



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2018-05-11

MAYORAL COMMITTEE MEETING
WEDNESDAY, 2018-05-16 AT 10:00

TO The Executive Mayor, Ald G Van Deventer (Ms)

The Deputy Executive Mayor, Cllr N Jindela

COUNCILLORS PW Biscombe

J De Villiers

AR Frazenburg

E Groenewald (Ms)

XL Mdemka (Ms)

S Peters

Ald JP Serdyn (Ms)

Q Smit

Notice is hereby given that a Mayoral Committee Meeting will be held in the Council Chamber, Town House, Plein Street, Stellenbosch on **Wednesday, 2018-05-16 at 10:00** to consider the attached agenda.

EXECUTIVE MAYOR, ALD GM VAN DEVENTER (MS)

CHAIRPERSON

MAYORAL COMMITTEE MEETING

2018-05-16

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4.	REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MAYORAL COMMITTEE MEETINGS
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NONE

5.	STATUTORY MATTERS
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5.1	COMMUNITY DEVELOPMENT AND COMMUNITY SERVICES: (PC: CLLR AR FRAZENBURG)
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NONE

5.2	CORPORATE AND STRATEGIC SERVICES: (PC: CLLR E GROENEWALD (MS))
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5.2.1	ADOPTION OF THE NEW ANTI-FRAUD AND CORRUPTION PREVENTION POLICY
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Collaborator No: 588670
 BUDGET KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 May 2018

1. SUBJECT: ADOPTION OF THE NEW ANTI-FRAUD AND CORRUPTION PREVENTION POLICY

2. PURPOSE

- (a) To adopt the New Anti-Fraud and Corruption Prevention Policy of 2018.
- (b) The new policy makes provision for an internal Fraud Response Unit and re-establishes the managerial duties to ensuring ethical behaviour at all levels of the municipality.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

4.1 BACKGROUND

In terms of Section 79 of the Local Government Municipal Structures Act 117 of 1998, a Municipal Council may establish one or more committees necessary for the effective and efficient performance of its functions or the exercise of any of its powers. The Council appoints the members of these committees and may dissolve the committee or remove a member at any given time. The Council must determine the functions of a Section 79 committee and may determine its procedures.

The Audit and Performance Committee assists the Executive Management and Council in advising and monitoring the Municipality's compliance with legislation and all other acts, codes of conduct etc. relevant to fraud risk management.

4.2 DISCUSSION

Although Section 79 of the Local Government Municipal Structures Act 117 of 1998, allow Council to establish committees to assist in effective and efficient management, the Municipal Manager as the Accounting Officer is the responsible authority as defined in Sections 60 and 62 of the Municipal Financial Management Act no 56 of 2003.

Section 60 of the MFMA

Municipal Managers to be accounting officers

"The Municipal Manager of a municipality is the accounting officer of the municipality for the purposes of this Act, and, as accounting officer, must –

- (a) Exercise the functions and powers assigned to an accounting officer in terms of this Act; and
- (b) Provide guidance and advice on compliance with this Act to –

- (i) The political structures, political office-bearers and officials of the municipality.

Section 62 of the MFMA

General Financial Management Functions

- (1) The accounting officer of a municipality is responsible for the managing of financial administration of the municipality, and must for this purpose take all reasonable steps to ensure –
- (a) that the municipality has and maintains effective, efficient and transparent systems–
- (i) of financial and risk management and internal control; and
- (ii) of internal audit operating in accordance with any prescribed norms and standards;
- (b) that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented;
- (c) that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15.

5. RECOMMENDATION

That Council adopts the New Anti-Fraud and Corruption Prevention Policy which replaces the Fraud and Corruption Policy approved by Council in 2015.

6.1 Financial Implications

None

6.2 Legal Implications

Supported

6.3 Staff Implications

None

6.4 Risk Implications

None

6.5 Comments from Senior Management:

6.5.1 Municipal Manager:

Supported.

Annexure A: Anti-Fraud and Corruption Prevention Policy – 2018

FOR FURTHER DETAILS CONTACT:

Name	SHIREEN DE VISSER
Position	SENIOR MANAGER: GOVERNANCE
Directorate	OFFICE OF THE MUNICIPAL MANAGER
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E-mail Address	shireen.devisser@stellenbosch.gov.za
Report Date	10 May 2018

APPENDIX 1



STELLENBOSCH

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MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

ANTI- CORRUPTION & FRAUD

PREVENTION

POLICY

Review 2018/19



FOREWARD

Fraud, corruption and other criminal activity, maladministration and/or negligence as an ever-present threat to public resources is a concern to all employees or workers. Stellenbosch Municipality to a process of ethical governance, fraud risk management and consequence management that is aligned to the principles of the Local Government: Municipal Finance Management Act 56 of 2003, Local Government Systems Act 32 of 2000 and other related legislative and regulatory standards including policies, procedures, codes and standards adopted by the Council of the Stellenbosch Municipality.

Stellenbosch Municipality subscribes to principles of good corporate governance underpinned by values of honesty, good ethics and transparency. This municipality is committed to creating and nurturing a culture of zero tolerance toward unethical conduct, corruption and fraud.

The Anti-Fraud and Corruption Prevention Policy aims to assist Stellenbosch Municipality in the prevention, detection, investigation and sanctioning of fraud and corruption. Methods will be continually explored to apply consequence management in instances where unethical conduct, corruption and fraud has resulted in loss of resources to the municipality.

Through this Anti-Fraud and Corruption Prevention Policy, Stellenbosch Municipality is committed to clean governance at all levels of the organisation and has instilled a culture of zero tolerance to all forms of fraud and corruption. The Anti-Fraud and Corruption Prevention Policy will be strictly applied with no discrimination or favour to any individual. All complaints received of fraud and corruption will be investigated to ensure that instances of fraud and corruption is reduced at all levels of Stellenbosch Municipality.

Stellenbosch Municipality encourages anyone who may suspect fraud and corruption to contact any member of the management, the Municipal Manager, the Mayor, members of the Fraud and Risk Management team or the municipal fraud hotline (0800 111 027) to report fraud, corruption or any forms of financial misconduct. All involved are encouraged to do so responsibly and to avoid frivolous and/or malicious reporting with no other aim than to place individuals in disrepute and where no wrongdoing has occurred.

MUNICIPAL MANAGER

Geraldine Mettler

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1 INTERPRETATION AND GLOSSARY OF TERMS

The headings of the clauses in this Policy 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 Policy, nor any clause hereof, unless a contrary intention clearly appears: -

- 1.1 Words importing:-
 - 1.1.1 Any one gender include the other gender;
 - 1.1.2 The singular include the plural and vice versa; and
 - 1.1.3 Natural persons include created entities (corporate or unincorporated) and the state and vice versa;
- 1.2 When any number of days is prescribed in this Policy, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.3 When figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 1.4 Expressions defined in this Policy shall bear the same meanings in schedules or annexures to this Policy which do not themselves contain their own definitions; and
- 1.5 Where any term is defined within the context of any particular clause in this Policy, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meanings ascribed to it for all purposes in terms of this Policy, notwithstanding that, that term has not been defined in this interpretation clause.
- 1.6 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:-

AC	Audit and Performance Committee established in terms of Section 166 of the MFMA
AO	Accounting Officer of the municipality; Municipal Manager
CAE	Chief Audit Executive of the Stellenbosch Municipality
CRO	Chief Risk Officer
Code of Conduct for Councillors	Code of Conduct for Councillors contained in Schedule 1 of the Local Government: Municipal Systems Act, Act 32 of 2000
Code of Conduct for Municipal Staff Members	Code of Conduct for Staff Members of the City contained in Schedule 2 of the Local Government Municipal Systems, Act 32 of 2000
Consequence Management	The process put in place to effectively deal with fraud, corruption, misconduct and financial misconduct, which includes internal municipal processes and criminal proceedings
Corporate Governance	Corporate governance concerns the relationships among the management, Council, Stakeholders and employees or workers of the City. Good corporate governance contributes to sustainable economic development by enhancing the performance of the City and increasing access to outside capital.
Corruption	Any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse a position of authority or a breach of trust or violation of duty

Council	Municipal Council of the municipality as referred to in section 157(1) of the Constitution.
Councillor	Councillor of the Municipal Council as elected.
Criminal Action	Legal proceeding in which the state prosecutes a person who is charged with an offence.
CRO	Chief Risk Officer of the Stellenbosch Municipality
Delegation	A power or function as determined by the municipality's approved System of Delegation.
Department Business Plan	The plan at departmental level linking the department's Activities to the IDP and budget.
Designated Official/Body	Means the official/body is the identified in a municipality to receive reports of allegations of fraud, corruption or financial offences.
Director	A position created in terms of section 56 of the Municipal Systems Act on the approved managerial structure of Stellenbosch Municipality.
Executive Mayor	The Executive Mayor of the municipality as defined in the Structures Act, any successor-in-title, or any duly appointed nominee.
Financial Misconduct	Means any act of financial misconduct referred to in section 171 of the Municipal Finance Management Act (MFMA).
Financial Offence	Means any offence referred to in section 173 of the MFMA.
Fraud	Lawful and intentional false representation or concealment of a material fact with the aim of illegally obtaining financial and/or

other benefit for personal enrichment.

Fraud Response Unit	Will be deemed to include the Municipal Manager, Senior Manager Governance, Chief Risk Officer, Fraud Hotline; Legal Services Advisory Support.
Induce	To persuade, encourage, coerce, intimidate or threaten or cause a person to commitment an act against their will
Integrated Development Plan	A plan envisaged in section 25 of the Municipal Systems Act
Investigator	Means the , treasury, person, team, appointed service provider or law enforcement entity conducting a full investigation and misconduct
Law	Means the common law, Constitution of the Republic of South Africa, any applicable statutes, proclamation, regulation, rule, notice, judgment or order and any interpretation of any of them by any Court or applicable tribunal, and any applicable guidance, direction, code of practice or other determination by which the Municipality, municipal official, the public and business are bound.
Management	Includes all senior managers and managers
Municipal Council	Means municipal council as democratically elected as referred to in section 157 of the Constitution
MFMA	Local Government: Municipal Finance Management Act 56 of 2003, including any regulations made i.t.o. of this legislation
Municipal Manager	Municipal Manager of the Stellenbosch Municipality i.t.o. section 55 of the Municipal Systems Act

Municipality	Stellenbosch Municipality, a local municipality established in terms of section 12 of the Structures Act
Municipal Structures Act	Local Government: Municipal Structures Act No. 117 of 1998, as amended
Municipal Systems Act	Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended
SDBIP	Service Delivery and Budget Implementation Plan - Detailed annual plan to implement the IDP and the budget
Senior Managers	Appointed Manager i.t.o. section 56 of the Municipal Systems Act; includes persons acting in the capacity of a section 56 manager.
Service Providers	specialised advisory services, external investigators, external audit services appointed to assist with the process of fraud, corruption and consequence management
Strategic Focus Area	Medium term goal aligned to the long term strategy
Remuneration	Duty to disclose remuneration

2 REGULATORY ENVIRONMENT

This Policy must be read together with, and be interpreted consistently with, the other relevant legislation and council approved documents, including but not restricted to the:

- (a) Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
- (b) Promotion of Access to Information Act (No. 2 of 2000)
- (c) Promotion of Administrative Justice Act (No. 3 of 2000)
- (d) Protected Disclosures Act (PDA) (No. 26 of 2000)
- (e) Public Finance Management Act (PFMA) (No. 1 Of 1999)
- (f) Municipal Finance Management Act (MFMA) (No. 56 2003)
- (g) Financial Intelligence Centre Act (FICA) (No. 38 of 2001)
- (h) MFMA Regulation on Financial Misconduct (No. 430 of 2014)
- (i) Code of Conduct for Councilors in terms of Schedule 1 of the Municipal Structures Act (No. 32 of 2000)
- (j) Code of Conduct for Municipal Staff Members in terms of Schedule 2 of the Municipal Structures Act (No. 32 of 2000)
- (l) Stellenbosch Municipality Risk Management Policy.
- (m) Stellenbosch Municipality System of Delegations.

3 PRINCIPLES AND OBJECTIVES OF ANTI-CORRUPTION AND FRAUD PREVENTION

3.1 The Municipality's agenda is to focus its efforts on the following processes and objectives:

3.1.1 Create and nurture a culture of ethical conduct in managing resources of the municipality and intolerance to fraud, corruption and financial misconduct;

3.1.2 Understand the fraud risks that can undermine the institution's service delivery / business objectives;

3.1.3 Encourage a culture within the Municipality where all municipal officials, members of the public and other stakeholders continuously behave with and promote integrity in their dealings with or on behalf of the Municipality;

3.2 Create a culture within the Municipality which is intolerant to unethical conduct, corruption and fraud by:

3.2.1 Strengthening community participation in the fight against corruption and fraud in the Municipality;

3.2.2 Reduce exposure to liability, sanctions and litigation that may arise from violations of law or stakeholder expectations;

3.2.3 Strengthening relationships with key stakeholders that are necessary to support actions required to combat corruption and fraud in the Municipality;

3.2.4 Create an environment where all staff members and Councillors at all times act with honesty, integrity and to safeguard the Municipal resources for which they are responsible for;

3.3 Appropriate action, including criminal action, will be taken against any person who attempts to or assists with committing fraud, corruption and other criminal activity including but not limited to:

3.3.1 Putting measures in place to prevent and detect fraud as and when it occurs;

3.3.2 Investigating instances of fraud, corruption and financial misconduct;

3.3.3 Taking appropriate action in the event of such irregularities, e.g. disciplinary action, recovery of losses, prosecution, etcetera;

3.3.4 Developing a system of consequence management and apply appropriate sanctions;

3.3.5 Prohibition from further employment within the municipality and in the case of suppliers of goods and services, blacklisting in terms of the Supply Chain Management Policy and Regulations.

4 APPLICATION AND SCOPE

4.1 The Policy applies to all fraud, corruption, theft, financial misconduct or suspected irregularities of this nature.

4.2 This Policy is applicable to the Stellenbosch Municipality and related joint ventures entered into, which may involve the following persons or entities:

4.2.1 All municipal staff;

4.2.2 Consultants, suppliers, contractors and other providers of goods or services to the Municipality;

4.2.3 Community structures, organizations' and other parties receiving services from the Municipality.

4.3 This policy aims to provide a framework for consequence management, without excluding any sanctions that might be applicable through other forms of legislations.

4.4 Appropriate action, including criminal action, will be taken against any person employed by the municipality that is involved in, or assists with committing fraud, corruption and other criminal activity, maladministration and/or negligence.

4.5 Any allegations of fraud, corruption, theft financial misconduct or suspected irregularities of this nature against the Municipal Manager and section 56 Managers i.t.o. of the Municipal Systems Act of 2000, will be dealt with in terms of the Local Government Disciplinary Regulations for Senior Managers of 2010 and MFMA Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings of 2014 and not in terms of this strategy.

5 ANTI-CORRUPTION AND FRAUD PREVENTION

- 5.1 As instances of fraud, corruption and financial misconduct remain a constant threat to public trust and confidence, it becomes essential to recognise fraud risk management as an integral part of strategic management. Stellenbosch Municipality is therefore adopting a comprehensive approach to the management of fraud risks.
- 5.2 Failure by any employee, institution or individual within the service of the municipality to comply with this policy could result in disciplinary as well as criminal action being taken against that individual.
- 5.3 It is expected that all personnel will adhere to this Anti-Corruption and Fraud Prevention Policy.
- 5.4 It is the intention that individual personnel, as well as business units will work together in a consistent and integrated manner, with the overall objective of reducing fraud risk.

6 RESPONSIBILITIES OF STAKEHOLDERS

6.1 Council

6.1.1 Council has a duty for setting the tone at the top by:

- (a) Considering and adopting an Anti-Fraud and Corruption Prevention Policy for the Municipality;
- (b) Regularly reviewing and amending, if necessary, the Anti-Fraud and Corruption Prevention Policy, if and when required;
- (c) Abiding by the code of conduct and code of ethics of the Council;
- (d) Performing oversight functions that support the implementation of the Anti-Fraud and Corruption Prevention Policy of the Municipality;
- (a) Providing support to the Municipal Manager and the efforts of the management team to implement the Anti-Fraud and Corruption Prevention Policy;

6.2 Councillors

6.2.1 Councillors have a fiduciary responsibility to the Municipality, including a duty to promote the reputation and business of the institution.

6.2.2 Councillors may not derive personal gain at the expense of or as a result of their relationship with the Municipality.

6.2.3 Councillors are further required to declare their interests in terms of the Systems Act.

6.2.4 It is the responsibility of every Councillor who suspects that some kind of fraud or corruption or irregularity has been attempted or committed, to immediately report their suspicion to the Speaker of Council.

6.3 Municipal Manager

6.3.1 The Municipal Manager, as the Accounting Officer, is responsible for ensuring that anti-corruption and fraud prevention measures are implemented within the Municipality by:

(a) Ensuring that the Municipality develops and implements an Anti-Fraud and Corruption Prevention Policy;

(b) Overseeing the implementation of prevention, detection, investigation of fraud and ensure appropriate resolution measures are implemented in respect of fraud and corruption within the Municipality;

6.3.2 The Municipal Manager is accountable for managing fraud and all the platforms required for the effective and efficient management of fraud prevention and consequence management in accordance with this policy.

6.4 Management

6.4.1 Management includes all Directors appointed i.t.o. section 56 of the Municipal Systems Act, Senior Managers and Managers.

6.4.2 The overall responsibility of managing fraud risk is vested with the Municipal Manager and the Directors of the municipality.

6.4.3 Management plays a key role in the prevention of fraud and corruption, and

fulfills this responsibility through the establishment, implementation and continued operation of suitable internal controls. Further to this Management plays a critical role in leading with the correct “tone at the top” by:

- (c) Creating a corruption and fraud aware culture, where it is clear that corruption and fraud will not be tolerated, and that all instances of fraud and corruption will be dealt with swiftly and will be appropriately sanctioned;
- (d) Implementing the Anti-Corruption and Fraud Prevention Policy of the municipality, as reviewed and amended from time to time;
- (e) Share the Municipality’s strategies and policies in respect of fraud and corruption with all staff members;
- (f) Report incidents or suspicions of fraud, corruption or irregularities;
- (g) Ensuring the practical realisation of the principles of prevention, detection, investigation;
- (h) Ensure that adequate internal controls are implemented and appropriate systems and processes are in place to prevent and detect fraud and corruption or any forms of irregularities;
- (i) Investigating all instances of fraud, corruption and financial misconduct brought to their attention with equal diligence and vigour;
- (j) Monitor the implementation and application of the Anti-Fraud and Corruption Prevention Policy and ensure adequate supervision and dynamism of the controls and procedures;
- (k) Review the process implemented by management in respect of anti-corruption and fraud prevention and ensure that all fraud, corruption and instances of irregularities have been followed up appropriately;
- (l) Ensure that an appropriate fraud and corruption risk assessment is completed;
- (m) Ensure that reports of fraud, corruption and misconduct are effectively

handled and that consistent and appropriate action is taken on known incidents;

(n) Ensure proper reporting in terms of applicable guidelines on all instances of fraud and fraud risks reported;

(o) After an investigation is completed, submit a report to the Municipal Manager indicating the results of the investigation and whether there are cause to:

- Dismiss such allegations as frivolous; or
- Whether a need exists for a thorough disciplinary process to be undertaken.

(p) Ensure adherence to all reporting requirements to ensure that instances of fraud, corruption and irregularities are effectively investigated and resolved.

6.5 Fraud Response Unit

6.5.1 The Fraud Response Unit will consist of the Municipal Manager as Accounting Officer, Senior Manager Governance, the Chief Risk Officer, Legal Services Advisory Support.

6.5.2 The Fraud Response Unit is authorized to assist in providing overall assurance to Council, the Audit and Performance Audit Committee and other combined assurance advisory bodies in a manner that is commensurate with this Policy and principles of Combined Assurance.

6.5.3 The Fraud Response Unit ensures that reports on fraud, corruption and misconduct are effectively handled and that consistent and appropriate action is taken Review the anti-corruption and fraud prevention policy and recommend for approval by Council;

(a) Develops, together with other role players, the anti-corruption and fraud prevention strategy, policy and plan;

(b) Include a focus on fraud and corruption risks during risk identification and assessments;

- (c) Assist management in developing responses for fraud and corruption risks;
- (d) Facilitate presentations and working sessions relating to fraud and corruption risks to promote awareness and the ethics and integrity standards required by the Municipality.
- (e) Report identified incidents of fraud or corruption to Management, Directors or the Municipal Manager.
- (f) Evaluate the effectiveness of the implementation of the anti-corruption and fraud prevention policy;
- (g) Monitor the implementation of the policy and application of the plan and ensure adequate supervision and dynamism of the controls and procedures;
- (h) Review the process implemented by management in respect of anti-corruption and fraud prevention and ensure that all fraud and corruption related incidents have been followed up appropriately;
- (i) Ensure that an appropriate fraud and corruption risk assessment is completed;
- (j) Receive, review, process and manage all complaints from the fraud hotline, internal and external tip-offs received;
- (k) Report quarterly to the Audit Committee, summarising the Municipality's corruption and fraud prevention, detection and action for the period.

6.6 Staff

6.6.1 The staff (permanent, contract and temporary) of the Municipality are responsible for:

6.6.2 Abiding by the code of conduct and code of ethics of the Municipality;

6.6.3 Reporting incidents or suspicions of fraud and corruption;

6.6.4 Participating in initiatives to prevent, minimise, detect and investigate fraud;

6.6.5 Avoiding and declaring conflicts of interest;

6.6.6 Abiding by the code of conduct of the municipality and the Fraud Prevention and Anti-Corruption Policy of the municipality.

6.7 Suppliers, Contractors, Service Providers and Consultants

6.7.1 Suppliers, contractors and consultants are expected to act honestly and fairly in all their dealings with Stellenbosch Municipality.

6.7.2 Failure to do so may result in one or more of the following:

- (a) the cancellation or suspension of any tenders or contracts awarded to them;
- (b) restriction i.t.o. of the Combatting of Abuse in the Supply Chain Management System Policy; and
- (c) Being reported to the South African Police Services.

6.8 Audit Committee

6.8.1 The audit committee will be responsible for the following:

- (a) Advise the Municipal Council, political office bearers, the accounting officer and management staff of the Municipality on matters relating to good governance, fraud and corruption;
- (b) Review the progress made with the implementation of the anti-corruption and fraud prevention strategy of the Municipality.

6.9 Internal Audit

6.9.1 Internal Audit is responsible for the provision of an independent and objective opinion on the adequacy and effectiveness of risk management, control and governance processes which includes the fraud and corruption management processes.

