with the appropriate applications and procedures, which includes the sub-division of the land;
- 3.2.4 Granting any other consents and/or written Powers of Attorney for the purpose of the suspension of restrictive conditions pertaining to the land, if so required by OHHA, provided that the grant of such consents and/or powers of attorney shall not prejudice any rights the MUNICIPALITY may have over the land;
- 3.2.5 Making available all such plans, details and information under the control and in the possession of the MUNICIPALITY, relating to the land, as may be required and be of use to OHHA

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in the process of the land development, and shall disclose any such information to OHHA without additional and/or further charge or cost. In this regard the MUNICIPALITY does not warrant, undertake or in any way whatsoever guarantee that any such information provided to OHHA is correct and is hereby indemnified by OHHA against any damage claims, loss or any other prejudice suffered as a result of OHHA relying upon such given information;

3.2.6 To the extent that the MUNICIPALITY has imposed upon OHHA the obligation to carry out the land development in a manner whereby community participation is ensured, pledging its own support to facilitate such procedure if the MUNICIPALITY's assistance is required by OHHA;

3.2.7 If the parties mutually agree thereto, identifying, in consultation with OHHA, further suitable land for development by OHHA, and make the same available to OHHA in terms of a separate agreement; and

3.2.8 Ensuring that all land transferred to OHHA is not the subject of any land claims disputes and remains unoccupied pending possession thereof by OHHA.

3.3 It is recorded that the MUNICIPALITY's contribution towards the land development process and the provision of housing manifested in terms of this agreement relates to the following.

3.3.1 the land being made available at the purchase price;

3.3.2 giving consideration to the non - or reduced payment of augmentation fees pertaining to sewer, water and electricity supply;

3.3.3 giving consideration to the non - or reduced payment of connection fees and building approval plans.

4. SECURITY FOR AND SOURCING OF LOAN FUNDING

4.1 The Municipality irrevocably agrees to the cession and assignment of OHHA's rights described in this agreement and the registration of a Covering First Mortgage Bond over the land to and in favour of a funding institution, only if required by a funding institution who is prepared to grant loan capital for the development purposes to OHHA and shall not unreasonably withhold or refuse such approval and shall do whatever is necessary and required to be done for purposes of providing the aforesaid security as collateral security in favour of the funding institution.

4.2 OHHA shall be responsible for the raising of funding and the financing of the development project, whilst purchasers who require finance shall be required to apply for and qualify to receive a loan from a financial institution against the registration of First Mortgage Bonds against such properties. In this regard, OHHA shall be responsible for all liaison with financial institutions and funding agencies and

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negotiating and concluding such agreements with financial institutions and funding agencies, as may be required to give effect to the provision of housing contemplated herein, and in particular, where applicable:

- 4.2.1 to obtain loan finance from funders to fund any shortfall, nett of subsidies, for the development of appropriate housing options for qualifying beneficiaries;
- 4.2.2 to ensure that all loans made to qualifying beneficiaries are based on "truth in lending" principles which spell out *inter alia* the interest rates, marginal rates, sanctions for non-payment and all other material costs, and to ensure that these terms and conditions are explained to all qualifying beneficiaries.

5. CONSTITUTION OF A JOINT COMMITTEE ("JC")

The parties agree to constitute a joint committee ("JC") to exercise the provisions made hereunder.

- 5.1 The JC shall consist of 3 (three) representatives nominated by OHHA, one of which shall be the Project Manager/Principal Agent, 2 (two) politicians, each from different political structures represented on the Council of the Municipality, 1 (one) official nominated by the Municipality, and 1(one), if so required, nominated by the funder, which position shall only have observer status.
- 5.2 The parties and the funder shall retain the right to substitute any of its representatives at any time, which substitution in order to be valid, shall be in writing.
- 5.3 The JC shall be presided over by a chairman elected as such by the JC at the first convened meeting, which shall be convened by the Chief Executive Officer of OHHA.
- 5.4 Meetings of the JC shall be held as frequently and on such occasions as determined by the JC and in terms of such procedures relating to notice, etc. as may be determined by the JC.
- 5.5 A quorum for a meeting of the JC shall be at least one representative from each of the parties and the funder, and no decision of the JC shall be valid in the absence of the quorum unless such representative not present has agreed in writing to such decision.
- 5.6 All decisions by the JC shall be carried by not less than a 50% majority vote of those present and any stalemate shall be referred for decision to the chief executive officers or other similar officials of each of the parties.
- 5.7 The JC shall monitor all projects undertaken in terms of and pursuant to this agreement in order to ensure that the terms of this agreement be complied with by the parties. Without derogating from the generality of the foregoing, the JC shall have the following powers and duties:

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- 5.7.1 To request, receive and consider reports by the parties on the progress of any housing development and matters related to this agreement;
- 5.7.2 to monitor all financial information and other relevant aspects of any such projects, including but not limited to the application of subsidies and/or any funds received from any funding authority;
- 5.7.3 to refer any disputes for resolution in terms of the dispute resolution mechanisms created herein.

6. IDENTIFICATION OF QUALIFYING BENEFICIARIES

- 6.1 OHHA shall be responsible to identify persons who wish to apply for housing under any social housing scheme undertaken in terms of this agreement and to ascertain whether such persons so applying qualify in terms of the criteria of such scheme.
- 6.2 OHHA shall furnish the Municipality with qualifying beneficiaries lists which shall have been compiled on a fair and equitable basis, which lists shall be applied to, and refer to, the Municipality's own housing waiting lists.
- 6.3 OHHA shall screen the persons listed in the qualifying beneficiaries lists and refer the details of such persons to the authority managing housing subsidy schemes, if applicable, to confirm that the persons qualify to benefit for a subsidy under any applicable national, provincial or local housing subsidy scheme and/or policy and where applicable, obtain on behalf of the qualifying beneficiaries and as a scheme subsidy in terms of any national, provincial housing subsidy scheme/policy, the subsidy amounts applicable, in collaboration with the Municipality.
- 6.4 OHHA shall facilitate the education of qualifying beneficiaries as to their responsibilities for the payment of community service charges and other charges, levies and service costs relating to the rental and/or ownership of property.

7. NO AGENCY OR PARTNERSHIP

Notwithstanding anything in this agreement, OHHA shall not, unless specifically authorised thereto in writing in a separate agreement, be an agent of the Municipality and shall not incur any liability on behalf of the Municipality or in any way pledge or purport to pledge the Municipality's credit and shall further not hold itself out to third parties that it is authorised to incur any liability or to pledge such credit on behalf of the Municipality or perform any acts as the agent of the Municipality;

8. FORCE MAJEURE

- 8.1 A party is not liable for a failure to perform any of its obligations in so far as it is proved:
 - 8.1.1 that the failure was due to an impediment beyond its control;

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- 8.1.2 that it could not reasonably be expected to have taken the impediment and its effects upon the party's ability to perform into account at the time of conclusion of the contract;
- 8.1.3 that it could not reasonably have avoided or overcome the impediment or at least its effects.
- 8.2 An impediment in clause 8.1 may result from events such as the following, this enumeration not being exhaustive:
- 8.2.1 war, whether declared or not, civil war, civil violence, riots and revolutions, acts of piracy, acts of sabotage;
- 8.2.2 natural disaster such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightening;
- 8.2.3 explosions, fires, destruction of machines, of factories and of any kind of installations;
- 8.2.4 boycotts, strikes and lock-outs of all kinds, go slows, occupation of factories and premises and work stoppages;
- 8.2.5 acts of authority, whether lawful or unlawful, apart from acts for which the party seeking relief has assumed the risk by virtue of any other provisions of this agreement and apart from the matters mentioned in clause 8.3.
- 8.3 For the purposes of clause 8.1, "impediment" does not include lack of authorisations, of licences, of permits or of approvals necessary for the performance of the contract and to be issued by the appropriate public authority.
- 8.4 Relief from liability for non-performance by reason of the provisions of this clause 8 shall commence on the date on which the impediment relied on comes into existence and shall terminate upon the date upon which such impediment ceases to exist; provided that the party seeking relief shall give notice of such impediment to the other as soon as possible; provided further that if such impediment continues for a period of more than six months, either party shall be entitled to terminate this agreement by written notice to the other party whereupon the provisions of this agreement relating to its termination shall apply.

9 TERMINATION

Should either party (the "defaulting party") -

- 9.1 commit any act of insolvency as defined in the Insolvency Act, 1936; or
- 9.2 be wound up, whether provisionally or finally and whether compulsorily or voluntarily or be placed under judicial management; or
- 9.3 enter into any arrangement or compromise with any of its creditors; or

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- 9.4 be the subject of any resolution passed for its winding up or dissolution; or
- 9.5 have a judgment given against it in any court of law which, if appealable, is not appealed against within the period allowed for the lodging of such an appeal or, if not subject to an appeal, remains unsatisfied for a period of 10 (ten) days; or
- 9.6 breach any of the terms and conditions of this agreement,

then the other party (the "aggrieved party") shall be entitled forthwith in the case of clauses 9.1 to 9.5, both inclusive, and in the case of clause 9.6 where the defaulting party has failed to remedy such breach within a period of 21 (twenty one) days after receipt of written notice by the aggrieved party requiring it to do so, to cancel this agreement by written notice to that effect given to the defaulting party, which cancellation shall be without prejudice to any other rights which the aggrieved party may have at law.

10 DISPUTE RESOLUTION

- 10.1 If any dispute or difference arises for any reason whatsoever, between the parties, the parties undertake to endeavour to settle any such dispute or difference amicably in the spirit of co-operation and reasonableness. Should the parties not be able to reach agreement, they agree to submit:
 - 10.1.1 in the case of a legal dispute or difference, to the arbitration of an attorney or an advocate of not less than 10 (ten) years standing;
 - 10.1.2 in the case of a financial or accounting dispute or difference, to the arbitration of an chartered accountant registered with the South African Public Accountants and Auditors Board (PAAB) of not less than 10 (ten) years standing;
 - 10.1.3 in the case of an engineering dispute, to the arbitration of a professional engineer with the relevant experience and registered with the Engineering Council of South Africa of not less than 10 (ten) years standing;
 - 10.1.4 in the case of a town planning dispute, to the arbitration of a professional town planner registered with the South African Council for Town and Regional Planners of not less than 10 (ten) years standing.
- 10.2 Should the parties not reach agreement with regard to the selection of an arbitrator in terms of clauses 10.1.1 to 10.1.4 above, or to the nature of the dispute, or should the relevant arbitrator not be appointed by both parties within 10 (ten) business days of the dispute being declared, the parties agree to submit the dispute to an attorney or advocate to be appointed by the President for the time being of the Cape Law Society, whose decision in this regard shall be final and binding on the parties.

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- 10.3 The arbitrator (s) must act impartially, and disclose fully to the parties, any previous relationship which the arbitrator may have had with any of the parties.
- 10.4 The arbitrator is entitled to communicate and meet with any party to the dispute, either in the presence of the other party or in private.
- 10.5 The arbitrator shall, *inter alia*, have the power to open up, review and revise any certificate, opinion, decision, requisition or notice, and to determine all matters in dispute which shall be submitted to him in terms of this agreement, and of which notice shall have been given as aforesaid, in the same manner as if no such certificate, opinion, decision, requisition or notice have been given;
- 10.6 The parties to the dispute shall ensure that their respective representatives attending the arbitration will be vested with authority to conclude an agreement to resolve the dispute, or will be able to obtain such authority readily during the course of the arbitration.
- 10.7 The arbitrator is entitled to obtain any expert assistance that appears to be necessary or useful to the arbitrator to promote the resolution of the dispute.
- 10.8 The decision of the arbitrator (s) shall be binding on the parties hereto concerning the resolution of the dispute.
- 10.9 Should the parties agree by mutual consent, the dispute may be addressed by process of mediation, where such process shall be governed by the provisions of clauses 10.1 to 10.7 save for the role of the arbitrator being performed by a mediator, and the mediation will be determined upon agreement in writing between the parties to the dispute, or upon one or more parties withdrawing, or the mediator informing the parties to the dispute that, in his opinion, no use or purpose will be achieved by continuing the mediation, or in the event of an agreement to resolve the dispute not being reached within 30 (thirty) days of the first meeting with the mediator.
- 10.10 The party(s) responsible for the payment of costs occasioned by the mediation and/or arbitration shall be determined by the mediator or arbitrator respectively.
- 10.11 Save as set out above, or if the parties do not agree upon the rules to follow, the arbitration proceedings contemplated by this clause shall proceed in accordance with the provisions of the Arbitration Act No 42 of 1965;
- 10.12 This clause is separate from the rest of this agreement and shall remain in effect even if this agreement is terminated.

11. DOMICILIUM

- 11.1 The parties choose as their *domicilia citandi et executandi* their respective addresses set out in this clause for all purposes arising out of or in connection with the agreement at which addresses all processes and notices arising out of or in connection with this

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agreement, its breach or termination may validly be served upon or delivered to the parties.

- 11.2 For purposes of this agreement the parties' respective addresses shall be:

The Municipality:

CLYDE STREET,

KNYSNA

6570

OHHa:

Clements Kadalie Centre
Mzwanele Street
Braelyn Extension 10
East London

Facsimile: 043 7411156

or at such other address of which the party concerned may notify the other/s in writing provided that no street address mentioned in this sub-clause shall be changed to a post office box or *poste restante*.

- 11.3 Each party shall notify the other in writing of all changes in the address referred to in the *domicilium* clause from time to time as required. Any notice to be given by either party to the other party in terms of this agreement will be given in writing by prepaid registered post, by telefax or will be delivered by hand.
- 11.4 Any notice given by prepaid registered post will be deemed to have been received by the addressee, in the absence of proof to the contrary, 7 (seven) days after the date of postage.
- 12.5 Any notice delivered by hand during normal business hours will be deemed to have been received by the addressee, in the absence of proof to the contrary, at the time of delivery.
- 11.6. Any notice given by telefax will be deemed to have been received by the addressee on the day after being sent by facsimile transmission.

12 VARIATIONS, INDULGENCES, LENIENCY AND EXTENSIONS

- 12.1 No latitude or extension of time or other indulgence which may be given or allowed by either party to the other in respect of any payment or obligation or performance in terms of this agreement, shall in any way or circumstance be an implied consent by any party or operate as a waiver or a novation or otherwise effect any of such party's rights in terms of or arising out of this agreement or estop such party from enforcing at any time and without notice strict and punctual compliance with each and every provision or term hereof.
- 12.2 No indulgence, leniency or extension of time which a party (the "grantor") may grant or show to the other, will in any way prejudice the

grantor or preclude the grantor from exercising any of its rights in the future.

13 WHOLE AGREEMENT

This agreement reflects the entire agreement between the parties and no variation, amendment or addendum shall be of any force and effect between the parties unless contained in writing, signed and agreed by both parties.

14 INDIVISIBILITY

This agreement and the transaction herein contemplated shall be indivisible, save that should it transpire that any part or parts thereof are invalid or unenforceable, such invalid or unenforceable parts shall be severable whenever reasonably possible, so that the remaining parts which are valid and enforceable shall remain valid and shall not also be tainted by such invalidity or unenforceability.

15 EFFECTIVE DATE

This agreement shall be binding on both parties from the date of signature by the last party.

SIGNED on behalf of the Municipality on this 17TH day of FEBRUARY 2004⁵
in the presence of the undersigned witnesses:

AS WITNESSES:

1. [Signature]
2. [Signature]

DP Daniels
KNYSNA MUNICIPALITY

SIGNED on behalf of OHHA on this 17TH day of FEBRUARY 2004⁵ in the
presence of the undersigned witnesses:

AS WITNESSES:

1. [Signature]
2. [Signature]

[Signature]
OHHA

[Handwritten initials]
[Handwritten initials]

COUNCIL MEETING

MINUTES

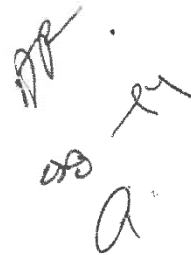
25 JANUARY 2005

**8.1.17 DEVELOPMENT OF A MIDDLE INCOME HOUSING PROJECT AND ENTERING
INTO LAND AVAILABILITY AND CO-OPERATION AGREEMENT**

Manager: Community Services (Housing) Mr W Lombard Tel: 3026418

RESOLVED

- [a] That Council approves and enter into the Land Availability and Cooperation Agreement with Own Haven Housing Association;
- [b] That Erf 3002 along Vigilance Drive be considered as the first phase of the project;
- [c] That the request of Own Haven for the inclusion of public open spaces erven 3326 and 3327 be favourably considered by Council;
- [d] That the question of ownership of portion of erf 3409 be resolved to allow for future extensions to the project;
- [e] That the land prices for erven 3002, 3326 and 3327 be determined at R66 545 which is 10% of the current market value as determined by an independent valuer;
- [f] That Own Haven enter into discussions with residents adjacent to and in close proximity to erven 3002, 3326 and 3327;
- [g] That the Council waives the payment of augmentation, connections and building plan fees;
- [h] That Council submits application to Provincial and national Treasury requesting approval to dispose erf 3002, 3326 and 3327 below market value.

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Annexure "F"

COUNCIL MEETING

MINUTES

25 JANUARY 2005

**8.J.17 DEVELOPMENT OF A MIDDLE INCOME HOUSING PROJECT AND ENTERING
INTO LAND AVAILABILITY AND CO-OPERATION AGREEMENT**

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- (f) That Own Haven enter into discussions with residents adjacent to and in close proximity to erven 3002, 3326 and 3327;
- (g) That the Council waives the payment of augmentation, connections and building plan fees;
- (h) That Council submits application to Provincial and national Treasury requesting approval to dispose erf 3002, 3326 and 3327 below market value.



Annexure "G"

DEED OF SALE

ENTERED INTO BY AND BETWEEN

THE KNYSNA MUNICIPALITY
("the MUNICIPALITY")

AND

EAST LONDON OWN HAVEN

trading as OWN HAVEN HOUSING ASSOCIATION
Registration No. 2001/002084/08
registered in terms of Section 21 of the Companies Act, No 61 of 1973

July 2006
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RECORDAL

- 1.1 The parties entered into a Land Availability and Co-operation Agreement (hereinafter referred to as "the existing agreement") on 17 February 2005 of which a copy is attached hereto marked "A",
- 1.2 The said existing agreement provides, inter alia, that East London Own Haven will purchase certain land from the Knysna Municipality; and
- 1.3 The parties, in this agreement, wish to give effect to such provisions.

2

LAND AVAILABILITY AND CO-OPERATION AGREEMENT

Save as provided for to the contrary herein, the terms of the existing agreement shall continue to be of full force and effect.