6.9.2 The adequacy of arrangements for managing the risk of fraud and ensuring that the Municipality promotes an anti-fraud culture is a fundamental element in arriving at an overall opinion.

6.10 Community

6.10.1 The Municipality also recognizes the important role of the Greater Stellenbosch community and general public at large to contribute to an environment that is free of corruption and other irregularities.

- 6.10.2 In the event that members of the community wish to remain anonymous, they may contact the external fraud Hotline (0800 111 027) to report the matter.

7 REPORTING

- 7.1 The Municipality commits itself to establish appropriate structures to enable reporting of fraud or corruption by municipal staff, Councillors, municipal service providers, consultants whilst delivering work on behalf of the municipality and the community, in accordance with applicable legislation.
- 7.2 Reporting Structures includes:
- 7.3 The Fraud Hotline
- 7.4 Tip offs officially reported to the Fraud Response Unit, or the Management Team;
- 7.5 All instances of fraud, corruption and unethical behavior reported will be registered in the official municipal Fraud Register, which will be updated, managed and tracked by the Fraud Response Unit;
- 7.6 Instances of fraud, corruption and unethical behavior reported against a Councillor will be reported to the Speaker of the Council and will be dealt with in terms of the Code of Conduct for Councillors;
- 7.7 Instances of fraud, corruption and unethical behavior reported against the Municipal Manager and Directors will be reported to Council, and will be dealt with in terms of the Local Government Disciplinary Regulations for Senior Managers of 2010 and MFMA Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings of 2014;
- 7.8 Instances of fraud, corruption and unethical behavior reported against a Senior Manager or a Manager will be reported to the relevant Director or Municipal Manager (depending on the reporting lines) and will be dealt with in terms of this Policy;
- 7.9 Instances of fraud, corruption and unethical behavior reported against staff members can be reported directly to the relevant Manager and/or Senior

Manager, to the Fraud Response Unit or through the fraud hotline, and will be dealt with in terms of this Policy.

8 RECOVERY OF LOSSES

8.1 The Municipal Manager, must investigate the potential and cost implications for recovering losses suffered by the Municipality due to fraud and/or corruption and, depending on the outcome of the investigation, institute legal action against the offending parties to recover losses.

9 SANCTIONS

9.1 The sanction imposed may include any or a combination of the following, with or without conditions:

9.1.1 Suspension without pay for no longer than 3 months;

9.1.2 Demotion

9.1.3 Transfer to another post;

9.1.4 Reduction in salary, allowances or other benefits

9.1.5 An appropriate fine;

9.1.6 Dismissal;

9.1.7 Repayment of losses to the municipality, as quantified.

10 PROTECTION OF WHISTLE BLOWERS

10.1 A person who reports suspected corruption and/or fraud may remain anonymous should he/she so desire. It must however be kept in mind though that the investigation could reveal the source of the information.

11 CONFIDENTIALITY

11.1 To ensure that the identity of the whistleblower, whether it be a member of staff or the community is protected, all information provided in connection with fraud and corruption allegations and suspicions will be treated as highly confidential.

12 REVIEW

12.1 This Anti-Corruption and Fraud Prevention Strategy must be reviewed as and when required and be approved by Council.

13 CONCLUSION

13.1 The Municipality encourages its personnel, members of the public as well as all other stakeholders as set out in this Policy to freely report any suspicion of fraud, corruption and any other irregularities that has been attempted or committed without fear or favour.

DRAFT

5.3	ECONOMIC DEVELOPMENT AND PLANNING: (PC: ALD JP SERDYN (MS))
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NONE

5.4	FINANCIAL SERVICES: (PC: CLLR S PETERS)
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5.4.1	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR APRIL 2018
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Collaborator No: **8/1**
 BUDGET KPA Ref No: **Good Governance and Compliance**
 Meeting Date: **16 May 2018**

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR APRIL 2018

2. PURPOSE

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 4.36.2 of the Supply Chain Management Policy 2017/2018 to report the deviations and ratifications to Council.

3. DELEGATED AUTHORITY

Noted by Municipal Council

4. RECOMMENDATIONS

That Council notes the deviations and ratifications as listed below.

5. DISCUSSION / CONTENTS

5.1 Background/ Legislative Framework

The regulation applicable is as follows:

GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations

Deviation from and ratification of minor breaches of, procurement processes

36. (1) A supply chain management policy may **allow the accounting officer—**

(a) To **dispense with the official procurement processes** established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only—

(i) in an emergency;

(ii) if such goods or services are produced or available from a single provider only;

- (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
- (iv) acquisition of animals for zoos; or
- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of sub regulation (1) (a) and (b) and **report them to the next meeting of the council**, or board of directors in the case of a municipal entity, and include as a note to the annual financial statements.

5.2 Discussion

Reporting the deviations as approved by the Accounting Officer for April 2018, the following deviations were approved with the reasons as indicated below:

DEVIATION NUMBER	CONTRACT DATE	NAME OF CONTRACTOR	CONTRACT DESCRIPTION	REASON	SUBSTANTIATE WHY SCM PROCESS COULD NOT BE FOLLOWED (TO BE SUBMITTED TO COUNCIL)	TOTAL CONTRACT PRICE R
D/SM 35/18	12/03/2018	BVI Consulting Engineers	Appointment of BVI Consulting to project manage the construction of the new ICT data centre	Exceptional case and it is impractical or impossible to follow the official procurement process	BVI Consulting assisted the ICT Department with the drafting of the tender specification for the construction of a New ICT Data Centre as this is a specialised environment. This was rather an extension to acquire assistance from BVI Consulting to manage the tender process, evaluate the tender and recommend the preferred bidder	R 81 183,69
D/SM 36/18	10/04/2018	Panel	B/SM 11/17 Threshold Increase	Exceptional case and it is impractical or impossible to follow the official procurement process	B/SM 11/17: The items procured and hired from BSM 11/17 are essential to achieving services delivery objectives. The unexpected increase in expenditure was not foreseen. The original budget estimates did not include subsequently added service delivery projects. Therefore the tender amount awarded will be exceeded. More than one directorate and numerous departments make use of this tender.	Rates

D/SM 37/18	11/04/2018	Panel	B/SM 4/17: Threshold increase	Exceptional case and it is impractical or impossible to follow the official procurement process	B/SM 4/17: Traffic signals regularly incur damage by motor vehicles colliding with the signals. The need is now higher than the awarded amount.	Rates
D/SM 38/18	13/04/2018	Flotron	Repair & verification of flow meters (Flotron) at Raithby and Pniel Wastewater Treatment Works	Emergency	As per letter provided by Flotron Remote Monitoring Systems the flow meters at Pniel and Raithby was manufactured and installed by them. These meters need to be calibrated annually. Since the calibration involved required setting the installed meter against computerised reference of which Flotron Remote Monitoring Systems is the owner. Therefore only Flotron can perform the required calibration.	R 7 848.90
D/SM 40/18	25/04/2018	WEC Projects	Wemmershoek WWTW - Faulty bear shaft blower	Emergency	Wemmershoek Wastewater Treatment Works have four blower units that provide oxygen to the treatment process. One of the blowers malfunctioned and we had to replace it with the spare blower. The blowers installed were manufactured by Sowerby Engineering in Johannesburg. They do installations themselves or have a local (Cape Town based and not registered supplier to Stellenbosch Municipality) agent that do installations. At the time of the blower malfunctioning WEC Projects was still busy with the remedial work at Wemmershoek Wastewater Treatment Works. They are an authorised installer for Sowerby Engineering in Johannesburg area. Due to the critical nature of the equipment and the warranty Stellenbosch Municipality's, Water Services Department deemed it fit to request WEC Project to install the blowers as soon as possible in order to minimise the impact on the treatment process. They are authorised installer which would not have jeopardised the warranty. The NEREDA treatment process are a very delicate process and any delays in equipment repairs results in process shocks which takes at time weeks or months to stabilise and therefor the urgency to get equipment installed.	R 21 563.10

D/SM 41/18	13/04/2018	Bytes System Integration (PTY) LTD	Appointment of Bytes Systems Integration for the procurement of additional biometric devices	Exceptional case and it is impractical or impossible to follow the official procurement process	The current service provider had succeeded into synchronizing the Biometric T&A System with our existing HR Payday employee management system to enable real-time integration and report on employee clocking. The above business process and its cost would be futile if a new service provider would have been appointed in an open market. The latter will require new negotiations rates with Pay-Day as well as news costs for reprogramming the communication software between the two systems. The recommended price from the current service provider was proven to be market related and value for money. This includes an SLA for the financial year to ensure proper maintenance and support as well installation of additional clocks without impacting the process.	R 924 588.00
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5.5	HUMAN SETTLEMENTS: (PC: CLLR PW BISCOMBE)
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5.5.1	PROPOSED CESSION OF LEASE AGREEMENT I.R.T LEASE FARM 527A, DR G.J.C NORVAL TO STELLENSIG (PTY) LTD
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1. PURPOSE OF REPORT

To obtain the approval from Council for the ceding of the Lease Agreement i.r.t Lease Farm 527A to Stellensig (Pty) Ltd.

2. BACKGROUND

2.1 Lease Agreement

On 14 January 1998 Stellenbosch Municipality and Dr. G.J.C Norval concluded a Lease Agreement i.r.t Lease Farm 527A, which agreement will lapse on 31 March 2041. A copy of the agreement is attached as **APPENDIX 1**.

2.2 Application for cession of Lease Agreement

On 11 August 2016 an application for the cession of the Lease Agreement to Stellensig (Pty) Ltd was received from the Lessee, Dr. G.J.C Norval, a copy of which is attached as **APPENDIX 2**.

3. DISCUSSION

3.1 Location and context:

Lease Farm 527A is situated off the R44, as indicated on Fig 1 and 2, below.



Fig 1: Locality: Location and context



Fig 2: Lease Farm 527A

3.2 Contractual provisions

In terms of clause 13 of the Lease Agreement the Lessee is not allowed to cede, assign or sub-lease any of the land without the prior written approval of the Lessor.

3.3 Delegated Authority

In terms of item 537 of the approved System of Delegations (2015-06-24) the Executive Mayor has the delegated authority *“To consider applications of the cession, assignment or sub-lease of leases for a period in excess of 10 years”**

*The remaining period of the lease is 25 years.

3.4 Motivation for proposed cession

According to the Lessee, the owner of the adjacent property, Farm 528/3 approached him and indicated that they would be interested in using the 2ha lease land as part of his current smallholding, so that he can develop agriculture on a larger portion of land, thereby making it more commercially viable.

It is also highlighted that the Lease land is effectively land-locked with the adjacent property, as no formal access would be allowed from the R44.

For this reason(s), the Lessee requested the ceding of the Lease to Stellensig (Pty) Ltd, alternatively, that he be allowed to sub-lease the property to Stellensig (Pty) Ltd.

4. INPUTS BY OTHER DEPARTMENTS

4.1 CFO

None

4.2 Senior legal Advisor

Delegation 537 makes provision for the Executive Mayor to consider applications for cession, assignment or sub-letting of leases exceeding 10 years in consultation with MAYCO. In light of the aforesaid, the necessary consultation with MAYCO should first take place, before the Executive Mayor decides on the matter. The rest of the item and recommendations are supported.

4.3 Planning & Economic Development

The cession of the lease from Norval to Stellensig is supported in order to allow for the best possible use of scarce agricultural land for economic purposes.

5. CONCLUSION

From the above it is clear that there is nothing precluding the Municipality from approving the ceding of the Lease Agreement to Stellensig (Pty) Ltd.

RECOMMENDATION

that consideration be given to whether the current Lessee be allowed to cede or sub-let the property right.

APPENDIX 1

MEMORANDUM VAN HUUROOREENKOMS

Aangegaan deur en tussen

DIE MUNISIPALITEIT STELLENBOSCH hierin verteenwoordig deur **JACOBUS PETRUS RETIEF** in hoedanigheid as **UITVOERENDE HOOF/STADSKLERK** van gemelde Munisipaliteit;

(hierin verder verwys as die "**VERHUURDER**")

en

DR GJC NORVAL

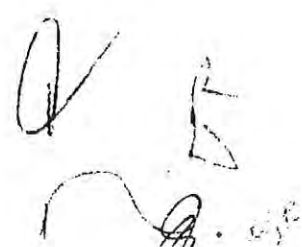
hierin verteenwoordig deur

as synde die gevolgmagtigde verteenwoordiger ingevolge 'n besluit van die

gedateer

waarvan 'n afskrif as Bylae A aangeheg is

(hierna die "**HUURDER**" genoem).

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NADEMAAL die **VERHUURDER** die eienaar is van die eiendom bekend as

PLAAS 527A GROOT HEKTAAR 2,0

soos aangedui op die aangehegte kaart

(hierin verder na verwys as "die **EIENDOM**")

EN NADEMAAL die **VERHUURDER** begerig is om die **EIENDOM** aan die **HURDER** te verhuur en om 'n gedeelte van die verhuurde eiendom te laat inlyns ooreenkomstig die bepalings van die Besproeiingsraad ("die **BESPROEIINGSRAAD**") vir daardie distrik geproklameer by die Theewaterkloof Staatswaterskema ("die **SKEMA**") kragtens die bepalings van die Waterwet, Nr 54 van 1956 ("die **WET**")

EN NADEMAAL die **HURDER** begerig is om die **EIENDOM** te huur en om die waterregte wat as volg van sodanige inlysting ten opsigte van die verhuurde **EIENDOM** verkry word, op die verhuurde **EIENDOM** aan te wend

EN NADEMAAL die verhuring van die **EIENDOM** aan die **HURDER** sowel as die inlystingsvoorwaardes op 'n vergadering van die Stadsraad gehou op 11 Augustus 1997, Item D2.2 goedgekeur is.

NOU DERHALWE KOM DIE PARTYE ONDERLING SOOS VOLG OOREEN

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1 TERMYN VAN VERHURING

Die **VERHUURDER** verhuur hiermee aan die **HURDER** die **EIENDOM** wat deur die **HURDER** in huur aangeneem word vir 'n tydperk wat begin op die 1ste Desember 1997 en afsluit op die 31ste Maart 2041 dog is steeds onderworpe aan die bepalings van subklousules 4.4 (laat betaling); 13.1 (sessie); klousule 20 (opsegging) en die bepalings van Bylae B hiervan.

2 Die **VERHUURDER** onderneem om alles te doen, of te laat doen, om 1 (een) hektaar van die **EIENDOM**, of sodanige kleinere gedeelte wat goedgekeur mag word, soos uitgewys tussen die partye, kragtens die bepalings van die **WET** by die **SKEMA** te laat inlys vir die verkryging van besproeiingswater soos deur die **BESPROEIINGSRAAD** per hektaar toegesê.

3 Die **HURDER** sal geregtig wees om gedurende die huurtermyn in klousule 1 bepaal die waterregte wat as gevolg van sodanige inlysting verkry word ten opsigte van die verhuurde **EIENDOM**, op die verhuurde **EIENDOM** aan te wend op sodanige wyse soos goedgekeur deur die **VERHUURDER** en onderhewig aan alle terme en voorwaardes kragtens die bepalings van die **WET**, of andersins bepaal, welke terme en voorwaardes aan die **HURDER** bekend is.

4 HURGELD, MUNISIPALE BELASTING EN INLYSTINGSKOSTE

4.1 Die **HURDER** betaal eenmalig voor of op die 1ste Desember 1997 by die kantoor van die Stadstesourier die bedrag van R1 631,40 (eenduisend seshonderd een-en-dertig rand en veertig sente) (welke bedrag bereken is vir die tydperk vanaf die datum waarop die ooreenkoms 'n aanvang neem tot die 31ste Maart 1998). Die **HURDER** betaal daarna jaarliks voor of op die 31ste dag van Maart van elke daaropvolgende jaar die basiese huurgeld plus verhoging plus addisionele huurpremie soos bereken volgens die voorwaardes wat as Bylae B hierby aangeheg is:

- 4.2 Die **HURDER** sal verder aanspreeklik wees om op aanvraag deur die **VERHUURDER** die volgende bedrae ("Inlystingsgeld") aan die **VERHUURDER**, of sy genomineerde, te betaal, naamlik :
- 4.2.1 enige en alle belastings, heffings en vorderings van welke aard en omvang ookal gehef te word deur die Besproeiingsraad vir die gebied wat jurisdiksie het oor die verhuurde **EIENDOM**, die Departement van Waterwese en Bosbou of enige ander owerheidsliggaam, vir of ten opsigte van, maar nie insluitend nie -
- 4.2.2.1 bedryfs- en onderhoudskoste van die watervoorsieningskema;
- 4.2.2.2 administratiewe koste;
- 4.2.2.3 verpligte bydraes ten opsigte van 'n reserwefonds;
- 4.2.2.4 verpligte bydraes tot die Waternavorsingsraad;
- 4.2.2.5 die aankoopprys van water uit die **SKEMA**;
- 4.2.2.6 voorlopige uitgawes en tussentydse heffings wat deur die **BESPROEIINGSRAAD** en/of die Departement van Waterwese en Bosbou, opgelê word; en
- 4.2.2.7 die **VERHUURDER** beskou die voorlegging van 'n rekening van die **BESPROEIINGSRAAD** en/of die Departement van Waterwese en Bosbou as afdoende stawende bewys van bedrag wat deur die **HURDER** verskuldig is, opvallende foute en weglatings uitgesluit.
- 4.3 die **VERHUURDER** kan, indien nodig, vereis dat die **HURDER** 'n bankwaarborg of ander garansie verskaf wat vir die **VERHUURDER** aanneemlik is ten opsigte van die huurgeld en inlystingsgelde wat betaalbaar is, en in die geval van 'n **HURDER** wat 'n maatskappy, beslote korporasie of trust is, sal die direkteure, lede of trustees daarvan skriftelik, gesamentlik en afsonderlik, as borge en medehoofskuldenare aanspreeklik wees vir die huurgeld en inlystingsgelde wat betaalbaar is.

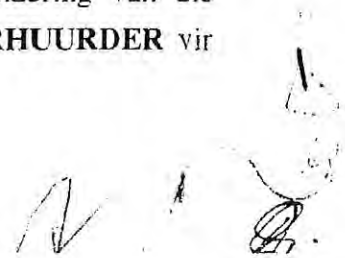
- 4.4 Enige huurgeld of inlystingsgelde wat na die vervaldatum im subklousule 4.1 en 4.2 vermeld deur die **HUURDER** aangebied word, indien die **VERHUURDER** dit aanvaar, is onderworpe aan 'n rente wat maandeliks vooruit bereken sal word teen die standaardrentekoers soos artikel 214 van die Munisipale Ordonnansie, Ordonnansie nr 20 van 1974, soos gewysig of *enige ander toepaslike Ordonnansie van tyd tot tyd bepaal* ten opsigte van elke maand of gedeelte daarvan.
- 4.5 Dit is 'n spesiale voorwaarde van hierdie ooreenkoms dat die **VERHUURDER** die reg voorbehou om hierdie ooreenkoms summier te kanselleer, sonder enige voorafgaande skriftelike kennisgewing, indien die **HUURDER** sou versuim om enige verskuldigde huur- of inlystingsgeld binne 7 (**SEWE**) dae vanaf die vervaldatum te vereffen, en so 'n kansellering affekteer generwyse die reg van die **VERHUURDER** om enige bedrag wat die **HUURDER** skuld of verskuldig mag word van hom te vorder nie.
- 4.6 Die **HUURDER** sal aanspreeklik wees om die belastings deur die Stadsraad op die **EIENDOM** gehef te betaal, onderworpe aan die voorwaardes en vereistes soos bepaal mag word in terme van die Munisipale Ordonnansie, Ordonnansie nr 20 van 1974, soos gewysig of enige ander vervangende of toepaslike Ordonnansie.

5 **STREEKSDIENSTERAADHEFFING**

Die **HUURDER** onderneem om alle heffings wat deur die Distriksraad op die **EIENDOM** gehef word, regstreeks aan daardie owerheid te betaal.

6 **MYN- EN ANDER REGTE**

Die **VERHUURDER** behou voor alle regte op metale, minerale, steenkool, klip van alle soorte, klei en gruis, met inbegrip van die reg van toegang tot die **EIENDOM** te alle tye om sodanige metale, minerale of steenkool te myn of om klei, gruis en klip te verwyder, onderworpe aan 'n vermindering van die huurgeld in verhouding tot die oppervlakte wat deur die **VERHUURDER** vir sodanige mynwerk of verwydering teruggeneem word.



7 BESKERMING VAN BOME

- 7.1 Alle bome, wingerde of dergelike verbeteringe op die verhuurde perseel bly die **EIENDOM** van die **VERHUURDER** en mag nie deur die **HURDER** beskadig of verwyder word nie.
- 7.2 Die **HURDER** moet die geskrewe toestemming van die **VERHUURDER** vooraf verkry vir die verwydering van enige bome, wingerde en dergelike verbeteringe op 'n terrein wat hy vir verbouing nodig het, en as sodanige toestemming verleen word, behou die **VERHUURDER** die reg voor om oor die hout vir sy eie voordeel te beskik.
- 7.3 Die **VERHUURDER** behou die reg voor om deur sy amptenare periodieke inspeksies van bome, wingerde en dergelike verbeteringe op die **EIENDOM** uit te voer en om sodanige stappe ter beskerming daarvan te neem as wat hy nodig mag ag.
- 7.4 Die **VERHUURDER** behou die reg voor om self enige bome op die **EIENDOM** wat nie deur die **HURDER** aangeplant is nie, te kap en te verwyder, en hiervoor het hy vrye toegang tot die **EIENDOM**.

8 WATERBRONNE

- 8.1 Die **VERHUURDER** waarborg geen voorraad van oppervlakte- of ondergrondse water nie.
- 8.2 Die **HURDER** onderneem om nie met fonteine of met die natuurlike vloei van oppervlakte-afloopwater in te meng nie deur kanale, vore of damme te bou of om enige ander werke uit te voer sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie, en vir die toepassing van hierdie subklousule is 'n opinie van die betrokke Staatsdepartemente en/of onderafdelings daarvan bindend en finaal.

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8.3 Die **VERHUURDER** behou die reg voor om water op die **EIENDOM** op te gaar of om die gebruik van water uit fonteine of strome te beperk, indien sodanige opgaring of beperking na sy mening noodsaaklik is ter beskerming van die regte van derde partye.

8.4 Die **HURDER** onderneem om alle strome, fonteine of opgaardamme teen besoedeling te beskerm, en om sodanige instruksies uit te voer as wat die **VERHUURDER** periodiek te dien einde mag uitreik.