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SALE OF LAND

The Knysna Municipality hereby sells to East London Own Haven who hereby purchases erven 3002, 3326 and 3327, Knysna.

4

PURCHASE PRICE

Notwithstanding provisions to the contrary in the existing agreement, the purchase price for the said erven 3002, 3326 and 3327, Knysna shall be the sum of R66,545.00 (SIXTY SIX THOUSAND FIVE HUNDRED AND FORTY FIVE RAND).

5

TRANSFER

Unless otherwise agreed in writing, transfer of the property sold in terms hereof shall not take place until the development proposal provided for in the existing agreement has been approved, the rezoning of erven 3326 and 3327 to general residential has been successfully completed and the conditions listed in clause 2.1 of the existing agreement have been fulfilled.

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FAILURE TO REZONE

36
If either erf 3326 or erf 3327 Knysna is not rezoned to general residential within ~~18~~ (EIGHTEEN) months from the date of signature hereof, this agreement shall automatically be amended so that the erf or erven in question are excluded from the sale. The subject matter of the sale will then be only erf 3002 Knysna and whichever other erf, if any, has been so rezoned. The above provisions relating to the rezoning of erven 3326 and 3327 Knysna shall then no longer apply. The purchase price shall however remain the same, namely the sum of R66,545.00 (SIXTY SIX THOUSAND FIVE HUNDRED AND FORTY FIVE RAND).

ASQ



SIGNED on behalf of the Municipality on this
presence of the undersigned witnesses:

day of JULY 2006 in the

AS WITNESSES:

1

2

KNYSNA MUNICIPALITY

SIGNED on behalf of East London Own Haven on this
2006 in the presence of the undersigned witnesses:

day of JULY

AS WITNESSES:

1

2

EAST LONDON OWN HAVEN

Annexure H

Prepared by me
[Signature]
CONVEYANCER
HM OOSTHUIZEN

R. 160,00

BC 135 38 / 18
GEKANSOLEEN
CANCELLED
REGISTRAR/REGISTRAR
10 APR 2018

301 HENRIE
OOSTHUIZEN

VERBIND MORTGAGED
VIR
FOR R 4 320 000,00

BC B 007516 / 11
15 MAR 2011
REGISTRAR/REGISTRAR

CERTIFICATE OF CONSOLIDATED TITLE T 013449 / 11

issued under the provisions of Section 40 of the Deeds Registries
Act No. 47 of 1937

WHEREAS

EAST LONDON OWN HAVEN
(Association incorporated under Section 21)
Registration Number 2001/002084/08

DATA / VERIFY
13 MAY 2011
MIDIC LEBEQUE

has applied for the issue to them of a Certificate of Consolidated Title under the
provisions of Section 40 of the Deeds Registries Act No. 47 of 1937; and

whereas the said EAST LONDON OWN HAVEN is the registered owner of:

1 ERF 17298 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
WESTERN CAPE PROVINCE

held under Deed of Transfer No T 13445/14 (4)

FOR FURTHER ENDORSEMENTS
SEE PAGE 10

DATA
11 MAY 2011
ZAWULA THULANI

TD
2

**2 ERF 17299 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
WESTERN CAPE PROVINCE**

held under Deed of Transfer No T

13446/11P

**3 ERF 17300 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
WESTERN CAPE PROVINCE**

held under Deed of Transfer No T

13447/11

which have been consolidated into the land hereinafter described:

NOW therefore, in pursuance of the provisions of the said Act, I, the Registrar of Deeds at Cape Town do hereby certify that the said

**EAST LONDON OWN HAVEN
(Association incorporated under Section 21)
Registration Number 2001/002084/08**

their heirs, successors-in-title and assigns, is the registered owner of:

**ERF 17301 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
WESTERN CAPE PROVINCE**

IN EXTENT 1,9446 (ONE COMMA NINE FOUR FOUR SIX) HECTARES

AS WILL APPEAR from the annexed Diagram Number SG 3634/2009.

I. IN SO FAR as the figure **A B C D r M N P Q** on Diagram Number SG 3634/2009 is concerned:

A. SUBJECT to the conditions referred to in Certificate of Amended Title on Consolidation Number T14760/1946.

b

✓

3

B. SUBJECT FURTHER to the following conditions contained in Certificate of Registered Title No T 13443/2012 imposed by the Administrator in terms of Ordinance 33 of 1934 when approving the establishment of Knysna Township Extension No. 4 namely –

1. "Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 383 dated 13th June, 1958.
2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of section 146 of Ordinance No. 15 of 1952, as amended.
3. The owner of this erf shall without compensation, be obliged to allow electricity cables and/or wires and main and/or other water pipes and the sewage and drainage, including storm water of any other erf or even inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing altering, removing or inspecting any works connected with the above.
4. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

II. IN SO FAR as the figure **M r z v w x y** on the said Diagram Number SG 3634/2009 is concerned:-

A. SUBJECT to the conditions referred to in Certificate of Amended Title on Consolidation Number T14760/1946.

III. IN SO FAR as the figure **z s F G H J K L y** on the said Diagram Number SG 3634/2009 is concerned:-

A. SUBJECT to the conditions referred to in Deed of Transfer No. T10403/1938.

B. SUBJECT FURTHER to and ENTITLED to the benefit of the following condition mentioned in Deed of Transfer No. T10403/1938 namely-

"That the said Morgan and his successors in title as owner of the property in para. 1 about to be transferred to him on partition and the said Josephine Horn, born Robertson, widow, and her successors in title shall have an equal right to the supply of water arising from the fountain marked as such on the diagram of Portion 1 of Lot A Hunters Home and that as and when either of the said parties deem it necessary to lay down or construct any necessary works at the said fountain for the purpose of dividing the flow equally between the said parties it shall be at their joint expense. That the said Morgan and his successors in title shall have the right at any time hereafter, at his own cost and expense and without payment of compensation to the said Josephine Horn or her successors in title, to construct and lay down a small abutment and an aqueduct and/or pipes from the said fountain on to the boundary of his property namely Portion 2 of Lot A Hunters Home, about to be transferred to said Leopold Reynolds Morgan."

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- IV. IIN SO FAR as the figure **F G H J K L M r s** on the said Diagram Number SG 3634/2009 is concerned:-

SUBJECT FURTHER to the following conditions contained in Certificate of Registered Title No ^{T16333/90} imposed by the Administrator in terms of Ordinance 33 of 1934 when approving the establishment of Knysna Township Extension No. 4 namely –

- 1 "Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 383 dated 13th June, 1958.
2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of section 146 of Ordinance No. 15 of 1952, as amended.
3. The owner of this erf shall without compensation, be obliged to allow electricity cables and/or wires and main and/or other water pipes and the sewage and drainage, including storm water of any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing altering, removing or inspecting any works connected with the above.
4. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

V. IN SO FAR so far as the figure **D E f z r** on the said Diagram Number SG 3634/2009 is concerned:-

A. SUBJECT to the conditions referred to in Certificate of Amended Title on Consolidation Number T14760/1946.

VI. IN SO FAR as the figure **E s z f** on the said Diagram Number SG 3634/2009 is concerned:-

C. SUBJECT to the conditions referred to in Deed of Transfer No. T10403/1938.

D. SUBJECT FURTHER to and ENTITLED to the benefit of the following condition mentioned in Deed of Transfer No. T10403/1938 namely-

"That the said Morgan and his successors in title as owner of the property in para. 1 about to be transferred to him on partition and the said Josephine Horn, born Robertson, widow, and her successors in title shall have an equal right to the supply of water arising from the fountain marked as such on the diagram of Portion 1 of Lot A Hunters Home and that as and when either of the said parties deem it necessary to lay down or construct any necessary works at the said fountain for the purpose of dividing the flow equally between the said parties it shall be at their joint expense. That the said Morgan and his successors in title shall have the right at any time hereafter, at his own cost and expense and without payment of compensation to the said Josephine Horn or her successors in title, to construct and lay down a small abutment and an aqueduct and/or pipes from the said fountain on to the boundary of his property namely Portion 2 of Lot A Hunters Home, about to be transferred to said Leopold Reynolds Morgan."

VII. IN-SO FAR as the figure **Defsr** on the said Diagram Number SG 3634/2009 is concerned:-

SUBJECT FURTHER to the following conditions contained in Certificate of Registered Title No ~~116383/1990~~ (3)13444/11 imposed by the Administrator of Ordinance 33 of 1934 when approving the establishment of Knysna Township Extension No. 4 namely –

1. "Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 383 dated 13th June, 1958.
2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of section 146 of Ordinance No. 15 of 1952, as amended.
3. The owner of this erf shall without compensation, be obliged to allow electricity cables and/or wires and main and/or other water pipes and the sewage and drainage, including storm water of any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing altering, removing or inspecting any works connected with the above.

8

4. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

AND that by virtue of these presents the said

EAST LONDON OWN HAVEN
(Association incorporated under Section 21)
Registration Number 2001/002084/08

its successors in title, administrators or assigns, now is and henceforth shall be entitled thereto conformably to local custom, the State, however, reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents, and have caused the seal of office to be affixed thereto.

THUS DONE AND EXECUTED at the office of the Registrar of Deeds at Cape Town
on this the 15th day of March 2011.