9 GRONDBEWARING

9.1 Die **HURDER** onderneem om die **EIENDOM** te gebruik deur die verbouing van die grond op 'n versigtige en sorgsame wyse, en ook om verswakking van die natuurlike vrugbaarheid en kwaliteit teen te werk.

9.2 Die **HURDER** onderneem om gronderosie teen te werk en om stiptelik uitvoering te gee aan die bepalinge van enige grondbewaringskema wat volgens wet op die **EIENDOM** van toepassing mag wees, en te dien einde behou die **VERHUURDER** die reg voor om periodieke instruksies uit te reik.

9.3 Die **VERHUURDER** behou die reg voor om sodanige werke uit te voer as wat hy nodig mag ag vir die bestryding van gronderosie, en wel op die koste van die **HURDER** as laasgenoemde versuim om dit op die **VERHUURDER** se versoek te doen.

9.4 Die **HURDER** onderneem om geen sand, grond of gruis vanaf die **EIENDOM** vir verkoping of gebruik elders te verwyder nie.

9.5 Die **HURDER** onderneem om toe te sien dat geen vullis, rommel of afval op die **EIENDOM** gestort word nie.



10 SKADELIKE GEWASSE

- 10.1 Die **HURDER** onderneem om die **EIENDOM** van skadelike gewasse skoon te hou.
- 10.2 Die **VERHUURDER** behou die reg voor om sodanige stappe as wat hy dienlik mag ag, te doen ter verwydering van dergelike geproklameerde onkruid, en wel op die koste van die **HURDER** ingeval laasgenoemde versuim om dit op die **VERHUURDER** se versoek te doen.

11 BRANDBESTRYDING

- 11.1 Die **HURDER** onderneem om die uiterste sorg uit te oefen ter beskerming van die **EIENDOM** teen veldbrande, en die **VERHUURDER** kan vereis dat die **HURDER** op sy eie koste sodanige brandpaaie bou as wat die **VERHUURDER** nodig mag ag.
- 11.2 die **HURDER** is aanspreeklik vir vergoeding aan die **VERHUURDER** vir enige uitgawe aangegaan om brande te voorkom of te blus. Brandskade aan bome of ander plante op die **EIENDOM** wat aan die **VERHUURDER** behoort, word deur 'n taksateur wat deur die **VERHUURDER** aangestel en wie se bevinding bindend is, bepaal en aan die **VERHUURDER** deur die **HURDER** vergoed.

12 OMHEINING

- 12.1 Die **HURDER** is verantwoordelik vir die oprigting en koste van enige omheining wat hy vir die beskerming van sy oeste of diere op die **EIENDOM** nodig mag ag.



12.2 Omheining wat deur die **HURDER** opgerig word, kan binne 1 (**EEN**) maand na die afloop van die huurooreenkoms verwyder word, maar die **VERHUURDER** kan uitstel vir sodanige verwydering verleen totdat die **EIENDOM** weer verhuur is om onderhandelinge met die opvolger vir die verkoping of oordrag daarvan moontlik te maak, met dien verstande dat die **VERHUURDER** eienaar van sodanige omheining word indien geen finale reëlings binne 60 (**SESTIG**) dae vanaf die datum van herverhuring deur die **HURDER** getref is nie, en in so 'n geval is die **HURDER** nie geregtig tot enige vergoeding vir die omheining wat aldus deur hom verbeur is nie.

13 **ONDERVERHURINGS, SESSIES OF OORDRAGTE, ENSOVOORTS**

13.1 Die **HURDER** sal nie hierdie huurooreenkoms sedeer of oordra nie, en onderverhuur nie die **EIENDOM** of enige deel daarvan sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie.

13.2 Die **VERHUURDER** kan 'n sertifikaat as bewys vereis dat 'n maatskappy, beslote korporasie of trust wat 'n **HURDER** is, wel as sodanig geregistreer is.

13.3 Dit word op rekord geplaas dat die **VERHUURDER** toestemming verleen vir die sessie en delegasie van hierdie huurkontrak aan en ten gunste van 'n erfgenaam of erfgename van die **HURDER** as sodanig deur die **HURDER** benoem.

13.4 By verandering van die beherende aandeelhouding of beherende belange in 'n maatskappy of beslote korporasie wat 'n **HURDER** is, of by verandering van direkteure of by likwidasie van die maatskappy of beslote korporasie of ingeval die maatskappy of beslote korporasie onder geregtelike bestuur geplaas word, bly die oorspronklike borge ten behoeve van die maatskappy of beslote korporasie gesamentlik en afsonderlik en as medehoofskuldenaars teenoor die **VERHUURDER** aanspreeklik, tensy die **VERHUURDER** op skriftelike aansoek van die **HURDER** toestem tot vervanging van sodanige borge.



- 13.5 Verandering van die beherende aandeelhouding of beherende ledebelang, direkteure of trustees van 'n maatskappy, beslote korporasie of 'n trust wat 'n **HUURDER** is, word geag 'n onderverhuring te wees.

14 GEBOUE EN STRUKTURELE VERBETERINGE

- 14.1 Enige gebou of strukturele verbetering wat op die **EIENDOM** by die aanvang van die huurooreenkoms bestaan, of mettertyd gedurende die huurtermyn opgerig mag word, sal deur die **HUURDER** op sy eie koste hetsy binne of buite in 'n goeie toestand gehou word en wel tot die bevrediging van die **VERHUURDER** en indien die **HUURDER** versuim om dit te doen kan die **VERHUURDER** sodanige reparasies as wat hy nodig mag ag, laat aanbring terwyl die **HUURDER** vir die uitgawe aanspreeklik bly.
- 14.2 Geen nuwe gebou, struktuur of ander permanente verbetering sal op **EIENDOM** aangebring, opgerig of uitgevoer word sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie, en sonder dat bouplanne ten opsigte van sodanige verbetering vooraf deur die **VERHUURDER** goedgekeur is nie en laasgenoemde kan gelas dat sodanige gebou, struktuur of verbetering wat inderdaad sonder sy skriftelike goedkeuring en toestemming opgerig, aangebring of gebou is deur die **HUURDER** op sy eie koste verwyder word.
- 14.3 Goedgekeurde verbetering van 'n permanente aard sal deur die **HUURDER** op sy eie risiko aangebring of opgerig word.
- 14.4 Die **VERHUURDER** sal enige geboue of ander verbetering wat by die aanvang van die huurtermyn op die **EIENDOM** is in sy uitsluitlike diskresie teen skade verseker en sodanige versekering in stand hou, met dien verstande dat die **HUURDER** verantwoordelik sal wees vir die volle kostes en premies verbonde aan sodanige versekering, en die **VERHUURDER** sal derhalwe die kostes en premies direk van die **HUURDER** vorder.



- 14.5 Indien die **VERHUURDER** kontant van 'n versekeringsmaatskappy sou ontvang ter vergoeding van 'n eis ten opsigte van skade aan verbetering op die **EIENDOM** soos in subklousule 14.4 van hierdie ooreenkoms genoem, kan hy die verbetering herstel of die kontant hou, na gelang hy dit dienlik ag.
- 14.6 Behuising kan, met behoud van die bepalings van subklousules 14.1; 14.2; 14.3 en 14.4 van hierdie ooreenkoms aan werkers wat die **HURDER** op die **EIENDOM** in diens het, met inbegrip van hul onmiddellike afhanklikes, op die **EIENDOM** voorsien word, onderworpe aan die voorafverkreë skriftelike toestemming van die **VERHUURDER**, en die stiptelike nakoming van die bepalings en vereistes van die toepaslike wetgewing met betrekking tot behuising. Enige plakkery op die **EIENDOM** is ten strengste verbode.
- 14.7 Die **HURDER** sal geen reg of aanspraak hê of vergoeding kan eis ten opsigte van verbetering, met inbegrip van landboukundige verbeteringe wat tydens die huurtermyn op die **EIENDOM** aangebring is nie, en die **VEHUURDER** behou die reg voor om, by beëindiging van hierdie ooreenkoms ingevolge die bepalings van sy eie diskresie en goëddunke te besluit of die **VERHUURDER** bereid is om die **HURDER** enigsins te vergoed vir sommige verbeteringe. Voorts kan die **VERHUURDER** in die alternatief toestem tot die verwydering van enige verbetering binne 'n tydperk soos deur die **VERHUURDER** voorgeskryf, by gebreke waarvan die **HURDER** enige reg op verwydering van sodanige verbeteringe of enige verdere aanspraak van watter aard ookal sal verbeur, ten gevolge waarvan die betrokke verbeteringe sonder enige aard van vergoeding die **EIENDOM** van die **VERHUURDER** word.

15 BAKENS

- 15.1 Deur die huurooreenkoms te onderteken erken die **HURDER** dat hy bewus is van die werklike ligging van alle bakens wat die **EIENDOM** se grense bepaal en enige onkunde of misverstand aan sy kant in hierdie verband raak nie die geldigheid van die huurooreenkoms of maak hom nie geregtig tot 'n vermindering van die huurgeld of tot kompensasië in enige vorm nie.



15.2 Indien enige baken wat die grense van die **EIENDOM** bepaal na ondertekening van hierdie ooreenkoms nie gevind kan word nie, is die **HURDER** aanspreeklik vir alle opmetings- en ander kostes verbonde aan die herplasing van sodanige baken.

16 **PAAIE**

Die **HURDER** onderneem om alle bestaande paaie op die **EIENDOM** in 'n goeie toestand te hou, en voorts om geen verdere paaie te bou of oop te maak sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie.

17 **INSPEKSIES**


Die gemagtigde amptenare van die **VERHUURDER** kan te enige tyd die **EIENDOM** betree om sodanige inspeksies as wat hulle mag ag, uit te voer en om vas te stel of die voorwaardes en bepalinge van die huurooreenkoms stiptelik nagekom word.

18 **ADVERTENSIE TEKENS**

Die **HURDER** sal geen advertensie tekens hoegenaamd op die **EIENDOM** oprig nie, en sal ook nie toelaat dat sulke tekens opgerig word sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie.

19 **ERFDIENSBAARHEID EN VERJARING**

19.1 Die huur is onderworpe aan enige erfdiensbaarheid wat aan die **EIENDOM** kleef, en as dit te eniger tyd sou blyk dat die **VERHUURDER** nie daartoe geregtig was om die **EIENDOM** of enige deel daarvan te verhuur nie, het die **HURDER** geen eis vir skadevergoeding behalwe dat die huurgeld *pro rata* verminder word ten opsigte van daardie deel van die **EIENDOM** wat nie vir okkupasie of gebruik deur die **HURDER** beskikbaar is nie.



19.2 Die **HURDER** erken hiermee dat hy geen aanspraak op eiendomsreg by wyse van verjaring ten opsigte van die **EIENDOM** wat verhuur word sal verkry nie.

20 OPSEGGING EN BEËINDIGING VAN HUUROOREENKOMS

20.1 Die **VERHUURDER** kan, sonder om afbreuk te doen aan enige bepaling of vereistes van hierdie ooreenkoms, met spesifieke verwysing na die bepalings van klousule 4 hiervan, en nadat 'n skriftelike kennisgewing op die **HURDER** beteken is, hierdie ooreenkoms beëindig -

20.1.1 indien die **HURDER** versuim om enige voorwaarde of bepaling ten opsigte van hierdie ooreenkoms na te kom; of

20.1.2 indien die **VERHUURDER** daarvan oortuig is dat die **HURDER** die grond op onbehoorlike of onverantwoordelike wyse benut; of

20.1.3 indien die **VERHUURDER** daarvan oortuig is dat die **HURDER** deur sy handeling op die **EIENDOM** 'n oorlas vir ander uitmaak; of

20.1.4 indien die **HURDER** teenstrydig met enige bepaling van die soneringskema van die Munisipaliteit van Stellenbosch afgekondig by PK 73 van 1997-07-20, soos vervang of gewysig, optree; of

20.1.5 indien die **EIENDOM** in sy geheel of gedeeltelik vir *bona fide* munisipale doeleindes, waarby dorpsstigting ingesluit is, benodig word

met dien verstande dat 'n grasiëperiode van hoogstens 1 (**EEN**) jaar in die gevalle soos in subklousules 20.1.1; 20.1.2; 20.1.3; 20.1.4 en 20.1.5 genoem aan die **HURDER** verleen word, ten einde die **HURDER** in staat te stel om die oeste wat op daardie stadium uitstaande mag wees te in, op voorwaarde dat die **HURDER** gedurende die grasiëperiode aan al die bepalings en vereistes van hierdie ooreenkoms, of ander voorwaardes wat die **VERHUURDER** in hierdie verband mag stel moet voldoen, by gebreke waarvan die toegestane grasiëperiode sonder verdere kennisgewing deur die **VERHUURDER**, in sy uitsluitlike diskresie, in heroorweging geneem sal word.

- 20.2 die **HURDER** kan, sonder om afbreuk te doen aan enige bepaling of vereiste van hierdie ooreenkoms, met spesifieke verwysing na subklousules 4.1; 4.2; 4.3 en klousule 24, hiervan, en nadat 'n skriftelike kennisgewing van 6 (**SES**) maande deur die **HURDER** aan die **VERHUURDER** gegee is, hierdie ooreenkoms beëindig.

21 SKADELOOSSTELLING

Die **HURDER** onderneem hierby om die **VERHUURDER** te vrywaar en gevrywaar te hou teen alle gedinge, stappe, eise, vorderings, koste, skadevergoeding en uitgawes wat gehef, gebring of gemaak mag word teen die **VERHUURDER** of wat die **VERHUURDER** mag betaal, opgedoen of aangaan as gevolg van enige handeling of versuim aan die kant van die **HURDER**, sy werknemers of persone wat onder sy beheer handel.

22 KOSTE VAN OOREENKOMS

- 22.1 Alle kostes wat deur die **VERHUURDER** aangegaan is vir die voorbereiding en opstel van hierdie ooreenkoms, plus die koste van die verhuuringsadvertensie, opmetingskoste en ander toevallige uitgawes sal deur die **HURDER** gedra word, en die korrektheid van die bedrag wat deur die **VERHUURDER** in hierdie verband geëis word, betwis nie.
- 22.2 Die huurooreenkoms sal slegs op die uitdruklike versoek van die **HURDER** en op sy koste notarieel verly en in die Akteskantoor geregistreer word. Die **HURDER** moet in sodanige geval 'n deposito betaal soos deur die **VERHUURDER** bepaal ten opsigte van die kostes hierbo vermeld.

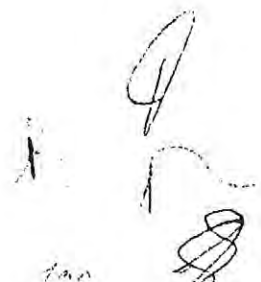


23 ARBITRASIE

- 23.1 Enige geskil wat te eniger tyd tussen die partye mag ontstaan in verband met enige aangeleentheid voortspruitende uit hierdie ooreenkoms, sal onderwerp word aan en besleg word deur arbitrasie.
- 23.2 Iedere sodanige arbitrasie moet plaasvind -
- 23.2.1 te Stellenbosch;
- 23.2.2 op 'n informele summiere wyse sonder enige pleitstukke of blootlegging van dokumente en sonder die noodsaaklikheid om aan die strenge reëls van die bewysreg te voldoen;
- 23.2.3 onverwyld, met die oog daarop om dit af te handel binne 3 (**DRIE**) maande vanaf die datum waarop die geskil na arbitrasie verwys is;
- 23.2.4 onderworpe aan die bepalinge van die Wet op Arbitrasie, no 42 van 1986, of sodanige ander Arbitrasiewette as wat van tyd tot tyd mag geld, behalwe waar die bepalinge van hierdie klousule anders voorskryf.
- 23.3 Die arbiter moet 'n persoon wees op wie deur die partye onderling ooreengekom is en, by onstentenis van 'n ooreenkoms, een aangestel deur die diensdoenende President van die Wetsgenootskap van die Kaap die Goeie Hoop.
- 23.4 Die partye kom hiermee onherroeplik ooreen dat die beslissing van die arbiter in sodanige arbitrasieverrigtinge finaal en bindend op hulle sal wees.

24 INVORDERINGSKOSTE

Indien die **VERHUURDER** opdrag aan sy prokureurs sou gee om enige gelde wat kragtens hierdie ooreenkoms betaal is, op die **HUURDER** te verhaal, is die **HUURDER** aanspreeklik vir die betaling van alle koste deur die **VERHUURDER** in hierdie verband aangegaan, bereken op 'n prokureur/kliëntbasis.



25 **DOMICILIUM CITANDI ET EXECUTANDI**

Die domicilium citandi et executandi van die **HURDER** vir die toepassing van hierdie ooreenkoms is

Constantialaan 10, Welgelegen, STELLENBOSCH, 7600

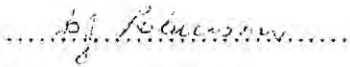
en die van die **VERHUURDER**

Stadshuiskompleks, Pleinstraat, STELLENBOSCH, 7600

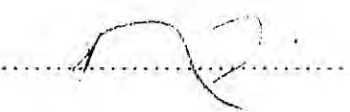
GETEKEN TE STELLENBOSCH HIERDIE 14 DAG VAN
JANUARIE 1998 AS GETUIES

1. 

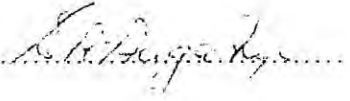

.....
UITVOERENDE HOOF/STADSKLERK

2. 

GETEKEN TE STELLENBOSCH HIERDIE DAG VAN
19 AS GETUIES

1. 


.....
HURDER

2. 

BYLAE "B"

BELEID EN TOEPASSING VAN DIE HUURGELDTARIEFFORMULE

1. Vir die doeleindes van hierdie ooreenkoms en die toepassing van die huurgeldtariefformule word :

ALLE grond as onontwikkelde grond beskou, in welke geval die volgende woordbepaling van toepassing sal wees :

"Onontwikkelde grond" - beteken grond soos in sy natuurlike staat, met of sonder natuurlike plantegroei, waarop geen spesifieke struik of gewasse voorkom en verbou word met die doel om dit te oes nie.

2.1 Huurgeld betaalbaar in die eerste termyn

Die jaarlikse huurgeld ingevolge klousule 2.1 van die huurooreenkoms betaalbaar is die som van R2 447,10 (tweeuisend vierhonderd sewe-en-veertig rand en tien sente) p/ha/pj vir die tydperk tot 31 Maart 1998.

2.2 Aangepaste huurgeld betaalbaar in daaropvolgende termyne

Die Verhuurder sal geregtig wees om soos op die eerste dag van April 1998, en daarna weer soos op die eerste dag van April van elke derde jaar wat daarop volg (hieronder genoem die "verhogingsdatum") die huurgeld telkens te verhoog vir die dan volgende termyn van drie jaar met 'n verhoging van 50 % van die verhoging in die Verbruikersprysindeks (VPI) van die RSA oor die drie jaar termyn (soos hieronder bepaal) bo die huurgeld wat vir die onmiddellike voorafgaande jaar betaalbaar was.



Met ander woorde -

X = jaarlikse huurgeld, betaalbaar vir die tydperk eindigende op 31 Maart onmiddellik voorafgaande die verhogingsdatum

Y = verhoging in die stand van die VPI oor die drie jaar termyn wat soos volg bereken word

$$\frac{Y_2 - Y_1}{Y_1} \text{ waar}$$

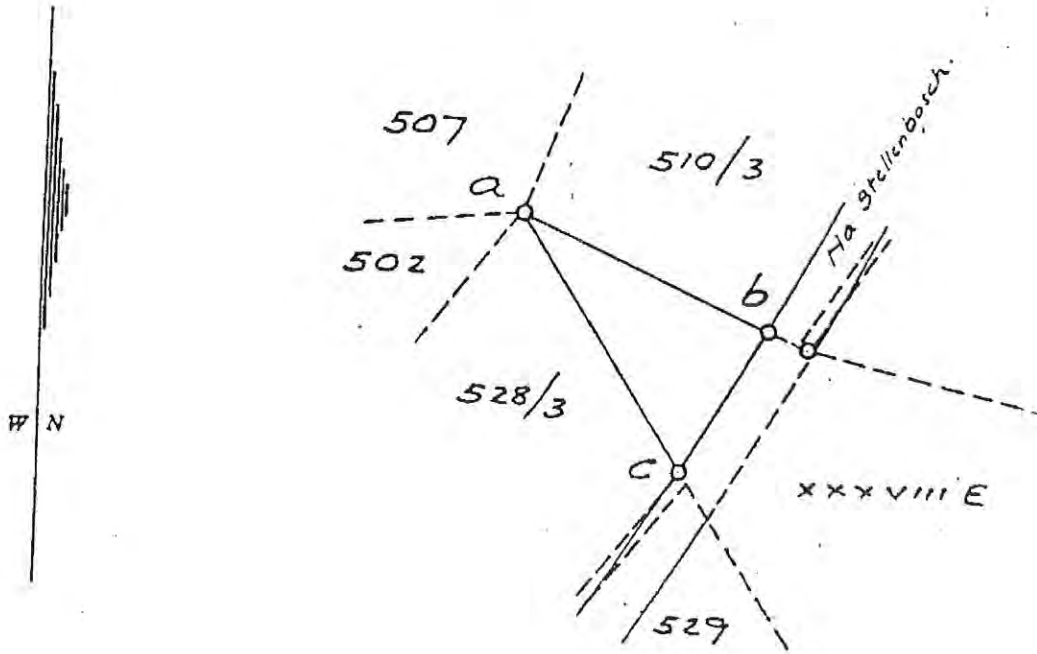
Y_2 = stand van die VPI op 30 Junie van die jaar wat die verhogingsdatum voorafgaan

Y_1 = stand van die VPI op 30 Junie drie jaar vantevore sal die formule, vir berekeningsdoeleindes, soos volg daaruit sien :

Huurgeld betaalbaar vir die volgende drie jaar termyn :

$$X \left[1 + \left(\frac{50}{100} Y \right) \right]$$

[Handwritten signature]



Skaal: 1:7500.

Die figuur *abc* stel voor
 2,0 Ha (benaderd tot die naaste 0,5 Ha) grond synde
 Munisipale Huurgrond Perseel (XXXVIII F) ^{OU NR.} NUWENR
 527A

geleë in die Munisipaliteit en Afdeling Stellenbosch
 Provinsie Kaap die Goeie Hoop.

Opgestel deur my Mei 1972

K. Friedlaan

Landmeter.