Registrar of Deeds

✓

100 b

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

WinDeed Database D/O Property - List

SS LAGOON VIEW, 88, CAPE TOWN

Lexis® WinDeed

Any personal information obtained from this search will only be used as per the Terms and Conditions agreed to and in accordance with applicable data protection laws including the Protection of Personal Information Act, 2013 (POPI), and shall not be used for marketing purposes.

SEARCH CRITERIA

Search Date	2023/10/20 08:56	Scheme Number	88
Reference	-	Scheme Type	UNIT
Report Print Date	2023/10/20 08:57	Unit Number	-
Scheme Name	SS LAGOON VIEW	Search Source	WinDeed Database
Deeds Office	Cape Town		

UNIT LIST

Unit Number	Owner	Title Deed	Registration Date	Purchase Price (R)
101	G & B KNYSNA PROP PTY LTD	ST5322/2018	2018/04/10	343 034
102	G & B KNYSNA PROP PTY LTD	ST5323/2018	2018/04/10	343 034
103	G & B KNYSNA PROP PTY LTD	ST5324/2018	2018/04/10	343 034
104	G & B KNYSNA PROP PTY LTD	ST5325/2018	2018/04/10	343 034
201	G & B KNYSNA PROP PTY LTD	ST5326/2018	2018/04/10	343 034
202	G & B KNYSNA PROP PTY LTD	ST5327/2018	2018/04/10	343 034
203	G & B KNYSNA PROP PTY LTD	ST5328/2018	2018/04/10	343 034
204	G & B KNYSNA PROP PTY LTD	ST5329/2018	2018/04/10	343 034
301	G & B KNYSNA PROP PTY LTD	ST5330/2018	2018/04/10	176 546
302	G & B KNYSNA PROP PTY LTD	ST5331/2018	2018/04/10	176 546
303	G & B KNYSNA PROP PTY LTD	ST5332/2018	2018/04/10	176 546
304	G & B KNYSNA PROP PTY LTD	ST5333/2018	2018/04/10	176 546
305	G & B KNYSNA PROP PTY LTD	ST5334/2018	2018/04/10	176 546
306	G & B KNYSNA PROP PTY LTD	ST5335/2018	2018/04/10	176 546
401	G & B KNYSNA PROP	ST5336/2018	2018/04/10	302 680

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ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

UNIT LIST				
Unit Number	Owner	Title Deed	Registration Date	Purchase Price (R)
	PTY LTD			
402	G & B KNYSNA PROP PTY LTD	ST5337/2018	2018/04/10	302 680
403	G & B KNYSNA PROP PTY LTD	ST5338/2018	2018/04/10	302 680
404	G & B KNYSNA PROP PTY LTD	ST5339/2018	2018/04/10	302 680
405	G & B KNYSNA PROP PTY LTD	ST5340/2018	2018/04/10	302 680
406	G & B KNYSNA PROP PTY LTD	ST5341/2018	2018/04/10	302 680
501	G & B KNYSNA PROP PTY LTD	ST5342/2018	2018/04/10	393 476
502	G & B KNYSNA PROP PTY LTD	ST5343/2018	2018/04/10	413 652
503	G & B KNYSNA PROP PTY LTD	ST5344/2018	2018/04/10	393 476
504	G & B KNYSNA PROP PTY LTD	ST5345/2018	2018/04/10	413 652
601	G & B KNYSNA PROP PTY LTD	ST5346/2018	2018/04/10	302 680
602	G & B KNYSNA PROP PTY LTD	ST5347/2018	2018/04/10	302 680
603	G & B KNYSNA PROP PTY LTD	ST5348/2018	2018/04/10	302 680
604	G & B KNYSNA PROP PTY LTD	ST5349/2018	2018/04/10	302 680
701	G & B KNYSNA PROP PTY LTD	ST5350/2018	2018/04/10	393 476
702	G & B KNYSNA PROP PTY LTD	ST5351/2018	2018/04/10	413 652
703	G & B KNYSNA PROP PTY LTD	ST5352/2018	2018/04/10	393 476
704	G & B KNYSNA PROP PTY LTD	ST5353/2018	2018/04/10	413 652
801	G & B KNYSNA PROP PTY LTD	ST5354/2018	2018/04/10	343 034
802	G & B KNYSNA PROP PTY LTD	ST5355/2018	2018/04/10	343 034
803	G & B KNYSNA PROP PTY LTD	ST5356/2018	2018/04/10	343 034
804	G & B KNYSNA PROP	ST5357/2018	2018/04/10	343 034

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ORDINARY MUNICIPAL COUNCIL MEETING
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26 OCTOBER 2023

UNIT LIST				
Unit Number	Owner	Title Deed	Registration Date	Purchase Price (R)
	PTY LTD			
901	G & B KNYSNA PROP PTY LTD	ST5358/2018	2018/04/10	176 546
902	G & B KNYSNA PROP PTY LTD	ST5359/2018	2018/04/10	176 546
903	G & B KNYSNA PROP PTY LTD	ST5360/2018	2018/04/10	176 546
904	G & B KNYSNA PROP PTY LTD	ST5361/2018	2018/04/10	176 546
1001	G & B KNYSNA PROP PTY LTD	ST5362/2018	2018/04/10	176 546
1002	G & B KNYSNA PROP PTY LTD	ST5363/2018	2018/04/10	176 546
1003	G & B KNYSNA PROP PTY LTD	ST5364/2018	2018/04/10	176 546
1004	G & B KNYSNA PROP PTY LTD	ST5365/2018	2018/04/10	176 546
1005	G & B KNYSNA PROP PTY LTD	ST5366/2018	2018/04/10	176 546
1006	G & B KNYSNA PROP PTY LTD	ST5367/2018	2018/04/10	176 546
1101	G & B KNYSNA PROP PTY LTD	ST5368/2018	2018/04/10	176 546
1102	G & B KNYSNA PROP PTY LTD	ST5369/2018	2018/04/10	176 546
1103	G & B KNYSNA PROP PTY LTD	ST5370/2018	2018/04/10	176 546
1104	G & B KNYSNA PROP PTY LTD	ST5371/2018	2018/04/10	176 546
1105	G & B KNYSNA PROP PTY LTD	ST5372/2018	2018/04/10	176 546
1106	G & B KNYSNA PROP PTY LTD	ST5373/2018	2018/04/10	176 546
1201	G & B KNYSNA PROP PTY LTD	ST5374/2018	2018/04/10	302 680
1202	G & B KNYSNA PROP PTY LTD	ST5375/2018	2018/04/10	302 680
1203	G & B KNYSNA PROP PTY LTD	ST5376/2018	2018/04/10	302 680
1204	G & B KNYSNA PROP PTY LTD	ST5377/2018	2018/04/10	302 680
1205	G & B KNYSNA PROP	ST5378/2018	2018/04/10	302 680

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ORDINARY MUNICIPAL COUNCIL MEETING
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26 OCTOBER 2023

UNIT LIST				
Unit Number	Owner	Title Deed	Registration Date	Purchase Price (R)
	PTY LTD			
1206	G & B KNYSNA PROP PTY LTD	ST5379/2018	2018/04/10	302 680
1301	G & B KNYSNA PROP PTY LTD	ST5380/2018	2018/04/10	343 034
1302	G & B KNYSNA PROP PTY LTD	ST5381/2018	2018/04/10	343 034
1303	G & B KNYSNA PROP PTY LTD	ST5382/2018	2018/04/10	343 034
1304	G & B KNYSNA PROP PTY LTD	ST5383/2018	2018/04/10	343 034
1305	G & B KNYSNA PROP PTY LTD	ST5384/2018	2018/04/10	343 034
1306	G & B KNYSNA PROP PTY LTD	ST5385/2018	2018/04/10	343 034
1401	G & B KNYSNA PROP PTY LTD	ST5386/2018	2018/04/10	343 034
1402	G & B KNYSNA PROP PTY LTD	ST5387/2018	2018/04/10	343 034
1403	G & B KNYSNA PROP PTY LTD	ST5388/2018	2018/04/10	343 034
1404	G & B KNYSNA PROP PTY LTD	ST5389/2018	2018/04/10	343 034
1405	G & B KNYSNA PROP PTY LTD	ST5390/2018	2018/04/10	343 034
1406	G & B KNYSNA PROP PTY LTD	ST5391/2018	2018/04/10	343 034

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August 28, 2009

Annexure "I"

Knysna
Municipality
Memo

To: MUNICIPAL MANAGER
From: DIRECTOR: PLANNING AND DEVELOPMENT
Date: 28 AUGUST 2009

OWN HAVEN DEVELOPMENT

Your e-mail request dated 28 August 2009 refers and is responded to based upon the records at my disposal.

1. BACKGROUND

On 25 November 2003, in item 8.III.8 entitled "SOCIAL/AFFORDABLE HOUSING INITIATIVE IN KNYSNA" Council resolved:

- [a] That the Mayoral Committee notes the report from the Manager Community Services with regard to a social/ affordable housing initiative for Knysna as contained in the agenda of the Mayoral Committee of 18 November 2003;
- [b] That in-principle approval be granted regarding the appointment of Own Haven Housing Association as a development partner to Council in the development of social housing projects on erven 3002 and a portion of erf 3409, Knysna;
- [c] That Messrs Own Haven Housing Association be invited to address the Executive Mayor where after the way forward be determined.

On 6 April 2004 Council appointed Own Haven as the development partner for a "Social Housing Project" for erven 5082 and a portion of 3409 A).

MUNICIPALITY / MUNICIPALITY
KNYSNA

2019-03-01

Action: D.I.HS
CC: O.P.T.D
M.M.

1 |

August 28, 2009

On 25 January 2005 council resolved to conclude a Land Availability agreement with OHHA which was signed on 17 February 2005 (Annexures B and C). Resolution 8.1.17 reads:

- [a] That Council approves and enter into the Land Availability and Co-operation Agreement with Own Haven Housing association;*
- [b] That Erf 3002 along Vigilance Drive be considered as the first phase of the project;*
- [c] That the request of Own Haven for the inclusion of the POS erven 3326 and 3327 be favourably considered by Council;*
- [d] That the question of ownership of portion of erf 3409 be resolved to allow for future extensions to the project;*
- [e] That the land prices for erven 3002, 3326 and 3327 be determined at R66 545 which is 10% of the current market value as determined by an independent valuer;*
- [f] That Own Haven enter into discussions with residents adjacent to and in close proximity to erven 3002, 3326 and 3327;*
- [g] That the Council waives the payment of augmentation, connection and building plan fees;*
- [h] That Council submits application to Province and National Treasury requesting approval to dispose erven 3002, 3326 and 3327 below market value.*

This was ratified by a Sale Agreement concluded in late 2006 (Annexure D).

It bears noting that the documentation on file only refers to a social housing project focussing on middle-income housing. There is no stipulation on the value, market-focus or trading value of the units; or the affordability levels of the intended beneficiaries. The beneficiaries are also not defined.

2. CONTRACTUAL DETAILS

At a discussion with the Developer on 26 October 2006 it was agreed that there had been "misperception and miscommunication" regarding the intent of the Development. It was stated that the intention was to sell units between R350 000 and R500 000, with the average being R450 000. At this stage the intention was to sell the units.¹

¹ There are minutes of a community meeting indicating that the community was expecting units priced between R150 000 and R250 000.

August 28, 2009

On 8 April 2008 a meeting was held between the partners and the cost of units were discussed. Based upon the initial estimated average cost of a unit (R450 000) and an assumed income of R15 500, a household would need to earn almost R18 000 in order to purchase a unit. At a joint income of R18 000, the NCA restrictions meant that the household would only be able to leverage a first-time bond of R350 000. The implication is that the household would have to earn R3000 more per month, in order to afford a unit valued at R100 000 less.

The decision was confirmed that other tenure options needed to be considered, including shared ownership and rent-to-buy. At the meeting Own Haven confirmed that they wished to consider erf 3409 as Phase II of the project, which would be aimed at the lower-income bracket, and requested that Council confirm the ownership of erf 3409 in order to allow for the sale to proceed.

In September 2008, Council resolved that to dispose of erf 3409 in terms of the Municipal Finance Management Act 56/2003, as Council did not require the land to provide the minimum level of basic municipal services and the land would be made available for affordable housing (Annexure E).

Council also resolved at the meeting that as the sale price of Phase One (erven 3002, 3326 and 3327) was valued at 10% of the Municipal Valuation it will be appropriate to agree that the sale price of erf 3409 be fixed on 10% of the Municipal Valuation of the erf. The Municipal Valuation of erf 3409 was R500 000, which meant that the selling price was 10% thereof (R50 000).

Council further resolved that: *"that prior to the transfer of the land, Own Haven Housing Association and Council enter into an agreement regarding the sale price and the leasing price of the units with an escalation clause in accordance with Council's definition of affordable housing"*.

The Deed of Sale for erf 3409 was concluded on 25 May 2009 (Annexure F). The agreement makes for the following stipulations:

7

USE OF PROPERTY

OHHA may only use the property for housing development as provided for herein and in the existing agreement. The development shall furthermore be subject to the following special conditions:

- 7.1 40% (FORTY PERCENT) of the property, calculated according to area, shall be utilized for residential units which OHHA commits to sell for a sale price not exceeding R400,000.00 (FOUR HUNDRED THOUSAND RAND) for any one unit, subject to target beneficiary affordability. The remaining 60%(SIXTY PERCENT) may not be sold and may only be leased.

August 28, 2009

- 7.2 The parties hereto agree that the leasing price of the units will not exceed a maximum of 30% of gross family income together with escalation as referred to in clause 7.4.13
- 7.3 All the rental units provided for herein shall be administered by OHHA and may not be converted into sale units.
- 7.4 The allocation of units, whether for sale or rental, shall always be in terms of council policy of the municipality. Such policy shall include but not necessarily be limited to the council's draft policy on affordable housing and "Criteria for Allocation of Affordable Housing", as set out hereunder, where the conditions will not be unnecessarily onerous on the beneficiaries or the development:
- 7.4.1 South African nationals or immigrants on consideration of the conditions set down by the Department of Home Affairs;
- 7.4.2 Over the age of 21 years;
- 7.5. Not own another dwelling anywhere else;
- 7.5.1 No sales or rentals to legal entities, only to natural persons;
- 7.5.2 No households or persons with an income exceeding the affordable levels as prescribed in council policy;
- 7.5.3 No minor-headed households;
- 7.5.4 Be able to afford the mortgage repayments and show proof thereof;
- 7.5.5 Substantive proof of having resided in the Greater Knysna area for at least eight (8) years;
- 7.5.6 No person or organization may register on behalf of any other individual;
- 7.5.7 No person shall be registered without providing his or her ID number;
- 7.5.8 It remains the responsibility of Applicant to inform council of any change to personal particulars and circumstances; and
- 7.5.9 Council retains right to "clawback" clause in agreements. This implies that the "discount" at which the affordable unit was purchased will be off-set against any subsequent sale, On a sliding scale for a period of time, determined as a Maximum annual sale price increase of CPIX + 2% for a period of 5 years
- 7.6 The following income brackets for the affordable lease market will be applicable:
- 7.6.1 Phase 1 will cater for the people earning between R 10 001 and R 18 000.00;
- 7.6.2 Phase 2 will cater for the people earning between R 4 500.00 and R 10 000.
- 7.6.3 2009 will be deemed the base year with reference to income bands, levels of affordability, sale prices, etc.

August 28, 2009

3. IMPLEMENTATION AND MARKETING

Building on the current phase commenced mid 2008 and the first part of Phase I is due for completion in September 2009. Marketing has commenced and the conditions for applications were based upon a Council resolution and include:

- Applicant to be a SA Citizen aged 21 years and older. Non SA applicants require a valid work permit and proof of permanent or long term contract employment.
- Applicants are required to be registered on the Knysna Municipal housing waiting list.
- Applicants wishing to take occupation and residence of the unit to have been permanently employed in the greater Knysna Municipal area for a period of at least 5 years.
- Earn within the specified middle income bracket earning less than R15, 000 per month, with qualification subject to a credit and affordability screening.
- Not own a property elsewhere.
- Consent to a debit order for all rental deductions.

All applications have to undergo a screening and credit vetting procedure with the following documentation being mandatory requirements in order to complete the process:-

- A fully completed application form.
- Proof of residence.
- Proof of employment in Knysna for at least 5 years.
- ID copy of the applicant and/ or partner.
- A copy of the payslip not older than the previous months.
- 3 months bank statement.
- Proof of payment for a non refundable application fee of R100.00

Other criteria include that applicants must be permanently employed or be in long term contractual employment, meet Own Haven's affordability requirements; and have a clear credit status.

The development comprises 1, 2, and 3 bedroom flats with, their sizes ranging from 36m², 61m² and 77 m² respectively. Each flat has been fitted with a built in kitchen, built in wardrobes, and bathroom, with a few having a dedicated en suite bathroom. Access into the building will be managed via access controls .

Initially the basic monthly rental was as follows:

- 1 Bed, 1 bath R2600
- 2 Bed, 1 bath R3450
- 2 Bed, 2 bath R3650
- 3 Bed, 2 bath R4250

With an upfront deposit equivalent to one and half months rental payable on signature of a lease agreement.

5 |

August 28, 2009

However, after discussions with the Developer the rentals have been brought down to

- 1 Bed, 1 Bath R2200.00
- 2 Bed, 1 Bath R2950.00
- 2 Bed, 2 Bath R3200.00
- 3 Bed, 2 Bath R3900.00

The developers are considering the deposit option and looking at the following options:

- No rental for first month
- Deposit payable on moving in
- Deposit payable over 4 months
- Deposit to be split over 2 months

4. CONCLUSION

The Developer is also considering alternate forms of tenure as agreed to in 2008. However, financial institutions are wary of rent-to-buy and shared ownership under the NCA. The Developers have reported that there has been limited interest in the development. This could be for a number of reasons: people want to be able to immediately buy the unit (at a price under R250 000), the rentals are in fact too high; the rentals are considered too high against what was expected; poor or inappropriate marketing and deposit constraints.

It must be borne in mind that this is the first "affordable" development in Knysna and thus there are no comparisons for renters/ buyers within this market space.