Oorspronklike Kaart	<i>P. J. Lombard</i> Burgermeester	<i>A P Meyer</i> Huurder
Nr. 958/1888	<i>[Signature]</i> Stadslerk	
T/A Std. F. 6-3	Gedruke 1. <i>D. Sappel</i>	<i>[Signature]</i>

APPENDIX 2

11th August 2016

Stellenbosch Municipality
Property Management
P.O. Box 17
Stellenbosch
7599

Attention: Mr. P. Smit

FARM 527A – CESSION OF EXISTING LEASE

I refer to the existing lease agreement between Stellenbosch Municipality and myself, Dr. G.J.C. Norval over the above property which was signed on 14 January 1998.

I would like to enquire if the Stellenbosch Municipality would consider the cession, or alternatively allowing me to sub-let, my existing lease over the property to Stellensig (Pty) Ltd. who is the owner of the adjacent property (Farm 528/3) for the following reasons:

1. The owner of the adjacent property has approached me and indicated that he would like to use the 2Ha of Farm 527A as part of his current smallholding so that he can develop agriculture on a larger portion of land thereby making it more commercially viable.
2. The leased property is landlocked with the adjacent property owner, Stellensig (Pty) Ltd., the only property with access to the leased property and thus being able to productively use the property.

I trust that the above enquiry to cede the existing lease to Stellensig (Pty) Ltd. will be considered favorably, however, should the cession of the lease not be acceptable, I will continue with the full term of the lease.

Yours faithfully,

DR. G.C.J. NORVAL

5.5.2	PROPOSED RENEWAL OF LEASE AGREEMENT: ERF 52, STELLENBOSCH, SUPERGROUP DEALERSHIP
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1. SUBJECT: PROPOSED RENEWAL OF LEASE AGREEMENT: ERF 52, STELLENBOSCH, SUPERGROUP DEALERSHIP

2. PURPOSE

To consider a request from Supergroup Dealership (Mercedes Benz, Stellenbosch) to renew the current Lease Agreement in relation to erf 52 for a further period of 5 years.

3. DELEGATED AUTHORITY

In terms of Delegation 530 of the approved System of Delegations, the Executive Mayor has the delegated authority to grant a right to use, control or manage a fixed asset of Stellenbosch Municipality, up to a contract value of R5M, subject to compliance with Regulation 34(1) of the Asset Transfer Regulation.

*In terms of the new Policy on the Management of Council-owned Property, however, the decision to deviate from the normal, prescribed public competitive route is reserved for the Municipal Council. For this reason the Municipal Council first need to decide whether they support the renewal of the Lease Agreement without following the prescribed public competitive process.

4. EXECUTIVE SUMMARY

Supergroup Dealership (Mercedes Benz, Stellenbosch) is leasing erf 52 from Stellenbosch Municipality in terms of a 5 year Lease Agreement.

The current lease expires at the end of June 2018 they have requested that their lease be renewed for a further period of 5 years.

5. RECOMMENDATIONS

- (a) that approval be granted in principle for the renewal of the Lease Agreement for a period of 5 years;
- (b) that Council's intention so to act be advertised for public inputs;
- (c) that, should any objections be received, as a consequence of such an advertisement, same be considered before making a final decision; and
- (d) that, should no objections be received, the Municipal Manager be authorised to conclude a new agreement for a period of 5 years (with the option of renewal for a further term), on the same terms and conditions as the current Lease Agreement, except for the monthly lease amount, to be amended in line with the new tariff structure (see paragraph 6.2.5).

6. DISCUSSION / CONTENT

6.1 Background

6.1.1. Authorisation for tender process

On 2012-10-25 Council considered a report on the use of erf 52. Having considered the report, Council resolved as follows:

- (a) that all previous Council resolutions with regard to the alienation of erf 52, be rescinded;
- (b) that erf 52 be identified as a property that is not required for the municipality's own use during the period for which the right is to be granted (5 years with 3 months' notice period);
- (c) that the Municipal Manager be authorized to follow a public tender process in awarding rights to interested parties for the use of the site; and
- (d) that a minimum rental be determined by means of fair market value with a minimum of R 9200 per month.

A copy of the report is attached as **APPENDIX 1**.

6.1.2 Awarding of tender and conclusion of Lease Agreement

Following a public tender process, the tender for the use of erf 52 was awarded to Sandown Motor Holdings (Pty) Ltd, whereafter a Lease Agreement was concluded, a copy of which is attached as **APPENDIX 2**.

Irrespective of the date of signature, the lease period was for the period 1 July 2013 to 31 June 2018.

At a later stage this Lease Agreement was ceded to Super Group Trading (Pty) Ltd. A copy of the Cession Agreement is attached as **APPENDIX 3**.

6.2 Discussion

6.2.1 Property description

Erf 52 is located at Bird Street as indicated on Fig 1, 2 and 3, respectively.



Fig 1: Location and context



Fig 2: Extent of property



Fig 3: Street view

Erf 52 is zoned General Business in terms of the Stellenbosch Zoning Scheme and is approximately 1647m² in extent.

*Erf 52 was specifically acquired for the purpose of developing it as a public parking area. For this reason it would not be advisable to dispose of the land. It can, however be leased on condition that the lease could be terminated on a 3 months written notice period.

6.2.2 Development rights

As indicated above, erf 52 is zoned for General Business. To use the area for parking purposes, no further development right are necessary.

Please note: Erf 52 was specifically acquired for the purpose of developing it as a public parking area. For this reason it would not be advisable to dispose of the land. It can, however be leased on condition that the lease could be terminated on a 3 months written notice period.

6.2.3 Legal requirements

6.2.3.1 Asset Transfer Regulations

In terms of Regulation 34 of the Asset Transfer Regulations, a Municipality may grant a right to use, control or manage a capital asset, only after:-

- a) the accounting officer has conducted a public participation process in terms of regulation 35*; and
- b) the municipal Council has approved in principle that the right may be granted

*Sub-regulation 1 (a) must be complied with only if-

- a) the capital asset's value exceeds R10M; and
- b) a long term right (longer than 3 years) is proposed to be granted, which is not the case with the current application.

In terms of Regulation 36 of the Asset Transfer Regulations, a municipal council, when considering the granting of a right to use, control or manage a capital asset, must take into account, *inter alia*:

- a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;
- b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality; and
- c) the risk and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests.

6.2.3.2 Policy on the Management of Council owned property (MCOP)

In terms of paragraph 9.2.2 of the MCOP Policy, the Municipal Council may dispense with the prescribed, competitive process, and may enter into a private treaty agreement through any convenient process, which may include direct negotiations, but only in specific circumstances, and only after having advertised Council's intention so to act.

One of the circumstances listed in (l) is lease contracts with existing tenants of immovable properties, not exceeding ten (10) years. Such agreements may be renegotiated where the Executive Mayor is of the opinion that public competition would not serve a useful purpose, subject to such renewal being advertised, calling for public comment.

Further, in terms of paragraph 9.2.2.2, the reasons for any such deviation from the competitive process must be recorded.

6.2.5 Tariff Structure

In terms of Council's (to be) approved Tariff Structure for 2018/19 financial year, the fee for renting parking space in the CBD of Stellenbosch is R260.00 per parking bay per month. At approximately 40 parking bays, the minimum rental will be R10 400/month.

6.3 Financial Implications

Should Council approve the recommendations, the annual income would be R124 800-00 (i.e. R624 000 over the contract period, exclusive of escalation).

6.4 Legal Implications

See paragraph 6.2.3

6.5 Staff Implications

Investigative study by staff from The Human Settlements and Property Management Directorate.

6.6 Previous / Relevant Council Resolutions

See paragraph 6.1.1.

6.7 Risk Implications

There are no risks at this stage apart from the risk of current projects being delayed as a result of not doing anything in respect of land acquisition.

6.8 Comments from Senior Management**6.8.1 Director: Infrastructure Services**

In support of the recommendations.

6.8.2 Director: Planning and Economic Development

No comments received.

6.8.3 Chief Financial Officer

No comments received.

ANNEXURES:

Annexure 1: Agenda item

Annexure 2: Lease Agreement

Annexure 3: Cession Agreement

FOR FURTHER DETAILS CONTACT:

NAME	Piet Smit
POSITION	<i>Manager: Property Management</i>
DIRECTORATE	<i>Human Settlement & Property Management</i>
CONTACT NUMBERS	021-8088189
E-MAIL ADDRESS	Piet.smit@ Stellenbosch.gov.za
REPORT DATE	2018-02-06

APPENDIX 1

PLANNING & DEVELOPMENT COMMITTEE MEETING

2012-08

PROPOSED USE OF ERF 52 FOR PARKING PURPOSES

File number : 7/2/2/1
Report by : Director: Planning & Development
Compiled by : Manager: Property Management
Delegated Authority : Mayco

1. PURPOSE OF REPORT

The purpose of this report is to authorise the Acting Municipal Manager to follow a public tender process in order to utilise erf 52 for parking purposes.

2. BACKGROUND

An application has been received from Eikestad Motors, Stellenbosch, the owners of the adjacent property, to use erf 52 for additional parking space, a copy of which is attached as **APPENDIX 1**.

3. DISCUSSION

3.1 Property description

Erf 52 is located at Birdstreet as indicated on Fig 1, 2 and 3, respectively.

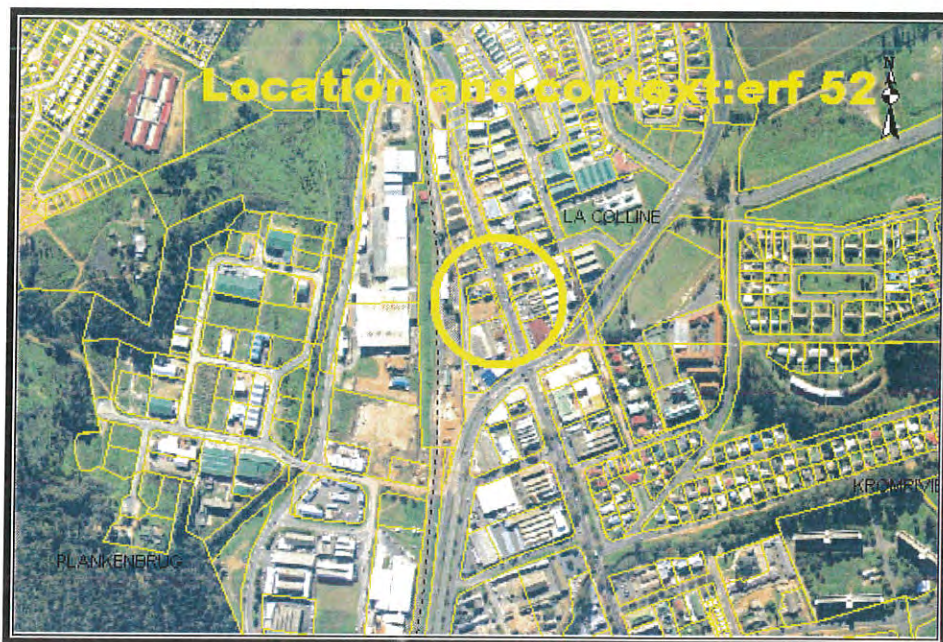


Fig 1: Location and context



Fig 2: Extent of property



Fig. 3 Streetview

Erf 52 is zoned General Business in terms of the Stellenbosch Zoning Scheme and is approximately 1647m² in extent.

Erf 52 was specifically acquired for the purpose of developing it as a public parking area. For this reason it would not be advisable to dispose of the land. It can, however be leased on condition that the lease could be terminated on a 3 months written notice period.

3.2 Development rights

As indicated above, erf 52 is zoned for General Business. To use the area for parking purposes, no further development right are necessary.

3.3 Legal requirements

3.3.1 Asset Transfer Regulations

In terms of Regulation 34 of the Asset Transfer Regulations, a Municipality may grant a right to use, control or manage a capital asset, only after:-

- a) the accounting officer has conducted a public participation process in terms of regulation 35*; and

- b) the municipal Council has approved in principle that the right may be granted

*Sub-regulation 1 (a) must be complied with only if-

- a) the capital asset's value exceeds R10M; and
- b) a long term right (longer than 3 years) is proposed to be granted, which is not the case with the current application.

In terms of Regulation 36 of the Asset Transfer Regulations, a municipal council, when considering the granting of a right to use, control or manage a capital asset, must take into account, *inter alia*:

- a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;
- b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality; and
- c) the risk and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;

3.3.2 Supply Chain Management Policy (SCM Policy)

In terms of paragraph 5.6 of Council's approved SCM Policy, following an in principle approval by Council, SCM must embark on the applicable process which process must be fair, equitable, transparent and competitive.

3.4 Tariff Structure

In terms of Council's approved Tariff Structure, the fee for renting parking space in the CBD of Stellenbosch is R230.00 per parking bay

per month. At approximately 40 parking bays, the minimum rental should be R9200/month.

4. INPUTS BY OTHER DEPARTMENTS

4.1 Planning & Development

This department is in support of the application, on condition that such agreement can be terminated with a 3 month written notice.

Erf 52 was acquired by the municipality for the provision of public parking facilities to support the efficient functioning of Du Toit Station. Erf 52 is seen as of strategic importance and potential catalyst for the redevelopment of the surrounding properties located at the main entrance to Stellenbosch as well as for the upgrading and potential widening of Bird Street. For this reason, the department is not in support of the alienation of Erf 52 for the purposes of development **unless** the development forms an integral part of an approved overall development plan for the total area.

4.2 Engineering department

The Directorate Engineering Services (Civil Engineering Section) has no objection to the application, but subject to the following conditions:

a) Water

No Municipal water connection has been installed.

c) Waste Water and Sewage

No municipal sewer connection has been installed.

d) Roads

No new access from Bird Street may be constructed.
Access to Erf 52 is from Porter Street.

e) Stormwater

Stormwater runoff from the property must be channelled to Porter Street in such a manner that it does not create a nuisance on the side walk or in the street.

4.3 CFO

The recommendations contained in this report is supported.

4.4 Legal Services

Attached as **APPENDIX 2**.

5. CONCLUSION

The proposed temporary use of the site for parking purposes pose no risks to the municipality. Should the site be needed for our own purposes, the lease can be terminated.

RECOMMENDATION:

- a) that erf 52 be identified as a property that is not required for the municipality's own use during the period for which the right is to be granted (5 years with 3 months notice period);
- b) That the Municipal Manager be authorized to follow a public tender process in awarding rights to interested parties for the use of the site;
- c) That a minimum rental of R9200/month be determined as a fair market rental, based on the approved tariff structure.

7.6 PROPOSED USE OF ERF 52 FOR PARKING PURPOSES

10TH COUNCIL MEETING: 2012-10-25: ITEM 7.6

RESOLVED (majority vote)

- (a) that all previous Council resolutions with regard to the alienation of erf 52, be rescinded;
- (b) that erf 52 be identified as a property that is not required for the municipality's own use during the period for which the right is to be granted (5 years with 3 months notice period);
- (c) that the Municipal Manager be authorized to follow a public tender process in awarding rights to interested parties for the use of the site; and
- (d) that a minimum rental be determined by means of fair market value with a minimum of R9200 per month.

The following councillors requested that their votes of dissent be minuted:

Cllrs JA Davids; N Gcaza (Ms); DA Hendrickse, S Jooste (Ms); N Mananga-Gugushe (Ms); C Moses (Ms); R Nalumango (Ms), L Ronoti; T Sitshoti (Ms); LN Siwakamisa (Ms) and M Wanana.

(MPM)

APPENDIX 2



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

LEASE AGREEMENT

Entered into by and between

STELLENBOSCH MUNICIPALITY

Herein represented by **PETRUS DU PLESSIS SMIT** in his capacity as
Manager Property Management, being duly authorised (herein after called the **LESSOR**)

AND

SANDOWN MOTOR HOLDINGS TRADING AS EIKESTAD MOTORS

Herein represented by **ROY MCALLISTER** and **NAEEM HAASIM** in their capacity as
CEO and Co-CEO, being duly authorised (herein after called the **LESSEE**)

For the lease of Erf 52 (herein after called the **PROPERTY**)

AGREEMENT OF LEASE

1. PARTIES

- 1.1 The parties to this lease are:-
 - 1.1.1 (Stellenbosch Municipality) (“the **LESSOR**”); and
 - 1.1.2 (*Sundown Motor Holdings (Pty) Ltd, Stellenbosch*) (“the **LESSEE**”).

2. INTERPRETATION

- 2.1 In this lease agreement, except in a context indicating that some other meaning is intended,
 - 2.1.1 “*the Lease Period*” means the period for which this lease subsists, including any period for which it is renewed;
 - 2.1.2 “*month*” means a calendar month, and more specifically;
 - 2.1.2.1 in reference to a number of months from a specific date, a calendar month commencing on that date or the same date of any subsequent month; and
 - 2.1.2.2 in any other context, a month of the calendar, that is, one of the 12 months of the calendar, and “monthly” has the corresponding meaning;
 - 2.1.3 “*the parties*” means the parties to this lease, and “party” means one of them;
 - 2.1.4 “*the PROPERTY*” means Erf 52, Stellenbosch.;
 - 2.1.5 “*the Rates*” means the assessment rates payable on the **PROPERTY** and includes but is not limited to, refuse removal charges and sanitary fees;
 - 2.1.6 “*Rentable Area*” in relation to the Premises means the area of the Premises determined in accordance with clause 17;
 - 2.1.7 “*year*” means a period of 12 consecutive months, and “yearly” refers to a year commencing on the date on which the lease comes into operation or any anniversary of that date;
 - 2.1.8 references to notices, statements and other communications by or from the **LESSOR** include notices by or from the **LESSOR**’s agent;
 - 2.1.9 expressions in the singular also denote the plural, and vice versa;
 - 2.1.10 words and phrases denoting natural persons refer also to juristic persons, and vice versa; and
 - 2.1.11 pronouns of any gender include the corresponding pronouns of the other genders.

- 2.2 Any provision of this lease imposing a restraint, prohibition or restriction on the **LESSEE** shall be so construed that the **LESSEE** is not only bound to comply therewith but is also obliged to procure that the same restraint, prohibition or restriction is observed by everybody occupying or entering the Premises or any other part of the **PROPERTY** or the Building through, under, by arrangement with, or at the invitation of, the **LESSEE**, including (without limiting the generality of this provision) its Associates and the directors, members, officers, employees, agents, customers and invitees of the **LESSEE** or its Associates.
- 2.3 Clause headings appear in this lease for purposes of reference only and shall not influence the proper interpretation of the subject matter.
- 2.4 This lease shall be interpreted and applied in accordance with South African law.

3. LETTING AND HIRING

- 3.1 The **LESSOR** lets and the **LESSEE** hires the Premises on the terms of this lease.

4. DURATION

- 4.1 This lease shall come into operation on *01 July 2013* and shall subsist for 5 years.

5. RENT

- 5.1 The rent shall be
- 5.1.1 R9975.00 p.m VAT inclusive (NINE THOUSAND NINE HUNDRED AND SEVENTY FIVE RAND)
- per month for the financial year ending 30 June 2014; and
- 5.1.2 shall thereafter, on an annual basis on the 1 July of each year escalate with 6.9%.
- 5.2 The **LESSEE** shall pay the rent monthly in advance on or before the (*7th*) day of every month.

6. RATES

- 6.1 In addition to paying the rent as per Clause 5, the **LESSEE** shall also be responsible for the annual Rates for the pro-rata portion of the **PROPERTY**, as determined by the **LESSOR**; and
- 6.2 Whenever the Rates are increased during the Lease Period, the **LESSOR** will increase the Rates for the **PROPERTY** by an amount which bears the same ratio to the increase in Rates in general.

7. PAYMENTS

- 7.1 The rent payable by the **LESSEE** to the **LESSOR** in term of this Agreement shall be payable monthly in advance on or before the 7th day of each month free

of exchange at such address as directed by the **LESSOR** in writing from time to time.

- 7.2 The **LESSOR** shall have the right, notwithstanding any instruction given by the **LESSEE**, to appropriate any amount paid by the **LESSEE** hereunder to whatsoever indebtedness of the **LESSEE** as the **LESSOR** may decide upon in its absolute discretion.

8. INSURANCE

- 8.1 The **LESSEE** shall not keep or do in or about the Premises anything which is liable to enhance any of the risks against which the Building is insured for the time being to the extent that such insurance is rendered void or voidable or the premiums of such insurance are, or become liable to be, increased.
- 8.2 Without prejudice to any other right of action or remedy which the **LESSOR** may have arising out of a breach of the foregoing provision, the **LESSOR** may recover from the **LESSEE** on demand the full amount of any increase in insurance premiums in respect of the Building attributable to such breach.
- 8.3 For the purposes of the above provisions, the **LESSEE** shall be entitled to assume that the Building is at all material times insured against such risks, on such terms, for such amounts, and at such premiums as are for the time being usual in respect of similar buildings in similar locations.

9. SUB-LETTING AND RELATED MATTERS

- 9.1 The **LESSEE** shall not, without the **LESSOR's** prior written consent:
- 9.1.1 sub-let the whole or any part of the PREMISES or cede, assign, transfer, alienate, or otherwise dispose of any of its rights and/or obligations under this Lease or pledge or hypothecate this Lease;
- 9.1.2 give up, for either a definite period or at all, occupation or possession of the PREMISES or any part thereof to any person or permit any person whether as licensee, sub-tenant, agent, occupier, custodian or otherwise to take possession or occupation of the PREMISES or any part thereof either for a definite period or at all.
- 9.2 Should the **LESSEE** wish to sub-let the whole or any part of the PREMISES at any time during the currency Lease, then the **LESSEE** shall apply to the **LESSOR** in writing for its consent thereto given, in regard to the proposed sub-lease, the name of the sub-tenant, the guarantors if any of the sub-tenant date of commencement, the duration of the proposed sub-lease, the exact premises and the consideration payable there under. The **LESSOR** at its option may:
- 9.2.1 consent to the sub-lease, in which case the **LESSEE** may on receipt of written confirmation by the **LESSEE** sub-let the PREMISES or part thereof as the case may be in accordance with the written application submitted to the **LESSOR** in terms of this Clause 11.2, or
- 9.2.2 provided the proposed sub-tenant wishes to lease the whole of the PREMISES, give the **LESSEE** written notice of its intention to enter into a direct lease with the proposed sub-tenant in which event on the commencement date of the new written lease entered into between the **LESSOR** and the proposed sub-tenant this Lease shall be cancelled and of no further force or effect, provided that such cancellation shall in no way detract from the **LESSOR's** rights to enforce performance of

any obligations of the **LESSEE** arising, prior to the date of cancellation, or the **LESSOR's** rights to recover arrear payments from the **LESSEE**.