LAUREN WARING
DIRECTOR: PLANNING AND DEVELOPMENT
28 August 2009

*not done to life
Cilla Munnick
21/8/09*

(2009/12/14) Godfrey Reed - Addendum to agreement 1209.docx

Page 1

Knysna PH 1
Municipality land matters

Nov 2009



Annexure "J"

ADDENDUM TO DEED OF SALE

ENTERED INTO BY AND BETWEEN

THE KNYSNA MUNICIPALITY
("the MUNICIPALITY")

AND

EAST LONDON OWN HAVEN

trading as OWN HAVEN HOUSING ASSOCIATION
Registration No. 2001/002084/08
registered in terms of Section 21 of the Companies Act, No 61 of 1973

on 17 February 2005

IT IS AGREED:

1. The parties entered into a Land Availability and Co-operation Agreement (hereinafter referred to as "the existing agreement") on 17 February 2005.
2. The said existing agreement provides, inter alia, that East London Own Haven will purchase certain land from the Knysna Municipality, namely erven 3002, 3326 and 3327.
3. In order to simplify matters, East London Own Haven shall (on the same terms and conditions as the existing agreement) take transfer of erven 17298 (a portion of erf 3002), 17299 (a portion of erf 3326) and 17300 (a portion of erf 3327) and not erven 3002, 3326 and 3327 as contemplated in the Land Availability and Co-operation in that the remainders would have had to again be transferred back to the Knysna Municipality after subdivision.

Handwritten initials and signatures, including a large 'Q' and a signature that appears to be 'P. Q.'.



Page 2



SIGNED on behalf of the Municipality on this 30th day of November 2009 in the presence of the undersigned witnesses:

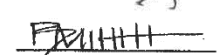
AS WITNESSES:

- 1 _____
- 2 _____


KNYSNA MUNICIPALITY

SIGNED on behalf of East London Own Haven on this 30th day of November 2009 in the presence of the undersigned witnesses:

AS WITNESSES:

- 1 
- 2 


EAST LONDON OWN HAVEN

Annexure "K"

6

COUNCIL MEETING

MINUTES

2 OCTOBER 2008

C 8.1.09/08/08 **OWN HAVEN DEVELOPMENT PHASE TWO**
Director : Community Services

2009
Phase II

RESOLVED

- [a] That Council note the vesting of Erf 3409 Knysna;
- [b] That Council note the intent of Own Haven Housing Association to commence with Phase Two on the remainder of Erf 3409 Knysna;
- [c] (That Council approve the sale of Erf 3409 Knysna for the purposes of affordable housing;
- [d] That Council approve the waiving of augmentation fees for all the ~~affiliated~~ properties for Phase One and Phase Two;
- [e] That Council approve the extension of the period for rezoning from ~~eighteen~~ to thirty-six months, as per Clause Six of the Deed of Sale;
- [f] That, prior to the transfer of the land, Own Haven Housing Association and Council enter into an agreement regarding the sale price and the leasing price of the units, with an escalation clause in accordance with Council's definition of affordable housing.

May 2009

Annexure "L"

3409

DEED OF SALE

ENTERED INTO BY AND BETWEEN

THE KNYSNA MUNICIPALITY

("the Municipality")

AND

EAST LONDON OWN HAVEN

trading as OWN HAVEN HOUSING ASSOCIATION
Registration No. 2001/002084/08

Registered in terms of Section 21 of the Companies Act,
No 61 of 1973
("OHHA")

RECORDAL

- 1.1 The parties entered into a Land Availability and Co-operation Agreement (hereinafter referred to as "the existing agreement") on 17 February 2005
- 1.2 The existing agreement provided, inter alia, that the Municipality shall make land available to OHHA as a contribution towards the land development process and the provision of affordable housing manifested in terms of the existing agreement; and
- 1.3 The Municipality has agreed to the sale of certain property and to the amendment of the existing agreement. The parties, in this agreement, wish to give effect to such provisions.

N. S. S.

R. S.

2

LAND AVAILABILITY AND CO-OPERATION AGREEMENT

Save as provided for to the contrary herein, the terms of the existing agreement shall continue to be of full force and effect. The terms of this agreement shall prevail wherever they are in conflict with the existing agreement.

3

SALE OF LAND

The Knysna Municipality hereby sells to OHHA who hereby purchases erf 3409 Knysna (hereinafter referred to as "the property").

4

PURCHASE PRICE

The purchase price for the said erf 3409 Knysna shall be R 50 000,00 (FIFTY THOUSAND RAND), which amount represents 10% (TEN PERCENT) of the present municipal Valuation of the property and shall be payable upon the registration of transfer.

5

GUARANTEE

- 5.1 OHHA shall deliver to the Municipality a bank guarantee in the form reasonably acceptable to the Municipality for the payment of the purchase price upon the registration of transfer. The guarantee shall be furnished prior to the registration of transfer and within 30 (THIRTY) days upon having been requested.
- 5.2 OHHA shall be entitled to occupy the property from the date of signature of this agreement.

6

TRANSFER

Transfer of the property shall be passed by Mosdell Pama & Cox Knysna or such other conveyancer as may be appointed by the Municipality and OHHA shall make payment of all costs relating directly or indirectly to transfer upon

Handwritten signatures and initials at the bottom right of the page. There are three distinct signatures: one at the top, one in the middle, and one at the bottom. The top signature appears to be a stylized 'S' or 'D'. The middle signature is more complex, possibly 'A. D. M.'. The bottom signature is 'J. D. M.'.

request. Transfer shall be passed as soon as reasonably possible after

- 6.1 the building plans and site development plans have been approved;
- 6.2 the property has been rezoned to permit the proposed development or to general residential, as the case may be;
- 6.3 the other conditions of the existing agreement and in particular paragraph 2 1 thereof have been fulfilled;
- 6.4 The provincial and national treasury are informed of the Municipality's intention to dispose of the property below market value as provided for herein.

7

USE OF PROPERTY

OHHA may only use the property for housing development as provided for herein and in the existing agreement. The development shall furthermore be subject to the following special conditions:

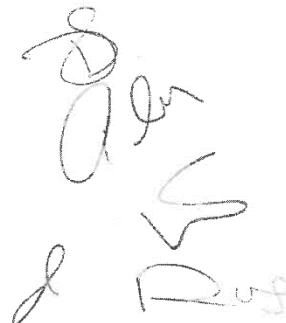
- 7.1 40% (FORTY PERCENT) of the property, calculated according to area, shall be utilized for residential units which OHHA commits to sell for a sale price not exceeding R400,000.00 (FOUR HUNDRED THOUSAND RAND) for any one unit, subject to target beneficiary affordability. The remaining 60%(SIXTY PERCENT) may not be sold and may only be leased.
- 7.2 The parties hereto agree that the leasing price of the units will not exceed a maximum of 30% of gross family income together with escalation as referred to in clause 7.4.13
- 7.3 All the rental units provided for herein shall be administered by OHHA and may not be converted into sale units.
- 7.4 The allocation of units, whether for sale or rental, shall always be in terms of council policy of the municipality. Such policy shall include but not necessarily be limited to the council's draft policy on affordable housing and "Criteria for Allocation of Affordable Housing", as set out hereunder, where the conditions will not be unnecessarily onerous on the beneficiaries or the development:
 - 7.4.1 South African nationals or immigrants on consideration of the conditions set down by the Department of Home Affairs;
 - 7.4.2 Over the age of 21 years;

Handwritten signatures and initials:

- Top signature: D. Air
- Middle signature: W
- Bottom signature: P. J.

- 7.5. Not own another dwelling anywhere else;
- 7.5.1 No sales or rentals to legal entities, only to natural persons;
 - 7.5.2 No households or persons with an income exceeding the affordable levels as prescribed in council policy;
 - 7.5.3 No minor-headed households;
 - 7.5.4 Be able to afford the mortgage repayments and show proof thereof;
 - 7.5.5 Substantive proof of having resided in the Greater Knysna area for at least eight (8) years;
 - 7.5.6 No person or organization may register on behalf of any other individual;
 - 7.5.7 No person shall be registered without providing his or her ID number;
 - 7.5.8 It remains the responsibility of Applicant to inform council of any change to personal particulars and circumstances; and
 - 7.5.9 Council retains right to "clawback" clause in agreements. This implies that the "discount" at which the affordable unit was purchased will be off-set against any subsequent sale, On a sliding scale for a period of time, determined as a Maximum annual sale price increase of CPIX + 2% for a period of 5 years
- 7.6 The following income brackets for the affordable lease market will be applicable:
- 7.6.1 Phase 1 will cater for the people earning between R 10 001 and R 18 000.00;
 - 7.6.2 Phase 2 will cater for the people earning between R 4 500.00 and R 10 000.
 - 7.6.3 2009 will be deemed the base year with reference to income bands, levels of affordability, sale prices, etc.

CONSTRUCTION

Handwritten signature and initials in the bottom right corner of the page.

Construction of the development shall be commenced within six months from the date of signature of this agreement or upon the registration of transfer, whichever shall occur first

AUGMENTATION

The Municipality hereby waives all augmentation fees in respect of the Property transferred herewith.

SIGNED on behalf of the Municipality on this 25th day of May 2009 in the presence of the undersigned witnesses:

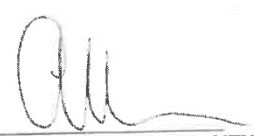
AS WITNESSES:

1  
KNYSNA MUNICIPALITY

2 

SIGNED on behalf of East London Own Haven on this 25th day of May 2009 in the presence of the undersigned witnesses:

AS WITNESSES:

1  
EAST LONDON OWN HAVEN

2 

Annexure "M"

Lexis® WinDeed

WinDeed Database D/O Property

KNYSNA, 3409, O. CAPE TOWN



Any personal information obtained from this search will only be used as per the Terms and Conditions agreed to and in accordance with applicable data protection laws including the Protection of Personal Information Act, 2013 (POPI), and shall not be used for marketing purposes.