10. GENERAL OBLIGATIONS OF LESSEE

- 10.1 The **LESSEE** shall care for and maintain the interior of the PREMISES, the electrical installations, drainage and sanitary works, carpeting, partitions and other fixtures and fittings therein during the currency of this Lease and return and redeliver the same to the **LESSOR** at the termination of this Lease in the same good order and condition in which they were at the commencement of this Lease, fair wear and tear excepted. The **LESSEE** shall be liable for the costs of replacing, repairing and making good any broken, damaged or missing article. Without derogating from the generality of the a foregoing, the **LESSEE** shall be liable to maintain and repair any damage caused to the doors, ceilings, windows, walls, floors or partitions of and/or within the PREMISES which may be occasioned by any cause, including forced entry.
- 10.2 The **LESSEE** shall not cause any obstruction or blockage of sewerage pipes or drains within or leading to or from the PREMISES and shall maintain the same free from any such obstruction or blockage.
- 10.3 The **LESSEE** shall at all times keep the PREMISES in a clean, tidy and sanitary condition.
- 10.4 The **LESSEE** shall at all times use and control the PREMISES in such a manner that the use thereof in no way interferes with or affects the rights and privileges of any other tenant in the BUILDING or causes any disturbances, nuisance or annoyance to any person or any damage of any kind whatsoever to the PREMISES, the BUILDING and/or the environment.
- 10.5 The **LESSEE** shall comply with and shall not contravene or permit the contravention of
- 10.5.1 any law, by-law, ordinance, proclamation, statutory regulation or the conditions of any licence relating to or affecting the occupation or use of the PREMISES or the carrying on of the **LESSEE's** business in the PREMISES;
- 10.5.2 the conditions incorporated in and/or noted on the Title Deeds of the LAND or the conditions of establishment of the township of which the LAND forms part; or any law, by-law or statutory regulation which the **LESSOR** is required to observe by virtue of the **LESSOR'S** ownership of the LAND and/or the BUILDING.
- 10.6 The **LESSEE** shall not drive or permit to be driven any nails or screws into the floor, walls, ceilings, partitions, doors or windows of the PREMISES other than for normal shop fitting or decorating purposes, nor shall the **LESSEE** in any manner whatsoever do or permit anything to be done which may damage the floor, walls, ceilings, doors, windows or partitions of the PREMISES or any fixtures or fittings therein.
- 10.7 The **LESSEE** shall not alter or interfere with any of the electrical installations in the PREMISES, and shall ensure that none of the electrical installations in the PREMISES are overloaded at any time during the currency of this Lease.
- 10.8 The **LESSEE** shall not obstruct or interfere or tamper with any thermostats or air-conditioning appliances in the PREMISES.

- 10.9 The **LESSEE** shall not bring into the PREMISES or place in the PREMISES any safe or other heavy article nor shall the **LESSEE** permit the loading of any portion of the PREMISES over and above such rate as may be specified by the **LESSOR**, without the prior written consent of the **LESSOR**, which the **LESSOR** may in its discretion grant subject to the construction by the **LESSOR**'s contractors under the supervision of the **LESSOR**'s architects and/or other professional advisers of such reinforcement to the PREMISES and/or the BUILDING as the **LESSOR** may require. All costs incurred pursuant to the provisions of this clause shall be borne.
- 10.10 The **LESSEE** shall not be entitled to install any air-conditioning, units or heaters or ventilation equipment in or about the PREMISES without the prior written consent of the **LESSOR**, provided that should any such consent be granted, the **LESSOR** shall be entitled to impose such reasonable conditions and standards in regard to the type of unit to be installed, the method and manner of installation and the maintenance thereof, as the **LESSOR** may require in its sole discretion, and upon the expiration or earlier termination of this Lease, the **LESSEE** shall be obliged, if called upon to do so by the **LESSOR**, to remove such items and to reimburse the **LESSOR** for the costs of making good any damage caused to the PREMISES and/or the BUILDING as a result of such installation or removal.
- 10.11 The **LESSEE** shall in no way obstruct, whether by storage or otherwise and whether temporarily or permanently, the pavements alongside the LAND or the lobbies, staircases or passages of the BUILDING or the yards or any other portion of the BUILDING or the LAND.
- 10.12 The **LESSEE** shall comply with and carry out, all reasonable rules and regulations, which may be made from time to time by the **LESSOR**, reduced to writing and submitted to the **LESSEE**, for the proper and efficient control of tenants in the BUILDING and their employees and the general management of the BUILDING.
- 10.13 The **LESSEE** shall be liable to the **LESSOR** for all costs incurred by the **LESSOR** in repairing any damage to the BUILDING caused by the **LESSEE**.
- 10.14 The **LESSEE** shall not without the prior written consent of the **LESSOR**, which shall not be unreasonably withheld, store, harbour or use, or permit the storage, harbouring or use in the PREMISES of any goods, chattels, furniture, fixture, fittings or effects which are subject to any hire purchase or lease agreement and which are not the **LESSEE**'s own **PROPERTY**.
- 10.15 The **LESSEE** shall reimburse the **LESSOR** on demand for the cost of any keys, locks, windows, doors, carpeting, partitions, fixtures, fittings toilets, washbasins or other installations or fittings in the premises which may be removed from the PREMISES by any person or which may be damaged or broken or destroyed by any person during the currency of this Lease.
- 10.16 The **LESSEE** shall at all times ensure that its employees do not cause any damage to the lifts, elevators, hoists, staircases, landings, foyers, drains, toilets, washbasins, light fittings or any other amenities or facilities in the PREMISES and/or the BUILDING.
- 10.17 The **LESSEE** shall not change or interfere with any of the installations in the PREMISES and/or in the BUILDING without the prior written consent of the **LESSOR**.

- 10.18 The **LESSEE** shall not be entitled to install or use in the PREMISES any computer or other electrical installations or appliances not constituting normal accounting and business machines, without the prior written consent of the **LESSOR**.
- 10.19 The **LESSEE** shall ensure that its employees at all times abide by all such reasonable security and fire protection programmes, systems, arrangements and installations as may be prescribed by the **LESSOR** and/or provided or installed in the BUILDING and/or the PREMISES from time to time and the **LESSEE** agrees itself to comply therewith. The **LESSEE** hereby acknowledges that its occupation of the PREMISES, including, but not limited to, the times and manner of access to and egress from the BUILDING and the PREMISES, shall be subject to and- governed by such reasonable rules and arrangements as may be issued and made by the **LESSOR** from time to time in its discretion for the purpose of implementing, operating and maintaining such measures in respect of the LAND, the BUILDING and/or the PREMISES as the **LESSOR** may deem necessary from time to time. The **LESSEE** shall at all times ensure that its employees cooperate with any personnel employed by the **LESSOR** from time to time in respect of the installation, implementation and maintenance of any such systems and/or measures in respect of the LAND, the BUILDING and/or the PREMISES, and in particular that they shall at all reasonable times co-operate with and participate in any security exercises, exercises of fire fighting, prevention of fire and evacuation, which may be arranged by or through such personnel or which the **LESSOR** may order from time to time and the **LESSEE** itself shall co-operate and participate as aforesaid.

11. ALTERATIONS, ADDITIONS AND IMPROVEMENTS

- 11.1 The **LESSEE** shall not make any alterations or additions to the Premises without the **LESSOR's** prior written consent, but the **LESSOR** shall not withhold its consent unreasonably to an alteration or addition which is not structural.
- 11.2 If the **LESSEE** does alter, add to, or improve the Premises in any way, whether in breach of clause 14.1 or not, the **LESSEE** shall, if so required in writing by the **LESSOR**, restore the Premises on the termination of this lease to their condition as it was prior to such alteration, addition or improvement having been made. The **LESSOR's** requirement in this regard may be communicated to the **LESSEE** at any time, but not later than the (30th) day after the **LESSEE** has delivered up the Premises pursuant to the termination of this lease; and this clause 14.2 shall not be construed as excluding any other or further remedy which the **LESSOR** may have in consequence of a breach by the **LESSEE** of clause 14.1.
- 11.3 Save for any improvement which is removed from the Premises as required by the **LESSOR** in terms of clause 14.2, all improvements made to the Premises shall belong to the **LESSOR** and may not be removed from the Premises at any time. The **LESSEE** shall not, whatever the circumstances, have any claim against the **LESSOR** for compensation for any improvement to the Premises, unless such improvements were made with the **LESSOR's** prior written consent which compensation shall be limited to the costs of the improvement, or as otherwise agreed to in writing by the **LESSOR**, nor shall the **LESSEE** have a right of retention in respect of any improvements.

12. EXCLUSION OF LESSOR FROM CERTAIN LIABILITY AND INDEMNITY

- 12.1 The **LESSEE** shall have no claim for damages against the **LESSOR** and may not withhold or delay any payment due to the **LESSOR** by reason directly or indirectly of
- 12.1.1 a breach by the **LESSOR** of any of its obligations under this lease;
 - 12.1.2 any act or omission of the **LESSOR** or any agent or servant of, or contractor to, the **LESSOR**, whether or not negligent, wilfully wrongful, or otherwise actionable at law, and including (without limiting the generality of the foregoing) any act or omission of any cleaner, maintenance person, handyman, artisan, labourer, workman, watchman, guard, or caretaker;
 - 12.1.3 the condition or state of repair at any time of the **PROPERTY**, the Building, or any part of the **PROPERTY** or the Building;
 - 12.1.4 any failure or suspension of, or any interruption in, the supply of water, electricity, air-conditioning, heating, or any other amenity or service to the Premises, the Building, or the **PROPERTY** (including, without generality being limited, any cleaning service), whatever the cause;
 - 12.1.5 any breakdown of, or interruption in the operation of, any machinery, plant, equipment, installation or system situated in or on, or serving the **PROPERTY**, the Building, or the Premises, and including (but without limiting the generality of the foregoing) any boiler, burglar alarm, or security installation or system, again regardless of cause;
 - 12.1.6 any interruption of, or interference with, the enjoyment or beneficial occupation of the Premises or any of the Common Areas of the **PROPERTY** or the Building caused by any building operations or other works to or in the Building or elsewhere on or about the **PROPERTY**, whether by the **LESSOR** or by anybody else; or
 - 12.1.7 any other event or circumstance whatever occurring, or failing to occur, upon, in, or about the **PROPERTY**, the Building, or the Premises, whether or not the **LESSOR** could otherwise have been held liable for such occurrence or failure, and the **LESSEE** indemnifies the **LESSOR** against all liability to any of the associates, directors, members, agents, customers, servants, guests and other invitees of the **LESSEE** or of any of its Associates, and all other persons who may enter upon the Premises or any parts thereof through or under the **LESSEE**, in consequence of any such matter as is referred to in clauses 15.1.1 to 15.1.7 above.
- 12.2 The **LESSOR** shall not, however, be excused from specific performance of any of its obligations under this lease, whether express or implied, and particularly (but not only) its obligations to afford the **LESSEE** occupation and enjoyment of the Premises as contemplated by this lease and to carry out such maintenance and repairs as are incumbent upon the **LESSOR** in terms hereof; and if the **LESSOR** fails to carry out any such obligation of maintenance or repair with reasonable speed or efficiency, and persists in such default after reasonable notice in writing requiring that it be remedied, the **LESSEE** may cause the necessary maintenance or repair (including any incidental or necessary replacement) to be carried out and may then recover the reasonable cost thereof from the **LESSOR** on demand.

- 12.3 The **LESSOR** does not warrant that the Premises are suitable for the purposes of the **LESSEE** or any of its Associates or that the **LESSEE** or any of its Associates will be granted any licence or consent which may be necessary for the carrying on of any business or activity in the Premises.

13. LESSOR'S RIGHTS OF ENTRY AND CARRYING OUT OF WORKS

- 13.1 The **LESSOR's** representatives, agents, servants and contractors may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the **LESSEE** or any other occupier of the Premises
- 13.1.1 enter the leased Premises in order to inspect them, to carry out any necessary repairs, replacements, or other works, or to perform any other lawful function in the *bona fide* interests of the **LESSOR** or any of the occupiers of the **PROPERTY**; or
- 13.1.2 carry out elsewhere in the Building or on the **PROPERTY** any necessary repairs, replacements, or other works, but the **LESSOR** shall ensure that this right is exercised with due regard for, and a minimum of interference with, the beneficial enjoyment of the Premises by those in occupation thereof.
- 13.2 The **LESSOR** shall not, however, cause or allow any major building works to be carried out anywhere upon the **PROPERTY** unless
- 13.2.1 such works are necessary and do not merely involve additions to the Building, the construction of additional buildings, or redecoration of a solely aesthetic nature; or
- 13.2.2 the **LESSEE** has consented otherwise in writing.

14. AREA OF THE PREMISES

- 14.1 If it is necessary in terms of this lease to determine the area, in square metres, of the Premises or any other part of the Building, such determination shall be made according to the standard method for measuring floor areas. Any dispute between the **LESSOR** and the **LESSEE** as to any such area shall be determined by an independent architect, acting as expert and not arbitrator, whose certificate as to such area shall be final and binding on the parties. If the parties fail to agree on the identity of such architect, he shall be appointed by the Executive Director for the time being of the South African Institute of Architects.

15. RULES

- 15.1 The **LESSEE** shall at all material times comply with such reasonable rules and regulations as are laid down in writing by or on behalf of the **LESSOR** for observance by tenants and other occupiers of the **PROPERTY** and their invitees, including (without generality being limited) rules and regulations in connection with
- 15.1.1 the security of the **PROPERTY** and the protection of persons and **PROPERTY** thereon, including in particular (again without generality being restricted) any rules for the control and identification of persons and vehicles entering the **PROPERTY** or any parts thereof;
- 15.1.2 the driving and parking of vehicles on or about the **PROPERTY**;

15.1.3 the utilisation of common amenities and facilities on the **PROPERTY**;

15.1.4 the air-conditioning plant, if any, servicing the Building.

15.2 Clause 18.1 shall not be construed as implying that the **LESSOR** assumes any liability which it would not otherwise have had in connection with the subject matter of any such rule or regulation.

16. **PARKING**

16.1 The **LESSEE** shall throughout the Lease Period have the exclusive use for its directors, officers, members, partners, employees, clients, customers and invitees of parking bays on the premises.

16.2 All the terms of this lease relating to the Premises themselves shall apply *mutatis mutandis* to the parking bays/garages referred to in clause 19.1 except those which are obviously inapplicable.

16.3 The parking arrangement in terms of clause 19.1 shall at all events terminate simultaneously with this lease in so far as it relates to the Premises.

17. **DAMAGE TO OR DESTRUCTION OF PREMISES**

17.1 If the Premises are destroyed or so damaged that they can no longer be beneficially occupied, this lease shall terminate when that happens unless the parties agree in writing otherwise.

17.2 If the Premises are significantly damaged but can still be beneficially occupied, this lease shall remain in force and the **LESSOR** shall repair the damage without undue delay but the rent shall be abated so as to compensate the **LESSEE** fairly for the effects of the damage and repair work on the enjoyment of the Premises. Failing agreement on such abatement or on the applicability of this clause to any particular circumstances, the matter shall be referred to an expert appointed by the parties jointly or, if they do not agree on such appointment, nominated by the President for the time being of The Institute of Estate Agents of South Africa, and the decision of such expert shall be final and binding. The expert's fees and disbursements, including any inspection costs, shall be borne and paid by the parties in equal shares. Pending determination of the abatement the **LESSEE** shall continue to pay the full rent for the Premises as if they had not been damaged and as soon as the matter has been resolved the **LESSOR** shall make the appropriate repayment to the **LESSEE**.

17.3 Subject to clause 15, if any damage to the Premises or the destruction thereof is caused by an act or omission for which either party is responsible in terms of this lease or in law, the other party shall not be precluded by reason of any of the foregoing provisions of this clause from exercising or pursuing any alternative or additional right of action or remedy available to the latter party under the circumstances (whether in terms of this lease or in law).

18. **SPECIAL REMEDY FOR BREACH**

18.1 Should the **LESSEE** default in any payment due under this lease or be in breach of its terms in any other way, and fail to remedy such default or breach within (30) days after receiving a written demand that it be remedied, the **LESSOR** shall be entitled, without prejudice to any alternative or additional right of action or remedy available to the **LESSOR** under the circumstances, to cancel this lease with immediate effect, be repossessed of the Premises, and

recover from the **LESSEE** damages for the default or breach and the cancellation of this lease.

18.2 Clause 21.1 shall not be construed as excluding the ordinary lawful consequences of a breach of this lease by either party (save any such consequences as are expressly excluded by any of the other provisions of this lease) and in particular any right of cancellation of this lease on the ground of a material breach going to the root of this lease.

18.3 In the event of the **LESSOR** having cancelled this lease justifiably but the **LESSEE** remaining in occupation of the Premises, with or without disputing the cancellation, and continuing to tender payments of rent and any other amounts which would have been payable to the **LESSOR** but for the cancellation, the **LESSOR** may accept such payments without prejudice to and without affecting the cancellation, in all respects as if they had been payments on account of the damages suffered by the **LESSOR** by reason of the unlawful holding over on the part of the **LESSEE**.

19. NEW TENANTS AND PURCHASERS

19.1 The **LESSEE** shall at all reasonable times:-

19.1.1 during the Lease Period, allow prospective purchasers of the **PROPERTY** or of any shares or other interests in the **LESSOR**; and

19.1.2 during the last (3) months of the Lease Period, allow prospective tenants or purchasers of the Premises, to enter and view the interior of the Premises.

20. COSTS

20.1 The legal costs incurred in the preparation of this lease and the stamp duty payable thereon shall be borne and paid by the **LESSEE**.

21. DOMICILIA AND NOTICES

21.1 The parties choose as their *domicilia citandi et executandi* the addresses mentioned in clause 24.2, provided that such *domicilium* of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice.

21.2

21.2.1 The **LESSOR**:
Town Hall Complex
Plein Street
STELLENBOSCH

21.2.2 The **LESSEE**:

Sandown Motor Holdings (Pty) Ltd
Bird & Adam Tas Street
Stellenbosch

21.3 Any notice, acceptance, demand or other communication properly addressed by either party to the other party at the latter's *domicilium* in terms hereof for the time being and sent by prepaid registered post shall be deemed to be received

by the latter on the 5th business day following the date of posting thereof. This provision shall not be construed as precluding the utilisation of other means and methods (including telefacsimile) for the transmission or delivery of notices, acceptances, demands and other communications, but no presumption of delivery shall arise if any such other means or method is used.

22. WHOLE AGREEMENT

- 22.1 This is the entire agreement between the parties.
- 22.2 Neither party relies in entering into this agreement on any warranties, representations, disclosures or expressions of opinion which have not been incorporated into this agreement as warranties or undertakings.
- 22.3 No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

23. NON-WAIVER

- 23.1 Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this lease by reason of such party having at any time granted any extension of time for, or having shown any indulgence to, the other party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party.
- 23.2 The failure of either party to comply with any non-material provision of this lease shall not excuse the other party from performing the latter's obligations hereunder fully and timeously.

24. WARRANTY OF AUTHORITY

- 24.1 The person signing this lease on behalf of the **LESSOR** expressly warrants his authority to do so.

25. SALE OF PREMISES

- 25.1 The validity of this lease shall not in any way be affected by the transfer of the Premises from the **LESSOR** pursuant to a sale thereof. It shall accordingly, upon registration of transfer of the Premises into the name of the purchaser, remain of full force and effect save that the purchaser shall be substituted as **LESSOR** and acquire all rights and be liable to fulfil all the obligations which the **LESSOR**, as **LESSOR**, enjoyed against or was liable to fulfil in favour of the **LESSEE** in terms of the lease.

26. BREACH

- 26.1 Should any payment of rent or any other amount due hereunder not be paid on or before due date or should the **LESSEE** commit or suffer or permit the commission of a breach of any of the other terms of this Lease, whether or not such breach goes to the root of this contract, and fail to remedy such breach within 7 (seven) days after having been required in writing to do so, or should the **LESSEE** be placed in liquidation, whether provisional or final and whether voluntary or compulsory, or under judicial management, whether provisional or final, or under sequestration, whether provisional or final, or should the **LESSEE** effect a general compromise with its creditors or any other arrangements with its creditors necessitated by the inability of the **LESSEE** to pay its debts, or should the **LESSEE** commit any act which is, or would if committed by a natural person be, an act of insolvency in terms of Section 8 of the Insolvency Act,

1936, as amended, the **LESSOR** shall be entitled but not obliged, notwithstanding any previous waiver or anything to the contrary herein provided and without prejudice to any other rights of the **LESSOR** in terms of this Lease or in law, to cancel this Lease forthwith, eject the **LESSEE** from the PREMISES and recover from the **LESSEE** any damages suffered by the **LESSOR** as well as all amounts which became due for payment by the **LESSEE** hereunder prior to the date of such cancellation.

- 26.2 Notwithstanding anything to the contrary herein contained, it is specifically recorded that in the event of that **LESSEE** failing at any time to comply with any of its obligations in terms of this lease, the **LESSOR** shall be entitled, but not obliged, and without prejudice to any other rights of the **LESSOR** in terms of this Lease or in Law arising from such breach, to carry out such obligations on behalf of the **LESSEE** and to incur any costs in connection therewith and to claim immediate reimbursement from the **LESSEE** of all such costs.
- 26.3 In the event of the **LESSOR** instructing its attorneys to take measures for the enforcement of any of the **LESSOR**'s rights under this Lease the **LESSEE** shall pay to the **LESSOR** on demand such collection legal and other costs, on the attorney and client scale, as shall be lawfully charged by such action in respect of or arising from the measures to taken by the said attorneys.
- 26.4 In the event of the **LESSOR** cancelling this Lease and the **LESSEE** disputing, the right to cancel and remaining in occupation of the PREMISES, the **LESSEE** shall, pending the determination of such dispute, continue to pay to the **LESSOR** an amount equivalent to the monthly rent and other sums payable hereunder on or before the dates on which such rent and other sums would have been due but for the cancellation and the **LESSOR** shall be entitled to accept and recover such payments and the acceptance thereof shall be without prejudice to and shall not in any ay whatsoever affect the **LESSOR**'S cancellation then in dispute. Should the dispute be determined in favour of the **LESSOR**, the payments made and received in terms of this clause shall be deemed to be amounts paid by the **LESSEE** on account of damages suffered by the **LESSOR** by reason of the cancellation of this Lease and/or the unlawful holding over by the **LESSEE**.

SIGNED at on this of 2015 in

the presence of the undersigned witnesses

Witnesses:

1

2

(Signatures of witnesses)

.....

(Signature of LESSOR)

SIGNED at on this of 2015 in

the presence of the undersigned witnesses

Witnesses:

1

2

(Signatures of witnesses)

.....