SEARCH CRITERIA

Search Date	2023/10/20 08:52	Erf Number	3409
Reference	-	Portion Number	-
Report Print Date	2023/10/20 08:53	Township Remaining Extent	NO
Township	KNYSNA	Search Source	WinDeed Database
Deeds Office	Cape Town		

PROPERTY INFORMATION

Property Type	ERF	Diagram Deed Number	T6625/1967
Township	KNYSNA	Local Authority	KNYSNA MUN
Erf Number	3409	Province	WESTERN CAPE
Portion Number	0	Remaining Extent	NO
Registration Division	KNYSNA RD	Extent	1.1766H
Previous Description	-	LPI Code	C03900050000340900000

OWNER INFORMATION (1)

OWN HAVEN HOUSING ASSOC N P C

Owner 1 of 1

Company Type	COMPANY	Document	T6589/2010
Registration Number	200100208408	Microfilm / Scanned Date	2009 0396 0414
Name	OWN HAVEN HOUSING ASSOC N P C	Purchase Price (R)	50 000
Multiple Owners	NO	Purchase Date	2009/05/25
Multiple Properties	NO	Registration Date	2010/02/11
Share (%)	-		

ENDORSEMENTS (2)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	I-6897/94LG	-	-	00000000*
2	B13133/2011	STITCHING DUTCH INTERNATIONAL GUARANTEES FOR HOUSING	1 193 185	-

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Page 1 of 2

ORDINARY MUNICIPAL COUNCIL MEETING
AGENDA – PART 2
26 OCTOBER 2023

HISTORIC DOCUMENTS (2)				
#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	T6625/1967	MUN KNYSNA	SECT 16	2010 0044 0297
2	VA208/2010	-	Unknown	2010 0044 0296

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Page 2 of 2

14. **RESOLUTIONS OF THE MAYORAL COMMITTEE : 18 OCTOBER 2023**

ITEMS FOR NOTING

ITEMS SUBMITTED TO THE GOVERNANCE COMMITTEE MEETING HELD ON 5 SEPTEMBER 2023

C05/05/23 APPLICATION TO LEASE A PORTION OF ERF 2745 KNYSNA, A PORTION OF ERF 240, KARATARA & PORTION 4 FARM 185, RHEENENDAL

Withdrawn. Served at the meeting held on 11 May 2023.

C06/05/23 REPORT ON ALL CHURCH APPLICATIONS

Withdrawn. Served at the meeting held on 11 May 2023.

C07/05/23 APPLICATION TO ENTER INTO A LEASE AGREEMENT ON A PORTION OF ERF 4695, KNYSNA

Withdrawn. Served at the meeting held on 11 May 2023.

C08/05/23 CESSION OF VODACOM LEASE AGREEMENT ON TELECOMMUNICATIONS SITES

Withdrawn. Served at the meeting held on 11 May 2023.

C09/05/23 STATUS ON DISPUTED PROPERTIES WITH THE GARDEN ROUTE DISTRICT MUNICIPALITY

Withdrawn. Served at the meeting held on 11 May 2023.

C10/05/23 CESSION OF MTN LEASE AGREEMENT ON TELECOMMUNICATIONS SITES

Withdrawn. Served at the meeting held on 11 May 2023.

C11/05/23 APPLICATION FOR LEASE AGREEMENT – KNYSNA DOG UNIT – ENCROACHMENT ON A PORTION OF ERF 3383, KNYSNA

Withdrawn. Served at the meeting held on 11 May 2023.

C12/05/23 DISPOSAL OF MUNICIPAL OWNED PROPERTIES

Withdrawn. Served at the meeting held on 11 May 2023.

C13/05/23 REPORT ON THE REQUEST TO TRANSFER REPUBLIC OF SOUTH AFRICA PROPERTIES INTO THE NAME OF KNYSNA MUNICIPALITY

Withdrawn. Served at the meeting held on 11 May 2023.

C14/05/23 REQUEST TO REGISTER A PUBLIC SERVITUDE OVER A PORTION OF FARM 394, NOETZIE

Withdrawn. Served at the meeting held on 11 May 2023.

C15/05/23 EXTENSION OF T24/2020/2021 SUPPLY AND DELIVERY OF MOBILE COMMUNICATION DEVICES AND SERVICES

Withdrawn. Served at the meeting held on 11 May 2023.

C16/05/23 APPROVAL OF IT POLICIES

Withdrawn. Served at the meeting held on 11 May 2023.

C17/05/23 REPORT ON HUMAN RESOURCES MATTERS FOR QUARTER 3 OF 2022/2023 FINANCIAL YEAR – FEBRUARY AND MARCH 2023

Withdrawn. Served at the meeting held on 11 May 2023.

C18/05/23 REPORT BACK ON THE RECTIFYING OF INCORRECTLY BUILT RDP HOUSE ONTO PRIVATE OWNED PROPERTY: ERF 8296, KNYSNA

Withdrawn. Served at the meeting held on 11 May 2023.

C19/05/23 REPORT BACK ON APPLICATION TO LEASE THE OLD TSIBA COLLEGE, ON ERF 115 KARATARA

Withdrawn. Served at the meeting held on 11 May 2023.

ITEMS SUBMITTED TO THE PLANNING, ECONOMIC DEVELOPMENT & TOURISM COMMITTEE MEETING HELD ON 15 JUNE 2023

P01/06/23 ECONOMIC DEVELOPMENT DEPARTMENT PERFORMANCE REPORT: APRIL – MAY 2023

UNANIMOUSLY RESOLVED

That the Economic Development Department Performance Report for the period April to May 2023, be noted.

File Number : 9/1/2/13

Execution : Director : Planning & Economic Development

P02/06/23 EXPANDED PUBLIC WORKS PROGRAMME REPORT FOR QUARTER 4 : APRIL - MAY 2023

UNANIMOUSLY RESOLVED

That the Expanded Public Works Programme Report for Quarter 4: April to May 2023, be noted.

File Number : 9/1/2/13

Execution : Director : Planning & Economic Development

P03/06/23 ENVIRONMENTAL PERFORMANCE REPORT APRIL – MAY 2023

UNANIMOUSLY RESOLVED

That the Environmental Management Department Performance Report for the period April to May 2023, be noted.

File Number: 9/1/2/13

Execution: Municipal Manager

Acting Director : Planning & Economic Development

Manager : Environmental Management

P04/06/23 ESTUARY POLLUTION COMMITTEE REPORT APRIL - MAY 2023

UNANIMOUSLY RESOLVED

[a] That the Estuary Pollution Committee Report for the period April to May 2023, be noted; and

[b] That the report on the departmental actions emanating from the Knysna Estuary authorities pollution meetings convened by South African National Parks, be noted.

File Number : 9/1/2/13

Execution : Municipal Manager

Acting Director : Planning & Economic Development

Manager : Environmental Management

P05/06/23 BUILDING CONTROL DIVISION PERFORMANCE REPORT FOR : APRIL - MAY 2023

UNANIMOUSLY RESOLVED

That the Building Control Division Performance Report for the period April to May 2023, be noted.

File Number : 9/1/2/13

Execution : Acting Director : Planning & Economic Development

Manager : Building Control

M01/07/23 ELECTRICAL & MECHANICAL SERVICES DEPARTMENT CAPITAL PROJECT REPORT FOR JULY 2022-APRIL 2023

Refer to item IS03/08/23.

M02/07/23 ELECTRICAL & MECHANICAL SERVICES KNYSNA MUNICIPAL FLEET FROM MARCH TO APRIL 2023

UNANIMOUSLY RESOLVED

[a] That the Electrical & Mechanical Services Knysna Municipal fleet report from March to April 2023, be noted; and

[b] That outstanding fines be redirected to Directors or Directorate within one month.

File Number : 9/1/2/1

Execution : Manager : Electrical and Mechanical Services

M03/07/23 ELECTRICAL AND MECHANICAL DEPARTMENT INEP PROJECT REPORT FOR JULY 2022 – APRIL 2023

Refer to item IS04/08/23.

M04/07/23 PROJECTS PROGRESS REPORT – APRIL 2023

UNANIMOUSLY RESOLVED

That the Projects Progress Report for April 2023, be noted.

File Number : 9/1/2/1

Execution : Director : Infrastructure Services

M05/07/23 REPORT OF THE ROADS, TRANSPORT & STORM WATER & BUILDINGS MAINTENANCE DIVISION (RTSBMD) FOR QUARTER 3 2022/2023

Refer to item IS05/08/23.

M06/07/23 REPORT ON THE OPERATIONS AND MAINTENANCE TO WATER AND SEWER FOR MARCH TO APRIL 2023

UNANIMOUSLY RESOLVED

That the Report on the Operations and Maintenance to Water and Sewer for March to April 2023, be noted.

File Number : 9/1/2/1

Execution : Acting Manager Water & Sewer

ITEMS SUBMITTED TO THE INTEGRATED HUMAN SETTLEMENTS COMMITTEE MEETING

M07/07/23 INTEGRATED HUMAN SETTLEMENTS MONTHLY REPORT: MAY 2023

Refer to item IHS01/10/23.

M08/07/23 SUBMISSION OF WARD BASE PROJECTS

Refer to item IHS02/10/23.