(Signature of LESSEE)

MEMORANDUM OF AGREEMENT FOR CESSION

entered into by and between

SANDOWN MOTOR HOLDINGS PROPRIETARY LIMITED

(“hereinafter referred to as “SMH”)

and

Stellenbosch Municipality

(hereinafter referred to as the “Service Provider”)

And

SUPER GROUP TRADING PROPRIETARY LIMITED

(Hereinafter referred to as the “Cessionary”)

\$
GIVE



PART I: INTERPRETATION

1 DEFINITIONS

In this Agreement, unless otherwise stated, or the context otherwise indicates, the under-mentioned words and expressions shall bear the meanings ascribed to them:

- 1.1 **"Agreement"** shall mean this Agreement and all annexures and schedules attached hereto;
- 1.2 **"Cessionary"** shall mean **Super Group Trading Proprietary Limited** a company incorporated in terms of the Companies Act, No. 71 of 2008, as amended, with registration number 1972/009559/07 duly represented by Graeme Watson who is duly authorised hereto and shall include its holding company and all other subsidiaries, which further details are set out in Annexure B;
- 1.3 **"Ceded Rights and Obligations"** shall mean all of SMH's rights and obligations and other responsibilities contained in the Service Level Agreement.
- 1.4 **"Cession"/ "Cede"** shall mean the cession and delegation (assignment) of the Ceded Rights and Obligations in terms of this Agreement.
- 1.5 **"Effective Date"** shall mean 1 September 2016;
- 1.6 **"SMH"** shall mean **Sandown Motor Holdings Proprietary Limited**, a company incorporated in terms of the Companies Act, No. 71 of 2008, as amended, with registration number 1982/002346/07.
- 1.7 **"Parties"** shall mean SMH, the Service Provider and the Cessionary and **"Party"** shall mean either of them as the context requires;

A handwritten signature in black ink, appearing to be "GJM" with a stylized flourish above it.

APPENDIX 3

MEMORANDUM OF AGREEMENT FOR CESSION

entered into by and between

SANDOWN MOTOR HOLDINGS PROPRIETARY LIMITED

("hereinafter referred to as "SMH")

and

Stellenbosch Municipality

(hereinafter referred to as the "Service Provider")

And

SUPER GROUP TRADING PROPRIETARY LIMITED

(Hereinafter referred to as the "Cessionary")

f *C* *+* *N* *W* *g* *R* *R*



PART I: INTERPRETATION

1 DEFINITIONS

In this Agreement, unless otherwise stated, or the context otherwise indicates, the under-mentioned words and expressions shall bear the meanings ascribed to them:

- 1.1 "Agreement" shall mean this Agreement and all annexures and schedules attached hereto;
- 1.2 "Cessionary" shall mean Super Group Trading Proprietary Limited a company incorporated in terms of the Companies Act, No. 71 of 2008, as amended, with registration number 1972/009559/07 duly represented by Graeme Watson who is duly authorised hereto and shall include its holding company and all other subsidiaries, which further details are set out in Annexure B;
- 1.3 "Ceded Rights and Obligations" shall mean all of SMH's rights and obligations and other responsibilities contained in the Service Level Agreement.
- 1.4 "Cession"/ "Cede" shall mean the cession and delegation (assignment) of the Ceded Rights and Obligations in terms of this Agreement.
- 1.5 "Effective Date" shall mean 1 September 2016;
- 1.6 "SMH" shall mean Sandown Motor Holdings Proprietary Limited, a company incorporated in terms of the Companies Act, No. 71 of 2008, as amended, with registration number 1982/002346/07.
- 1.7 "Parties" shall mean SMH, the Service Provider and the Cessionary and "Party" shall mean either of them as the context requires;

Handwritten initials and signatures in the bottom right corner, including 'A', 'G', 'SM', 'R', and 'AT'.



- 1.8 "Service Level Agreement" shall mean the Lease agreement entered into on 17 August 2015, more accurately described and attached in **Annexure A**, between SMH and the Service Provider.
- 1.9 "Service Provider" shall mean Stellenbosch Municipality, duly represented by _____ in his capacity as _____ who warrants that he is duly authorised.
- 1.10 "Signature Date" shall mean the date of signature of this Agreement by the Party signing last in time. This Agreement may be executed in counterparts by the parties, which signature date shall then be the date upon which the last party affixes its signature to this agreement;
- 1.11 "writing" or "in writing" shall mean any physical document, but excludes any communication by way of a data message.
- 1.12 Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement.
- 1.13 Unless the context clearly indicates a contrary intention, any word connoting:-
- 1.13.1 any singular shall be deemed to include a reference to the plural and vice versa;
- 1.13.2 any gender shall be deemed to include a reference to the other gender; and
- 1.13.3 a natural person shall be deemed to include a reference to a legal or juristic person.
- 1.14 The expiry or termination of this Agreement shall not affect provisions which expressly provide that they will operate after such expiry or termination.

\$ gm



Provisions of necessity shall continue to have effect after expiry or termination of this Agreement, notwithstanding that the clauses themselves do not expressly provide for this.

- 1.15 The rule of interpretation that a written agreement shall be interpreted against the Party responsible for the drafting or preparation of that agreement shall not apply.
- 1.16 Where figures are referred to in numerals and in words and there is any conflict between the two (2), the words shall prevail.
- 1.17 Any reference to any legislation is a reference to such legislation as at the Signature Date and as amended or re-enacted.
- 1.18 If any provision in a definition is a substantive provision conferring any rights or imposing any obligations on a Party, then notwithstanding that it is only in the interpretation clause, effect shall be given to it as if it were a substantive provision in this Agreement.
- 1.19 The *eiusdem generis* rule shall not apply and accordingly, whenever a provision is followed by the word "including" and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.

2 INTRODUCTION

- 2.1 SMH will hereby Cede and assign to the Cessionary the Ceded Rights and Obligations in terms of this Agreement as of the Effective Date.
- 2.2 The Service Provider, subject to the aforementioned conditions, hereby unconditionally consents, accepts and grants its approval of the Cession by signing this Agreement.

A handwritten signature in black ink, appearing to be "SMH", located in the bottom right corner of the page.



3 CESSION

- 3.1 SMH hereby irrevocably Cedes, assigns, delegates, transfers and makes over to the Cessionary, outright, and absolutely, with effect on and from the Effective Date, the Ceded Rights and Obligations. As a consequence, the Service Level Agreement shall be taken over on the same terms and conditions by the Cessionary.
- 3.2 The Cessionary and the Service Provider hereby irrevocably accepts such Cession.
- 3.3 The Parties confirm that it is their common continuing intention that the Cession provided for in this Agreement operates irrevocably so as to, subject to Clause 3.2:
- 3.3.1 divest SMH of the Ceded Rights and Obligations under and in terms of the Service Level Agreement; and
 - 3.3.2 transfer to and vest in the Cessionary the Ceded Rights and Obligations under and in terms of the Service Level Agreement.
- 3.4 The Service Level Agreement shall not be amended in any other form or substance other than the amendments and Cession contained in this Agreement.

SIGNATURE PAGE TO FOLLOW ON NEXT PAGE

A handwritten signature in black ink, appearing to be "Jim" with a stylized flourish above it.



SIGNED at..... on this the.....day of 2017
2016.

FOR SMH

WITNESSES

1.NAME.....SIGNATURE.....

2.NAME.....SIGNATURE.....

SIGNED at.....on this the.....day of 2017
2016.

For SUPER GROUP TRADING PROPRIETARY LIMITED

WITNESSES

1. NAME..... SIGNATURE.....

2. NAME..... SIGNATURE.....

Handwritten initials and a dollar sign
\$ 9M



SIGNED at Stellenbosch on this the 15th day of February ~~2016~~ 2017 ^{gm}

[Handwritten Signature]

For SERVICE PROVIDER

WITNESSES

1. NAME P. Smit

SIGNATURE *[Handwritten Signature]*

2. NAME T. Benjamin

SIGNATURE *[Handwritten Signature]*



ANNEXURE A

LEASE AGREEMENT

**ANNEXURE B****SCHEDULE OF CESSIONARY'S DETAILS**

Name	Super group trading proprietary limited
Contact Details	27 Impala Road Chislehurst Sandton Email address: graeme.watson@supergrp.com Marked for the attention of: Graeme Watson.

5.5.3	AUTHORISATION: PUBLIC TENDER PROCESS: ERVEN 2498 AND 2499
-------	--

1. PURPOSE OF REPORT

To obtain the necessary authorization to go out on tender for the lease of erven 2498 and 2499.

2. BACKGROUND**2.1 Initial Lease Agreements**

On 1 October 1981 a 5 year Lease Agreement was concluded between Stellenbosch Municipality and the Stellenbosch Animal Hospital in relation to the building on erven 2498 and 2499.

2.2 Renewal of Lease Agreement

Subsequently, in 1986, 1996 and 2006 respectively, the Agreement was renewed for periods of 9 years and 11 months.

2.3 Extension of last Lease Agreement

The last Lease Agreement has terminated on 31 July 2016. There was no renewal clause in the in the agreement. A copy of the Agreement is attached as **APPENDIX 1**. For this reason a notice was send to the Stellenbosch Animal Hospital on 22 June 2016, informing them that the Lease Agreement would come to an end on 31 July 2016, a copy of which is attached as **APPENDIX 2**.

On 30 June 2016 a self-explanatory letter was received from Dr Giliomee, requesting a further renewal of the Lease Agreement for a period of 9 years and 11 months. A copy of the letter setting out the motivation is attached as **APPENDIX 3**.

Having considered the request the then Acting Municipal Manager (July 2016) extended the contract for a period of twelve months to afford the Lessee to consider alternative arrangements. A copy of the approval is attached as **APPENDIX 4**. The above approval was subject to Stellenbosch Municipality's intention so to act being advertised for public input.

A notice was compiled and sent to the Supply Chain Department to be published in the Eikestad News. A copy of the notice is attached as **APPENDIX 5**.

*We were recently informed by the SCM Department that, due to unknown reasons, the notice was never published. As the 12 months period has almost run out, there is no need/rationale for publishing the notice at this stage.

3. DISCUSSION

3.1 Existing Lease Agreement

As already indicated above, the existing Lease Agreement does not have a renewal clause.

3.2 System of Delegation

In terms of the approved System of Delegation (See delegation 538) the Municipal Manager may “*approve the renewal of lease agreements, **where the agreement provides for such renewal, for a period not exceeding 10 years***”. This delegation is further subject to a **new market related rental to be approved by the CFO**.

Seeing that the current agreement does not have a renewal clause, this delegation cannot be used.

In terms of delegation 530 the Executive Mayor may “*grant a right to use, control or manager a fixed capital asset, up to an annual contract value not exceeding R5M, subject to compliance with Regulation 34(1) of the Asset Transfer Regulations*”.

3.3 Asset Transfer Regulations

In terms of Section 34 (1) of the ATR a Municipality (Read Mayco) may grant a right to use, control or manage a capital asset only after-

- a) The Accounting officer has concluded a public participation process*; and
- b) The municipal council (Read Mayco) **has approved in principle that the right may be granted**.

*Sub regulation (1) (a) (public participation process), however, must be complied with **only if-**

- a) **The capital asset** in respect of which the right is to be granted **has a value in excess of R10M***; and
- b) A long-term right is proposed to be granted (i.e. longer than 10 years).

*In terms of the municipal valuation role the property’s value is R3 920 000 (i.e. less than R10M). This means that the prescribed public participation process **does not have to be followed**.

In terms of Regulation 36, the municipal council (read Mayco) **must**, when considering such approval, take into account:

- a) whether such asset may be required for the municipality’s **own use** during the period for which such right is to be granted;
- b) the extent to which any compensation to be received will result in a significant economic or **financial benefit** to the municipality;
- c) the **risks and rewards** associated with such right to use; and
- d) the **interest of the local community**

In terms of Regulation 41, if an approval in principle has been given in terms of regulation 34 (1)(b), the municipality (read Mayco) may grant the right only in accordance with the **disposal management system** of the municipality, irrespective of:-

- a) the value of the asset; or
- b) the period for which the right is granted

3.4 Policy on the Management of Council owned property

In terms of paragraph 9.2.2 of the Policy, the Municipal Council may dispense with the prescribed, competitive process, and may enter into a private treaty agreement through any convenient process, which may include direct negotiations, but only in specific circumstances, and only after having advertised Council's intention so to act.

One of the circumstances listed in (l) is lease contracts with existing tenants of immovable properties, not exceeding ten (10) years. Such agreements may be renegotiated where the Executive Mayor is of the opinion that public competition would not serve a useful purpose, subject to such renewal being advertised, calling for public comment.

Further, in terms of paragraph 9.2.2.2, the reasons for any such deviation from the competitive process must be recorded.

3.5 Market rental

Hereto attached as **APPENDIX 6** a valuation report compiled by Pendo Property Valuers, valuing the market rental at R 19720.00 per month.

4. INPUTS FROM OTHER DEPARTMENT

4.1 CFO

Finance supports the item.

4.2 LEGAL SERVICES

In terms of the Stellenbosch Supply Chain Management Policy the market value of a property is determined by two independent valuers and not the municipality's valuation. Two independent valuers need to be appointed to establish the market value of the property. The market value of the property will establish whether a public participation process needs to be followed in terms of Regulation 34(1)(a) or not. The recommendations should be amended accordingly to ensure that the in principle decision is made after the market value of the property is determined.

The rest of the item is supported.

Please note: Following the above legal input Pendo Property Valuers were appointed to determine a market related rental. (see paragraph 3.5 *supra*). The recommendations have been amended accordingly.

4.3 PLANNING & ECONOMIC DEVELOPMENT

None

5 CONCLUSION

From the above it is clear that, although the Executive Mayor has the (delegated) authority to conclude a Lease Agreement up to a maximum annual contract value of R5M, it is subject to the provisions of the ATR, i.e. Regulations 34; 36 and 41; read with the provisions of paragraph 9.2.2 of the Property Management Policy, as set out above.

This means that:

- a) the Executive Mayor can, in terms of regulation 34(1)(b), **approve in principle** the awarding of rights, and
- b) that, following the in principle decision in terms of (a), **a competitive process** in terms of the SCM Policy must then be followed, unless
- c) the Executive Mayor is of the opinion that a **public competition would not serve a useful purpose**.

RECOMMENDATIONS: (Option 1)

- (a) that erven 2498 and 2499 be identified as land not needed to provide the minimum level of basic municipal services;
- (b) that the Municipal Manager be authorised to follow a public tender process, subject to:
 - i) a maximum lease period of 5 years;
 - ii) a minimum rental of R19 720/month, with an annual escalation of 6%; and
- (c) that, should the existing Lessee be unsuccessful in the tender process, he be given a reasonable period of 3 months to find alternative accommodation.

Alternatively,

RECOMMENDATIONS: (Option 2)

- (a) that Council in principle, dispense with the prescribed, competitive process;
- (b) that Council's intention to enter into a Private treaty agreement through direct negotiations be advertised, calling for public comments/counter proposals;
- (c) that, should objections and or counter proposals be received, same first be considered by Council before a final decision is made; and
- (d) that, should no objection and or counter proposals be received, the Municipal Manager be authorised to enter into a private treaty agreement, subject to:
 - (i) a maximum lease period of 5 years; and a minimum rental of R19 720/month, with an annual escalation of 6%.

APPENDIX 1

onthou BTW moet
by Huurgelof word!

MEMORANDUM VAN HUURKONTRAK vlg. wetgewing.
17/06

AANGEGAAN DEUR EN TUSSEN

DIE STELLENBOSCH MUNISIPALITEIT

hierin verteenwoordig deur die

DIREKTEUR: KORPORATIEWE DIENSTE

(hierna die VERHUURDER genoem)

EN

STELLENBOSCH DIEREHOSPITAAL

hierin verteenwoordig deur die **DR. G.A. GILJUMEE**

(hierna die HUURDER genoem)

1. Die VERHUURDER verhuur en die HUURDER huur hiermee 'n sekere eiendom met 'n gebou daarop, synde gedeeltes van Erwe 2498 en 2499 geleë in die Afdeling en Munisipaliteit Stellenbosch en gemerk ABCD op die kaart hierby aangeheg.
2. Die verhuring tree in werking op die eerste dag van September 2006 en duur vir 'n termyn van 9 jaar en 11 maande.
3. Die HUURDER onderneem om die eiendom slegs te gebruik vir die doel van 'n Dierehospitaal.
- 4.1 Die HUURDER betaal maandeliks vooruit, ten laaste op die 7de dag van elke betrokke maand, by die Inkomste-kantoor, Munisipaliteit Stellenbosch, 'n huurgeld van R4127.00 met ingang 1 September 2006.
- 4.2 Die huurgeld sal jaarliks eskaleer met ingang 1 Julie, met dieselfde persentasie waarteen die eiendomsbelasting aangepas word.
- 4.3 Benewens die in subklousule 4.1 vermelde huurgeld, betaal die HUURDER ook die belasting en diensgelde aan die Munisipaliteit soos voorgeskryf deur die Munisipale Ordonnansie, 1974 asook enige ander by verordening voorgeskrewe heffings vir water- en elektrisiteitsverbruik en ander dienste.

✱ *GA Giljume*

5. Die HUURDER onderneem om alle strukturele verandering aan die gebou wat hy vir sy eie doeleindes nodig ag, op sy eie koste aan te bring, met dien verstande dat alle planne en spesifikasie daarvoor eers deur die VERHUURDER goedgekeur moet word.
6. Die VERHUURDER is by die beëindiging van hierdie kontrak nie gebonde om enige vergoeding aan die HUURDER te betaal vir enige verbeterings wat, hetsy met of sonder die VERHUURDER se goedkeuring, deur die HUURDER op die verhuurde eiendom aangebring is nie.
7. Die VERHUURDER het deur sy behoorlik gemagtigde verteenwoordigers die reg van toegang tot die verhuurde eiendom te alle redelike tye met die doel om inspeksies uit te voer.
8. Die HUURDER is verantwoordelik vir alle instandhoudingswerk aan die gebou en onderneem om die gebou en perseel in 'n netjiese en sindelike toestand te herstel en te hou.
9. Die HUURDER verseker die verhuurde eiendom teen brandskade en aanvaar ook verantwoordelikheid vir skade aan enige ameublement, toerusting of ander goedere wat die HUURDER in die gebou bring of huisves.
10. Die HUURDER vrywaar die VERHUURDER teen enige eise van 'n derde party ten opsigte vanskade gely, hetsy aan persoon of goedere, wat mag ontstaan as gevolg van hierdie verhuring.
11. Die HUURDER onderneem om alle wette en verordening wat sy onderneming raak, na te kom.
12. Indien die HUURDER versuim om die huurgeld op vervalddag te betaal of om enige voorwaarde van hierdie ooreenkoms na te kom of indien dit sou blyk dat die onderneming aanstootlik vir die omgewing is of 'n ernstige oorlas skep, het die VERHUURDER die reg om hierdie ooreenkoms met kennisgewing van 12 (TWAALF) maande te kanselleer en van die eiendom besit te neem.
13. Die HUURDER het ook die reg om met kennisgewing van 12 (TWAALF) maande aan die VERHUURDER, die ooreenkoms te kanselleer.

A handwritten signature and initials are present at the bottom right of the page. The signature appears to be 'P. P. O.' and there are some other scribbles and initials next to it.


14. Indien die VERHUURDER die eiendom om een of ander rede vir munisipale doeleindes benodig voordat die huurtermyn van hierdie ooreenkoms uitgeloopt het, kan die VERHUURDER en HUURDER onderhandel oor die moontlike billike vergoeding ten opsigte van enige kapitale verbeteringe wat deur die HUURDER aangebring is met die oog op 'n huurtermyn van 9 jaar en 11 maande.

GETEKEN TE STELLENBOSCH OP HIERDIE 21 DAG VAN September 2006

AS GETUIES:

1. [Handwritten Signature]

2. wa

[Handwritten Signature]
UITVOERENDE HOOF/STADSKLERK
Kamers VERHUURDER 

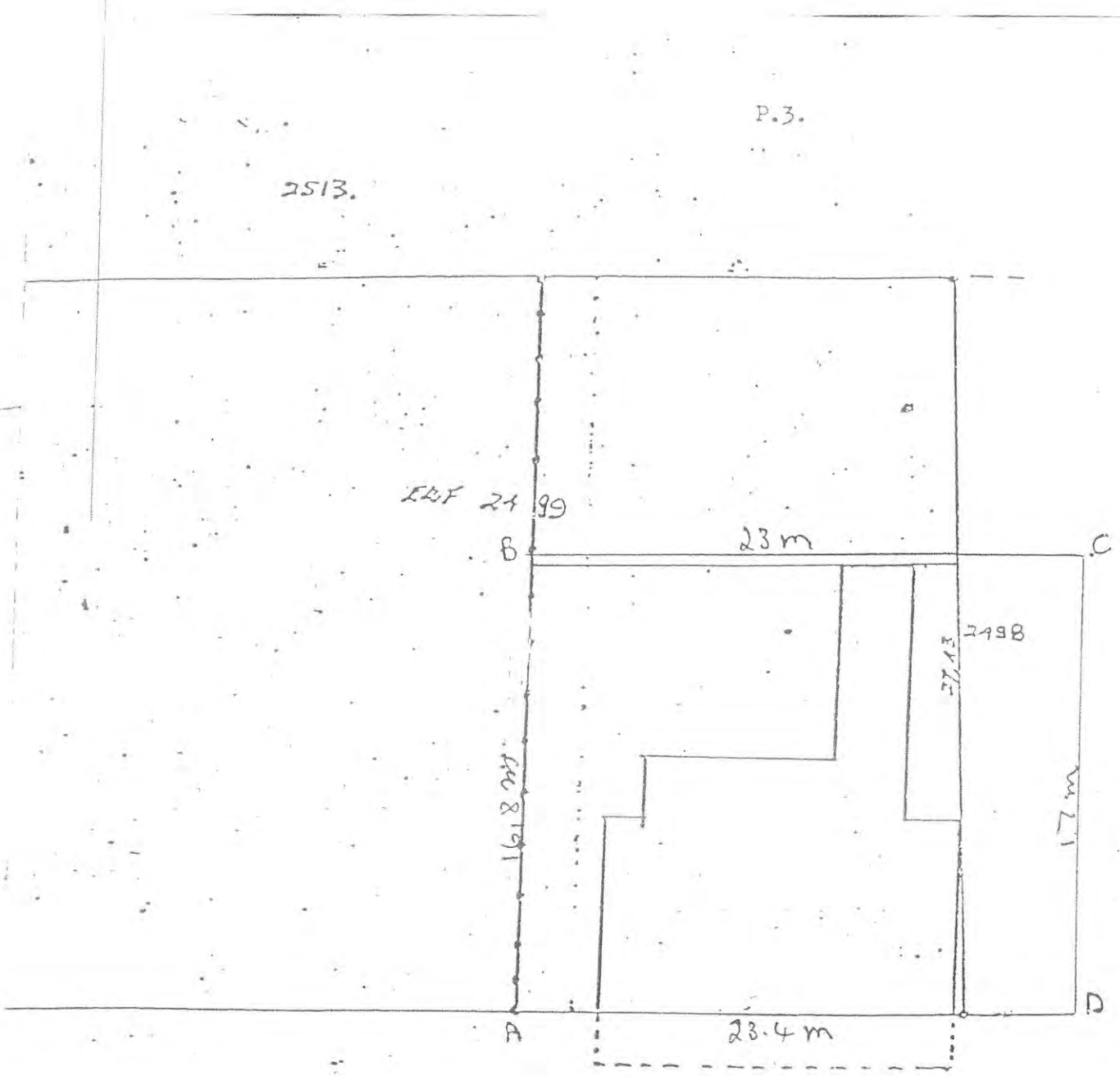
GETEKEN TE STELLENBOSCH OP HIERDIE 21 DAG VAN September 2006

AS GETUIES:

1. [Handwritten Signature]

2. wa

[Handwritten Signature]
HUURDER



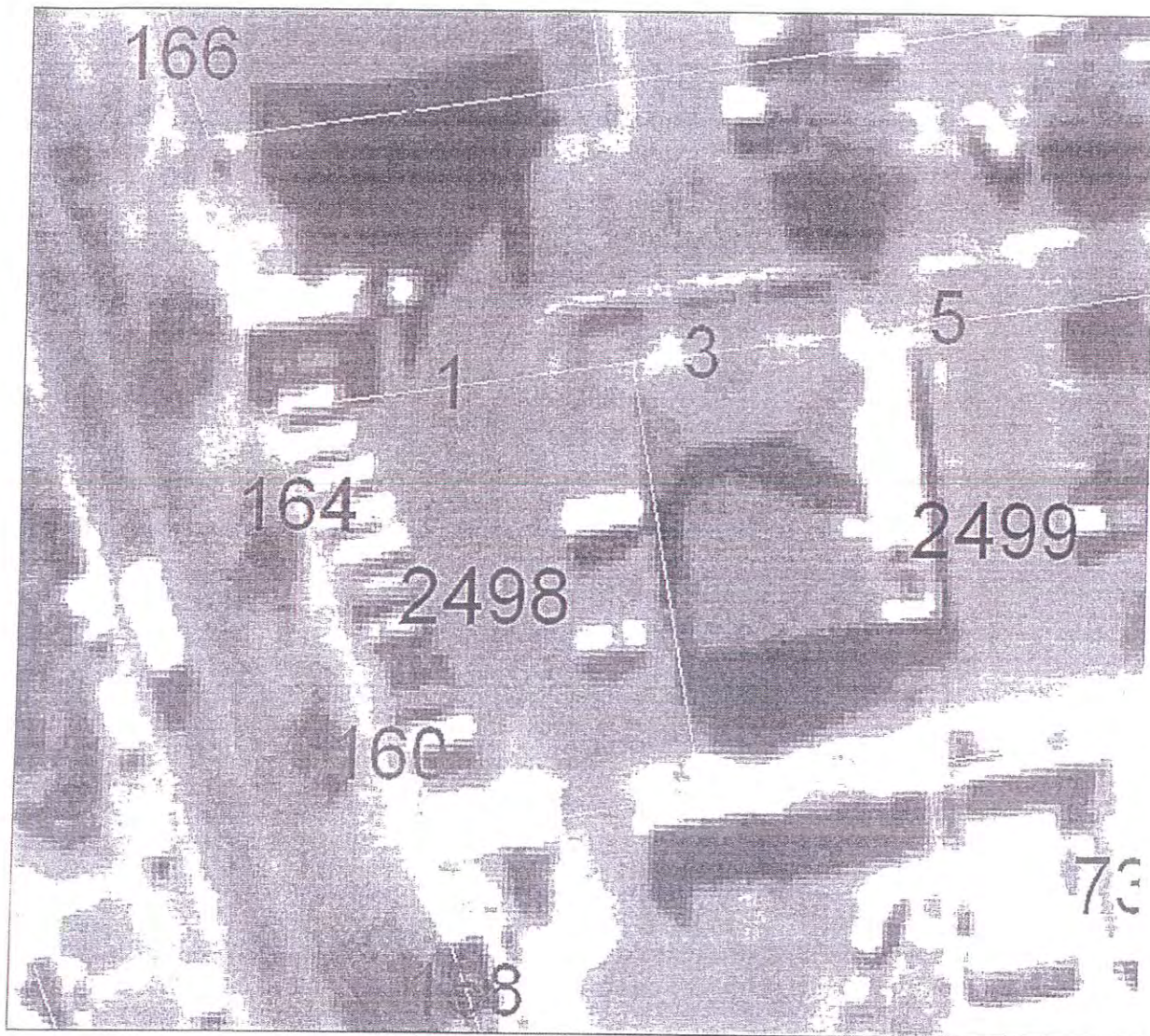
BANHOER YEG

Handwritten signatures and notes:
 J. J. ...
 ...
 ...

DENNESIG POSKANTOOR.	
VERHUURING A. B. C. D. I GEDRAGTE VAN 2499.	
Oppvl. ± 393,24	
ERT 2499:	

Handwritten signatures and initials:
 ...
 ...

STELLENBOSCH GIS MAP



Handwritten signature or initials

APPENDIX 2



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



Verwysing: Erf 2498/2499

2016-06-22

Dr G.A Giliomee
Stellenbosch Dierehospitaal
Posbus 186
Stellenbosch
7599

Vir aandag: Dr Giliomee

KENNISGEWING: BEEINDIGING VAN HUURKONTRAK

Neem asb. kennis dat u huurkontrak met Stellenbosch Munisipaliteit t.o.v. die gebou op erwe 2498 en 2499 op 31 Julie 2016 ten einde kom.

Aangesien die kontrak nie voorsiening maak vir hernuwing nie, word u dus hiermee kennis gegee om die gebou teen 31 Julie 2016 te ontruim.

Die uwe

.....
PIET SMIT
BESTUURDER: EIENDOMSBESTUUR

APPENDIX 3

STELLENBOSCH ANIMAL HOSPITAL DIEREHOSPITAAL BK

Reg. No. CK 1992/007735/23

DRS. A.B. KIDD (BVSc), M.C. FRANKEN (BVSc), G.A. GILIOMEER (BVSc) & I. GERSBACH (BVSc)

TEL: (021) 887 3052
 FAX/FAKS: (021) 887 3152
 E-MAIL: steldier@telkomsa.net

1 BANGHOEK ROAD / BANGHOEKWEG 1
 STELLENBOSCH

P.O. BOX / POSBUS 186
 STELLENBOSCH
 7599

30 Junie 2016

Mnr Piet Smit
 Bestuurder: Eiendomsbestuur
 Stellenbosch Munisipaliteit
 Posbus 17
 Stellenbosch
 7599

Beste Mnr Smit

Insake: Huurkontrak Stellenbosch Dierehospitaal, erf 2498/2499

U skrywe van 22 Junie 2016 (Insake "Kennisgewing: Beëindiging van huurkontrak") het betrekking.

Stellenbosch Dierehospitaal huur reeds die afgelope 35 jaar (eerste huurkontrak op 1 Oktober 1981 geteken) die ou Dennesig Poskantoor by die munisipaliteit. In hierdie tydperk is die gebou (met heelwat veranderinge aan die oorspronklike gebou, asook aanbouings) omskep in 'n moderne veterinerêre fasiliteit met tans 12 persone in permanente diens, waarvan vyf professioneel is. Die fasiliteit is by die Suid-Afrikaanse Veterinerêre Raad as 'n dierehospitaal registreer (registrasienommer FCC98/0064).

Ons praktyk lewer reeds sedert 1957 'n noodsaaklike diens aan die Stellenbosch gemeenskap, wat insluit die behandeling van alle dierespesies (waarvan honde, katte, beeste en perde die belangrikste is). Dienste sluit in o.a. gevorderde chirurgie, X-strale, laboratorium dienste, die hospitalisering van diere asook 'n 24 uur per dag nooddiens (gelewer aan alle spesies). Geen ander praktyk in die Stellenbosch/Somerset-Wes area lewer 'n soortgelyke omvattende diens nie.

Die huurkontrakte van die afgelope 35 jaar (een kontrak vir 'n vyf jaar huurtermyn, die ander drie vir 9 jaar en elf maande huurtermyne) was feitlik identies in bewoording en is aan die einde van elke huurtermyn vervang met 'n nuwe (na die nodige prosesse, soos o.a. advertering in die Eikestadnuus).

Dit het dus as 'n skok gekom toe ons praktyk deur u in kennis gestel is om die perseel op 31 Julie 2016 te ontruim. Ons het aanvaar dat die munisipaliteit soos in die afgelope dertig jaar die huurkontrak weer sal hernu, al was daar nooit 'n hernuwingsklousule in enige van die vorige kontrakte ingesluit nie. Ons kan geensins sonder hierdie perseel voortgaan om die dienste van 'n dierehospitaal te lewer nie.

Ons versoek hiermee dat die munisipaliteit dringend oorweging sal skenk aan 'n verlenging van ons huidige huurtermyn vir 'n verdere 10 jaar.

Die uwe



Gerhard Giliomeer

APPENDIX 4



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Kantoor van die Direkteur: Menslike Nedersetting en Eiendomsbestuur
 Office of the Director: Human Settlements and Property Management
 I ofisi yomlawuli Wokuhlaliswa kwabantu Kunye nolawulo lwemihlaba

DOCUMENT ROUTE FORM

DOCUMENT TYPE

MEMO	VIREMENTATION	EMPLOYEMENT CONTRACT
X	Delegation	Delegation

SUBJECT: RENEWAL LEASE AGREEMENT: STELLENBOSCH ANIMAL HOSPITAL

REQUESTED SIGNATORY	SUPPORTED/ SUPPORTED/ APPROVED	NOT	SIGNATURE	DATE
MANAGER	<i>[Signature]</i>		<i>[Signature]</i>	20/07/2016
DIRECTOR HS&PM	<i>[Signature]</i>		<i>[Signature]</i>	13/07/2016
ACTING MUNICIPAL MANAGER	<i>[Signature]</i>		<i>[Signature]</i> 1 year and a half to renew	13/07/2016

COMMENTS

From Jgd Ahar: The first recommendation proposed to clause 4 is supported. The additional recommendation to extend the lease for three (3) years is not supported.

[Handwritten signature]



PROPERTY MANAGEMENT

TO / AAN : The Municipal Manager
FROM / VAN : Manager: Property Management
DATE / DATUM : 2016-07-13
RE / INSAKE : LEASE AGREEMENT: STELLENBOSCH ANIMAL HOSPITAL:
 REQUEST FOR FURTHER RENEWAL

1. PURPOSE

The purpose of this memo is to consider a request from the Stellenbosch Animal Hospital to renew their lease agreement for a further period of 09 years and 11 months.

2. BACKGROUND

2.1 Initial Lease Agreements

On 1 October 1981 a 5 year Lease Agreement was concluded between Stellenbosch Municipality and the Stellenbosch Animal Hospital.

2.2 Renewal of Lease Agreement

Subsequently, in 1986, 1996 and 2006, respectively, the Agreement was renewed for periods of 9 years and 11 months.

2.3 Existing Lease Agreement

The existing Lease Agreement will terminate on 31 July 2016. There is no renewal clause in the in the current agreement. A copy of the Agreement is attached as **APPENDIX 1**. For this reason a notice was send to the Stellenbosch Animal Hospital on 22 June, informing them that the Lease Agreement will come to an end on 31 July 2016, a copy of which is attached as **APPENDIX 2**.

On 30 June3 2016 a self-explanatory letter was received from Dr Giliomee, requesting a further renewal of the Lease Agreement for a period of 9 years and 11 months. A copy of the letter setting out the motivation, is attached as **APPENDIX 3**.

3. DISCUSSION

3.1 Existing Lease Agreement

As already indicated above, the existing Lease Agreement does not have a renewal clause.

3.2 System of Delegation

In terms of the approved System of Delegation (See delegation 538) the Municipal Manager may *“approve the renewal of lease agreements, where the agreement provides for such renewal, for a period not exceeding 10 years”*. This delegation is further subject to a **new market related rental to be approved by the CFO**.

Seeing that the current agreement does not have a renewal clause, this delegation cannot be used.

In terms of delegation 530 the Municipal Manager may “grant a right to use, control or manager a fixed capital asset, up to an annual contract value not exceeding R1M, subject to compliance with Regulation 34(1) of the Asset Transfer Regulations.

3.3 Asset Transfer Regulations

In terms of Section 34 (1) of the ATR a Municipality (Read MM) grant a right to use, control or manage a capital asset only after-

- a) The Accounting officer has concluded a public participation process*; and
- b) The municipal council (Read MM) **has approved in principle that the right may be granted**.

*Sub regulation (1) (a) (public participation process), however, must be complied with **only if-**

- a) **The capital asset** in respect of which the right is to be granted **has a value in excess of R10M***; and
- b) A long-term right is proposed to be granted (i.e. longer than 10 years).

*In terms of the municipal valuation role the property’s value is R3 920 000 (i.e. less than R10M). This means that the prescribed public participation process do not have to be followed.

In terms of Regulation 36, the municipal council (read MM) **must**, when considering such approval, take into account:

- a) whether such asset may be required for the municipality’s **own use** during the period for which such right is to be granted;
- b) the extent to which any compensation to be received will result in a significant economic or **financial benefit** to the municipality;

- c) the **risks and rewards** associated with such right to use; and
- d) the **interest of the local community**

In terms of Regulation 41, if an approval in principle has been given in terms of regulation 34 (1)(b), the municipality (read MM) may grant the right only in accordance with the **disposal management system** of the municipality, irrespective of:-

- a) the value of the asset; or
- b) the period for which the right is granted

3.4 Supply Chain Management Policy

In terms of paragraph 5.3.1 **immovable property may only be let at market related rates**, except when the public interest of plight of the poor demands otherwise.

In terms of paragraph 5.6.1, **following the in principle decision, supply chain management must (then) embark on the applicable process..., which process must be fair, equitable, transparent and competitive.**

4. CONCLUSION

From the above it is clear that, although the Municipal Manager has the (delegated) authority to conclude a Lease Agreement up to a maximum annual contract value of R1M, it is subject to the provisions of the ATR, i.e Regulations 34; 36 and 41; as set out above.

This means that:

- a) The Municipal Manager can, in terms of regulation 34(1)(b), **approve in principle** the awarding of rights, on condition that sub-regulation (1) (a) public participation) is not triggered; and
- b) That, following the in principle decision in terms of (a), **a competitive process** in terms of the SCM Policy must then be followed.

In light of the above it is

RECOMMENDED:


- a) that the awarding of rights (lease agreement) be approved in principle, subject to a tender process in terms of the SCM Policy;
- b) that a minimum rental be determined by the CFO, based on the advice of an independent valuer;
- c) that, should the existing Lessee be unsuccessful in the tender process, he be given a reasonable period of 3 months to find alternative accommodation.

Alternatively, taking into account the historic context and motivation for renewal, it is

RECOMMENDED

- a) that the Municipal Manager consider the renewal of the lease agreement (in principle) for a limited period of ~~3~~ years, to afford the Lessee reasonable time to find alternative accommodation;
- b) that the municipality's intension to renew the agreement for a limited period of ~~3~~ years be advertised for public comments/inputs.
- c) that, should no objection be received, the agreement be renewed for a period of 3 years (subject to a new rental being determined by the CFO, based on the advice of an independent valuer);
- d) that, should objections be received, same first be considered before a final decision is made;
- e) that, in the interim, the lease agreement be kept in place on a month-to-month basis.

Yours faithfully



.....
 PIET SMIT
 MANAGER: PROPERTY MANAGEMENT

RECOMMEND FOR APPROVAL



.....
 DIRECTOR: HS&PM

*SUBJECT TO THE LEASE RENT
 EXTENDED FOR A PERIOD OF
 ONLY TWELVE MONTHS.*

YES/NO

13 / 07 / 2016
 DATE

APPROVED	
----------	--

NOT APPROVED	
--------------	--

Conditions (if any):.....

ACTING MUNICIPAL MANAGER

DATE

APPENDIX 5



NOTICE

PROPOSED EXTENSION OF LEASE PERIOD: STELLENBOSCH ANIMAL HOSPITAL: ERVEN 2498 AND 2499, STELLENBOSCH

Notice is hereby given of Stellenbosch Municipality's intention to extend the lease period of Stellenbosch Animal Hospital in relation to erven 2498 and 2499, Stellenbosch, with a period of 12 months, allowing them an opportunity to find alternative space.

Stellenbosch Animal Hospital is leasing the property from the Municipality from 01 October 1981. Although the lease agreement was renewed at a number of occasions, it has now lapsed on 31 July 2016.

Full particulars of the lease, as well as the motivation for an extension is available from the undersigned during office hours.

Objections, if any, should be in writing and should reach the undersigned within 21 days of this notice.

For further enquiries, please contact Piet Smit at:

E-mail: piet.smit@stellenbosch.gov.za

Tel: 021-8088189

Cell: 0845065065

Address: 3rd Floor Absa (Oude Bloemhof) Building
c/o Rhyneveld and Pleinstreet, Stellenbosch

MUNICIPAL MANAGER

PO BOX 17

STELLENBOSCH

7600

APPENDIX 6



VALUATION REPORT

DETERMINATION OF THE MARKET RENTAL OF:
PORTIONS OF ERF 2498 & 2499 STELLENBOSCH,
STELLENBOSCH REGISTRATION DIVISION,
LEASED BY THE STELLENBOSCH ANIMAL HOSPITAL

Client:

STELLENBOSCH MUNICIPALITY

30 August 2017

Compiled by:

Johan Klopper

Professional Valuer

Member of the SA Institute of Valuers

BCom Law (University of Stellenbosch), NDip: Property Valuation (UNISA)



30 August 2017

Mr. Piet Smit
 Stellenbosch Municipality
 Property Management
 Plein Street
 Stellenbosch
 7600

VALUATION CERTIFICATE

I, the undersigned, Johan Klopper, Professional Valuer registered in terms of the Property Valuer's Profession Act, 2000 (Act No 47 of 2000) do hereby certify that I have inspected and valued the following immovable property namely:

<p>Portions of ERVEN 2498 & 2499 STELLENBOSCH, STELLENBOSCH REGISTRATION DIVISION, in the WESTERN CAPE Leased by the STELLENBOSCH ANIMAL HOSPITAL</p>
--

I consider the fair and reasonable market rental of the abovementioned property to be as follows:

R 19 720	Nineteen Thousand Seven Hundred and Twenty Rand (Excluding VAT)
-----------------	--

As at: **28 August 2017**

Signed at Stellenbosch this 30th day of August 2017.

A handwritten signature in black ink, appearing to read "J. Klopper", written over a horizontal line.

J. Klopper
 Professional Valuer
 Registration Number: 6372/0

PENDO PROPERTY SERVICES CC T/A PENDO PROPERTY VALUERS
 Reg. No. 2009/230603/23 • VAT Reg. No. 4530269028
 Member: J. Klopper

Verified Level 4 B-BBEE Contributor

VALUATION REPORT

1. GENERAL INFORMATION

1.1 Instructions

Instructions were received from the Stellenbosch Municipality to determine the fair market rental of portions of Erven 2498 & 2499 Stellenbosch leased by the Stellenbosch Animal Hospital, as at the effective date referred to in paragraph 1.3 below.

Definition of market rental: *“The estimated amount for which the property should be leased on the date of valuation between a willing lessor and a willing lessee in an arm’s length transaction after property marketing, wherein the parties acted knowledgeably, prudently and without compulsion.”*

1.2 Inspection date

28 August 2017

1.3 Effective date of valuation

28 August 2017

1.4 Limiting conditions

Information was received from third parties regarding the comparable properties. No warranty as to the accuracy of this information can be made.

In this report all values referred to exclude VAT, unless expressly stated otherwise.

We have not carried out a structural survey, nor have we tested the service installations, woodwork or other parts of the structure which are covered, unexposed or inaccessible and are therefore unable to report that such parts of the property are free of rot, beetle or other defects. This valuation is therefore based on the assumption that the building is in a reasonable state of repair, unless expressly stated otherwise in this report.

Any possible contamination of the subject property as a result of an environmental incident has also not been taken into account, nor have we examined the cost of any remedial measures involved.

Maps and sketches that form part of this report are included for illustration purposes only and are not necessarily to scale.

This valuation is for the purpose as stated in this report and should not be used for any other purpose. Neither all nor any part of this report shall be conveyed to the public or anybody other than the addressee or their principles through advertising, public relations, news sales or any other media without the written consent of the author.

2. PHYSICAL FEATURES

2.1 Situation / Locality

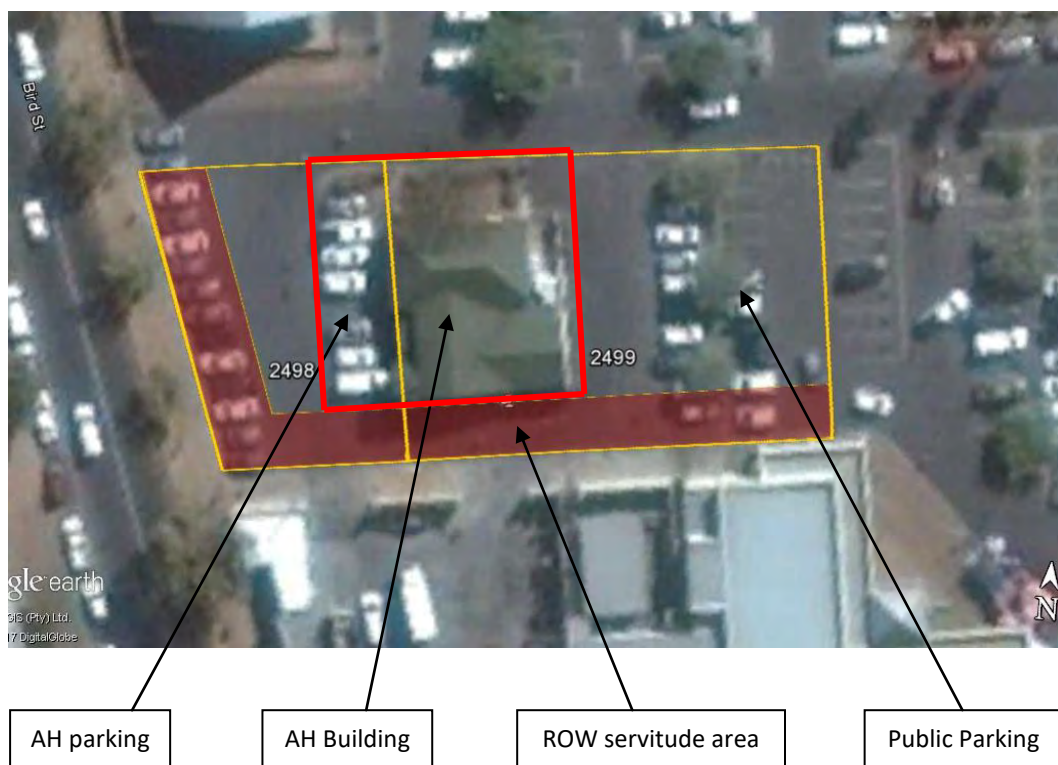
The subject property is located in the Stellenbosch centre, adjacent to the Stelmark Shopping Centre on the corner of Bird and Merriman Streets. The subject property is accessed from Banhoek Way. This is an established commercial node, but the immediate vicinity appears slightly rundown in comparison to other commercial nodes in Stellenbosch. A portion of the subject property forms part of the municipal parking area servicing the Stelmark Centre.