M09/07/23 SUBMISSION OF THE BUSINESS PLAN FOR THE 2023/24 FINANCIAL YEAR AND PROJECTED TARGETS FOR OTHER FINANCIAL YEARS 2024/25/2025/26

Refer to item IHS03/10/23.

M10/07/23 SUBMISSION ON INTERIM ARRANGEMENTS FOR THE PRIORITIZATION OF HOUSEHOLDS AFFECTED BY PERMANENT DISABILITIES

Refer to item IHS04/10/23.

M11/07/23 REPORT ON THE CAUSES OF THE SOIL SLIP IN NEKKIES

Refer to item IHS05/10/23.

ITEMS SUBMITTED TO THE FINANCE & GOVERNANCE COMMITTEE MEETING

M12/07/23 REPORT BACK ON APPLICATION TO PURCHASE A PORTION OF ERF 161, BUFFALO BAY ADJACENT TO ERF 162

Refer to item C08/09/23.

M13/07/23 REPORT BACK ON APPLICATION TO PURCHASE A PORTION OF ERF1527, KNYSNA ABUTTING ERF 1944

Refer to item C07/09/23.

M14/07/23 REPORT BACK ON REQUEST TO ENTER INTO LONG TERM LEASE AGREEMENT – PORTION OF ERF 1406 AND 4620, KNYSNA (EAST HEAD CAFÉ RESTAURANT)

Refer to item C06/09/23.

M15/07/23 REPORT BACK ON APPLICATION TO LEASE A PORTION OF ERF 210, KNYSNA ABUTTING ERVEN 1273 & 1274, KNYSNA FOR PARKING PURPOSES

Refer to item C05/09/23.

M16/07/23 REPORT BACK : APPLICATION TO PURCHASE A PORTION OF ERF 19086, DINANGWE, KNYSNA

Refer to item C20/09/23.

M17/07/23 REPORT BACK ON APPLICATION TO PURCHASE A PORTION OF ERF 215, BUFFALO BAY ADJACENT TO ERF 186

Refer to item C04/09/23.

M18/07/23 APPLICATION FOR LEASE AGREEMENT – FOR A PORTION OF ERF 1316, KNYSNA BUTTING ERF 3556, KNYSNA

Refer to item C21/09/23.

M19/07/23 REPORT BACK ON APPLICATION FOR PRIVATE SERVITUDE ACCESS OVER A PORTION OF ERF 215, BUFFALO BAY FOR ERF 222

Refer to item C03/09/23.

M20/07/23 APPLICATION TO INSTALL A GATE AT COSTA SARDA

Refer to item **C11/09/23**.

M21/07/23 REPORT BACK ON APPLICATION TO PURCHASE A PORTION OF ERF 1407, KNYSNA ADJACENT TO ERF 1414

Refer to item **C02/09/23**.

M22/07/23 REPORT ON ALL CHURCH APPLICATIONS

Refer to item **C01/09/23**.

M23/07/23 APPLICATION FOR LEASE AGREEMENT – NEW KNYSNA NISSAN – FOR A PORTION OF ERF 210 AND 1316, KNYSNA ADJACENT TO ERF 4653, KNYSNA

Refer to item **C09/09/23**.

ITEMS SUBMITTED TO THE INFRASTRUCTURE SERVICES COMMITTEE MEETING HELD ON 22 AUGUST 2023

IS01/08/23 PROJECTS PROGRESS REPORT – JUNE 2023

UNANIMOUSLY RESOLVED

That the contents of the Projects Progress Report –June 2023, be noted.

File Number : 9/1/2/1

Execution : Director : Infrastructure Services

IS02/08/23 MUNICIPAL FLEET REPORT MAY TO JUNE 2023

UNANIMOUSLY RESOLVED

[a] That the contents of the report with regard to Municipal Fleet for May to June 2023, be noted;

[b] That a separate line in the report reflecting fuel cost be included in future monthly reports.

File Number : 9/1/2/1

Execution : Manager : Electro Technical

IS03/08/23 ELECTRICAL & MECHANICAL SERVICES DEPARTMENT CAPITAL PROJECT REPORT FOR JULY 2022- JUNE 2023

UNANIMOUSLY RESOLVED

That the Electrical & Mechanical Services Department Capital Project Report for July 2022- June 2023, be noted.

File Number : 9/1/2/1

Number : Manager : Electro Technical

**IS04/08/23 ELECTRICAL AND MECHANICAL DEPARTMENT INEP PROJECT
REPORT FOR JULY 2022 – JUNE 2023**

UNANIMOUSLY RESOLVED

That the Electrical and Mechanical Department INEP Project Report for July 2022 – June 2023, be noted.

File Number : 9/1/2/1

Execution : Manager : Electro Technical

**IS05/08/23 REPORT ON THE OPERATIONS AND MAINTENANCE TO WATER AND
SEWER FOR JANUARY TO FEBRUARY 2023 AND MAY TO JUNE 2023**

UNANIMOUSLY RESOLVED

That the Report on the Operations and Maintenance to Water and Sewer for January to February 2023 and May to June 2023, be noted.

File Number : 9/1/2/1

Execution : Director : Infrastructure Services

**IS06/08/23 REPORT OF THE ROADS, TRANSPORT & STORM WATER & BUILDINGS
MAINTENANCE DIVISION (RTSBMD) FOR QUARTER 3 AND QUARTER 4
2022/2023**

UNANIMOUSLY RESOLVED

That the report the Roads, Transport and Storm Water and Buildings maintenance division (RTSBMD) for quarter 3 and quarter 4 2022/2023, be noted.

File Number : 9/1/2/1

Execution : Manager : Public Works

**ITEMS SUBMITTED TO THE COMMUNITY SERVICES COMMITTEE MEETING HELD ON
23 AUGUST 2023**

**C01/08/23 INFORMATION REPORT ON MUNICIPAL HEALTH AND ENVIRONMENTAL
SERVICES FOR MAY 2023 TO JUNE 2023**

UNANIMOUSLY RESOLVED

That the Information Report on Municipal Health and Environmental Services for May 2023 to June 2023, be noted.

File Number : 9/2/1/5

Director : Director : Community Services

C03/08/23 REPORT BACK ON YOUTHDAY, 16 JUNE 2023

UNANIMOUSLY RESOLVED

That the report from the Director: Community Services with regard to the report back on the Youth Day Event held on 16 June 2023, be noted.

File Number : 9/1/2/5

Execution : Director : Community Services

C04/08/23 STATUS REPORT ON YOUTH DEVELOPMENT PROGRAMMES FOR 2022/2023

UNANIMOUSLY RESOLVED

That the report on the Youth Development Programmes from the Director Community Services, be noted.

File Number : 9/1/2/5

Execution : Director : Community Services

C06/08/23 COMMUNITY SERVICES QUARTERLY REPORT FOR THE PERIOD APRIL 2023 TO JUNE 2023

UNANIMOUSLY RESOLVED

That the Community Service Quarterly Report for the period April 2023 to June 2023, be noted.

File Number : 9/2/1/5

Execution : Director : Community Services

ITEMS SUBMITTED TO THE FINANCE AND GOVERNANCE COMMITTEE MEETING HELD ON 27 SEPTEMBER 2023 AND 4 OCTOBER 2023

C13/09/23 REQUEST FOR EXTENTION OF LEASE AGREEMENTS WITH CURRENT LESSORS FOR OFFICE ACCOMMODATION

UNANIMOUSLY RESOLVED

That the report on the request for extension of lease agreements with current lessors for office accommodations, be withdrawn and submitted to the Special Council Meeting scheduled for 28 September 2023.

C14/09/23 REPORT ON CORPORATE SERVICES SDBIP QUARTERLY PERFORMANCE REPORT

UNANIMOUSLY RESOLVED

That the Corporate Services SDBIP Quarterly Performance Report April -June 2023, be noted.

File Number : 9/1/2/9

Execution : Director : Corporate Services

**CONTINUATION OF THE FINANCE AND GOVERNANCE COMMITTEE MEETING
(CORPORATE SERVICES ITEMS) HELD ON 4 OCTOBER 2023**

**C19/09/23 QUARTER 4 REPORT ON LEGAL MATTERS: 2022/2023 FINANCIAL YEAR
1 APRIL 2023 – 30 JUNE 2023**

UNANIMOUSLY RESOLVED

That the Quarter 4 Report on Legal Matters: 2022/2023 Financial Year 1 April 2023 – 30 June 2023, be noted.

File Number : 7/2/1/2

Execution : Director : Corporate Services

 Acting Manager : Legal Services

C22/09/23 PUBLIC PARTICIPATION REPORT APRIL-JUNE 2023

UNANIMOUSLY RESOLVED

That the report of the Public Participation Unit for April- June 2023 as received from the Director : Corporate Service be noted.

File Number : 9/1/2/9

Execution : Director : Corporate Services

**C23/09/23 REPORT ON HUMAN RESOURCES MATTERS FOR QUARTER 4 OF
2022/2023 FINANCIAL YEAR – APRIL 2023 TO JULY 2023**

UNANIMOUSLY RESOLVED

That the Committee notes the quarterly report on the Human Resources activities for the period April to July 2023.

File Number : 9/1/2/9

Execution : Director : Corporate Services

 Manager : Human Resources

15. IN COMMITTEE ITEMS (SEE SEPARATE AGENDA)

16. Consideration of Questions

17. Considerations of Motions

No report received at time of compilation of the agenda.

18. Consideration of Motions of Exigency

No report received at time of compilation of the agenda.

19. Adjournment

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