2.2 Description of the site and improvements

The Stellenbosch Animal Hospital (AH) building is located on a portion of Erf 2499 Stellenbosch, while the remainder of this property comprises tarred area with driveways and 16 demarcated open parking bays that form part of the adjoining parking area administered by a third party.

Erf 2498 Stellenbosch is a tarred area utilised as a driveway and for parking purposes. There are 8 dedicated open parking bays utilised by the Stellenbosch Animal Hospital, while the remaining 12 demarcated open parking bays located inside a right of way servitude area are utilised by Pick & Pay employees. The total area utilised by the Stellenbosch Animal Hospital is indicated in red on the aerial photograph below.

The southern boundary of Erf 2499, as well as the southern and western boundaries of Erf 2498 are subject to a 6 meter right of way servitude, and is utilised by trucks servicing Pick & Pay for delivery purposes, as well as parking purposes. The right of way servitude is indicated on the aerial photograph below.

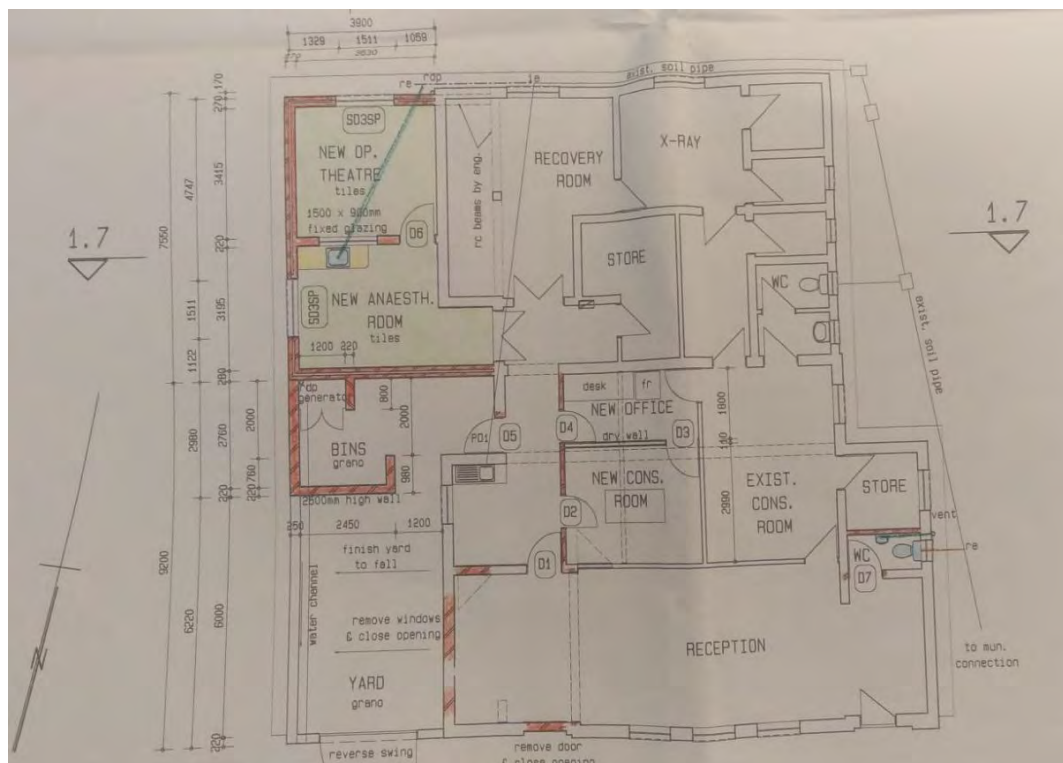


The Stellenbosch Animal Hospital building represents a single storey building with a plastered and painted and facebrick superstructure and a pitched roof (sheeting). Other building specifications include steelframe fenestration and tiled/concrete floors.

The current lessee has occupied the building for a period of approximately 31 years, and has undertaken several additions to the building at their own cost. The valuer was informed that the initial size of the building was approximately 115m², but following the additions, the current construction size is approximately 219m² with a yard area of approximately 36m².

The building is utilised for veterinarian purposes, with the internal layout specific to this purpose. The specialised nature of the internal layout might therefore inhibit the rentability of the subject property to third parties. The accommodation on offer includes the reception, 2 consulting rooms, office, 2 stores, 2 WC's, anaesthesia room, operation theatre, recovery room, X-ray room and an outside bin area, as well as an enclosed yard area of approximately 36m². The rentable area, which excludes external and internal walls, was calculated as approximately 188m².

Refer to an extract of the building plan below which indicates the layout of the subject property, as well as **Annexure C** for photographs of the subject property.



3. VALUATION METHOD

The direct comparison approach is deemed the most suitable valuation method in determining the market rental of the subject property. This approach is based on the principle of comparability and substitution. The assumption is that if similar assets in a similar market place are leased at a particular value, then the comparable asset will be leased at a similar price. Specific note was taken of the site specific characteristics, location and market conditions when determining the market rental of the subject property.

4. VALUE DETERMINATION

4.1 Market research

The property market in the immediate vicinity was investigated, and liaised with local role players to ascertain acceptable market levels for the subject property. The following relevant market information was obtained and applied in the valuation process:

4.1.1 Market Rentals

	Description	Rental (R/m ²)	Comments
1	Agripark (Adam Tas Road)	R60	Commercial spaces ranging between 582m ² and 806m ² utilised primarily for light industrial and retail purposes. An upward adjustment would be justified for the subject property.
2	Subject property	R66	The valuer was informed of the current rental, which was based on the original size of the building, prior to the additions. All subsequent maintenance and additions were performed by the lessee. The lease was reportedly on a full repairing and insuring basis, including payment of rates and taxes. The rental based on a 'normal' lease covenant would therefore be higher.
3	Rustenburg Way (Ida's Valley)	R68	Commercial space of approximately 437m ² located in an established commercial node of Ida's Valley. Based on the size and location the valuer is of the opinion that an upward adjustment would be justified for the subject property.
4	Papegaairand Road (Off Bird Street)	R85	Commercial space of approximately 500m ² located in an industrial/commercial node predominantly utilised for motor showrooms and ancillary purposes. The location of the subject property is considered superior.
5	Cnr Andringa & Banhoek	R101	Commercial/Retail space of approximately 320m ² located in the immediate vicinity of the subject property, in a multi-tenanted commercial building.
6	Stelmark Centre	R160	The Stelmark Centre is located adjacent to the subject property and is multi-tenanted. Apart from Pick & Pay as anchor tenant, retail rentals generally start from approximately R160/m ² . This is considered high in comparison to rentals achieved by surrounding properties. A downward adjustment would be justified for the subject property.

4.1.2 Parking rentals

	Description	Rental (R/bay)	Comments
1	Stelmark Centre (Andringa Street)	R774	Municipal gated open parking bays located at the Stelmark Centre adjacent to the subject property, available at a monthly rate of R774. This rental appears to be very high in comparison to superior nodes in Stellenbosch, and this parking area appears to be underutilised in comparison to other parking nodes.
2	Bloemhof Parking (Plein Street)	R413	Monthly rental for open parking bays located at the Bloemhof parking area in the Stellenbosch CBD. This location is considered superior to the subject property, with a downward adjustment justified for the subject property.
3	The Woodmill Centre (Devonvale)	R300	Open parking bays at the Woodmill Centre on the western periphery of Stellenbosch.
4	Brandwacht Office Park	R450	Open parking bays in secure office park on the southern periphery of Stellenbosch

4.2 Determination of market rental

The market information above gives a good indication of the market range of similar properties in Stellenbosch and indicate to a general range of R60/m² to R160/m². Adjustments are necessary for the size, location and accommodation offered. The accommodation offered by the subject property is rather specialised for veterinary purposes. Demand for this type of accommodation appears to be relatively low in the immediate vicinity, with the immediate vicinity generally characterised by retail properties. Given the characteristics of the immediate location and the accommodation on offer, the valuer is of the opinion that a rate of R 90/m² would be fair and reasonable for the subject property.

From the available market information listed in paragraph 4.1.2 it is evident that market rentals of open parking bays in the Stellenbosch CBD range between R300 and R774 per bay. The rental of R774 (excl. VAT) is the going monthly rate for all municipal operated parking areas. This is considered on the high side for the immediate vicinity and is evidenced by the underutilisation of this parking area. A downward adjustment was therefore justified. The monthly rate applicable at the Bloemhof parking area, i.e. R413 per bay, is considered a good indication of the rate that can be applied, but a downward adjustment would be justified for the subject property due to the inferior location and demand in this area. The valuer is accordingly of the opinion that a monthly rate of R 350 per bays would be fair and reasonable for the subject property.

The current market rental of the subject property can therefore be calculated as follows:

Description	Size / No	Market rate	Market rental
Rentable area - building	188 m ²	R 90	16 920
Parking - Utilised by Stellenbosch Animal Hospital	8 bays	R 350	2 800
TOTAL			R 19 720


5. DECLARATION

I, Johan Klopper a registered Professional Valuer, declare that I have inspected the above property and that I have conducted this valuation assignment to the best of my knowledge and skills. I have no present or contemplated interest in this property, and accordingly certify that this valuation was undertaken on a completely independent basis.

Based on our research and experience, we are of the opinion that the **MARKET RENTAL** of the portions of **Erven 2498 & 2499 Stellenbosch** leased by the Stellenbosch Animal Hospital, as at 28 August 2017, amounts to: trite

Amount	In words
R 19 720	Nineteen Thousand Seven Hundred and Twenty Rand

Signed at STELLENBOSCH on this the 30th day of August 2017.


 J. Klopper
 Professional Valuer (Reg. No. 6372/0)
 Member of the SA Institute of Valuers
 BCom (Law); NDip (Property Valuation)

ANNEXURE A: TITLE DEED INFORMATION

Deeds Office Property		Printed: 2017/08/25 09:39
		windeed A LexisNexis® Product
STELLENBOSCH, 2498, 0 (REMAINING EXTENT) (CAPE TOWN)		
GENERAL INFORMATION		
Deeds Office	CAPE TOWN	
Date Requested	2017/08/25 09:39	
Information Source	DEEDS OFFICE	
Reference	-	
PROPERTY INFORMATION		
Property Type	ERF	
Erf Number	2498	
Portion Number	0 (REMAINING EXTENT)	
Township	STELLENBOSCH	
Local Authority	STELLENBOSCH MUN	
Registration Division	STELLENBOSCH RD	
Province	WESTERN CAPE	
Diagram Deed	T288/6/1860	
Extent	583.0000SQM	
Previous Description	-	
LPI Code	C06700220000249800000	
OWNER INFORMATION		
Owner 1 of 1		
Company Type	LOCAL AUTHORITY	
Name	MUN STELLENBOSCH	
Registration Number		
Title Deed	T18507/1977	
Registration Date	1977/07/08	
Purchase Price (R)	UNKNOWN	
Purchase Date	-	
Share		
Microfilm Reference	1989 0549 4888	
Multiple Properties	NO	
Multiple Owners	NO	
ENDORSEMENTS		
No documents to display		
HISTORIC DOCUMENTS		
No documents to display		
DISCLAIMER		
<p>This report contains information gathered from our suppliers and we do not make any representations about the accuracy of the data displayed nor do we accept responsibility for inaccurate data. WinDeed will not be liable for any damage caused by reliance on this report. This report is subject to the terms and conditions of the WinDeed End User Licence Agreement (EULA).</p>		

Deeds Office Property		Printed: 2017/08/25 09:40
		windeed A LexisNexis® Product
STELLENBOSCH, 2499, 0 (CAPE TOWN)		
GENERAL INFORMATION		
Deeds Office	CAPE TOWN	
Date Requested	2017/08/25 09:40	
Information Source	DEEDS OFFICE	
Reference	-	
PROPERTY INFORMATION		
Property Type	ERF	
Erf Number	2499	
Portion Number	0	
Township	STELLENBOSCH	
Local Authority	STELLENBOSCH MUN	
Registration Division	STELLENBOSCH RD	
Province	WESTERN CAPE	
Diagram Deed	T8333/1932	
Extent	1182.0000SQM	
Previous Description	-	
LPI Code	C06700220000249900000	
OWNER INFORMATION		
Owner 1 of 1		
Company Type	LOCAL AUTHORITY	
Name	MUN STELLENBOSCH	
Registration Number		
Title Deed	T16507/1977	
Registration Date	1977/07/08	
Purchase Price (R)	UNKNOWN	
Purchase Date	-	
Share		
Microfilm Reference	1999 0549 4888	
Multiple Properties	NO	
Multiple Owners	NO	
ENDORSEMENTS		
No documents to display		
HISTORIC DOCUMENTS		
No documents to display		
DISCLAIMER		
This report contains information gathered from our suppliers and we do not make any representations about the accuracy of the data displayed nor do we accept responsibility for inaccurate data. WinDeed will not be liable for any damage caused by reliance on this report. This report is subject to the terms and conditions of the WinDeed End User License Agreement (EULA) .		

ANNEXURE B: S.G. DIAGRAMS

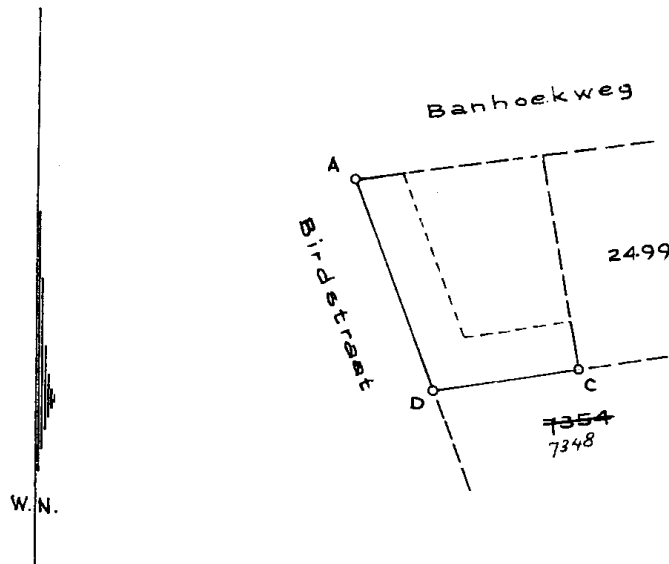
SERWITUUTKAART

KANTOORAFSKRIF

SYE METER		RIGTINGS- HOEKE	KOÖRDINATE Stelsel Lo. 19° X		L.G. No.
		Konstante	Y	X	2944/81
CD	18,60	81 17 10	A + 0,00	+3700000,00	Goedgekeur <i>M. P. Burger</i> Landmeter-generaal 1981-07-07
DA	28,52	159 15 30	C + 13 036,76	+ 55 721,43	
		N29A	D + 13 008,27	+ 55 745,28	
		N29B	D + 13 026,66	+ 55 748,10	
			⊕ + 13 055,88	+ 55 710,37	
			⊕ + 12 890,87	+ 55 686,72	

Beskrywing van Bakens:

A, D : 12mm ysterpen
C : Geen bakens



Skaal 1: 750

Die figuur Die lyne AD en DC

stel voor die Westelike en die Suidelike grense respektiewe- ~~grond syde~~
lik van 'n Serwituut Reg van Weg 6 meter wyd oor
ERF 2498, Stellenbosch
geleë in die Munisipaliteit en

van Stellenbosch

Administratiewe Distrik

Provinsie Kaap die Goeie Hoop.

Opgemeet in Sept. 1977 en
deur my. April-Mei 1981

M. P. Burger
Landmeter

Hierdie kaart is geheg aan No. gedateer t.g.v.	Die oorspronklike kaart is. No. B. 101/1930 geheg aan Transport/ Grondbrief No. 1860-37 -296	Lêer No. S/2641/32 M.S. No. E547/78 en E 1000/81 Komp. BH-8DA/2.51 (1480) BH-8DA/2.53 (1482)
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Registrateur van Aktes

SERWITUUTKAART

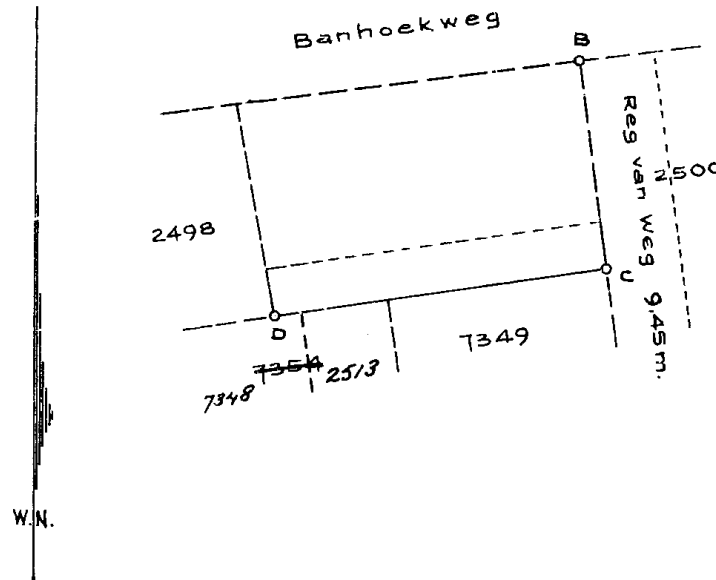
KANTOORAFSKRIF

SYE METER		RIGTINGS- HOEKE	KOÖRDINATE Stelsel Lo. 19° X		L.G. No. 2945/81
BC	26,67	Konstante	+	0,00	+3700000,00
CD	42,47	351 48 30	B	+ 12 970,09	+ 55 712,45
		81 17 10	C	+ 12 966,29	+ 55 738,85
		N29A	D	+ 13 008,27	+ 55 745,28
		N29B	⊕	+ 13 055,88	+ 55 710,37
			⊕	+ 12 890,87	+ 55 686,72

Goedgekeur
[Handwritten Signature]
 Landmeter-generaal
 1981-07-07

Beskrywing van Bakens:

- B : Plat ysterpen
- C : 12mm ysterpen
- D : Geen bakens



Skaal 1: 750

Die lyn CD stel voor die Suidelike grens van 'n Serwituit Reg van Weg 6 meter wyd oor

ERF 2499, Stellenbosch
 geleë in die Munisipaliteit en van Stellenbosch

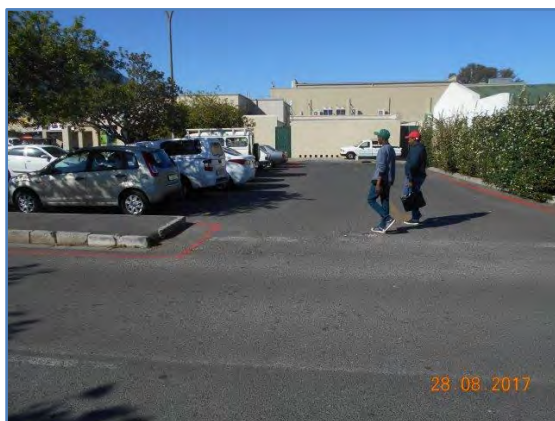
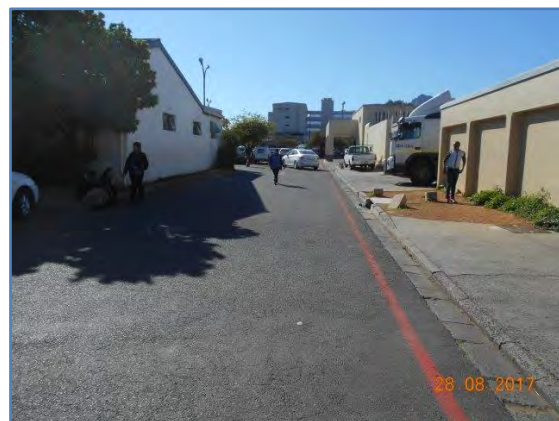
Administratiewe Distrik
 Provinsie Kaap die Goeie Hoop.

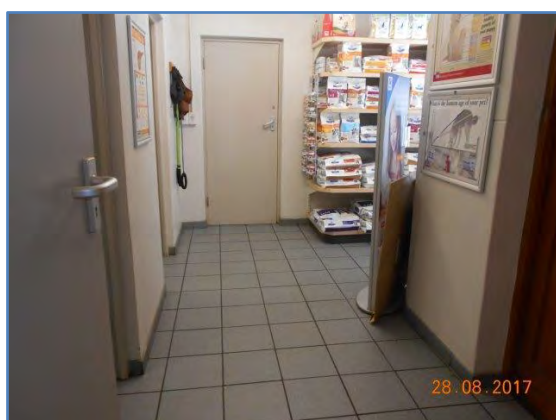
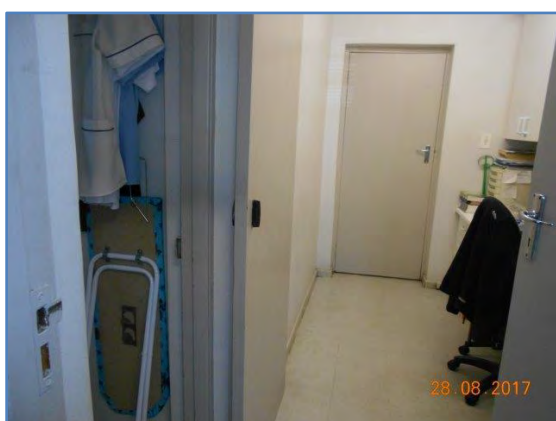
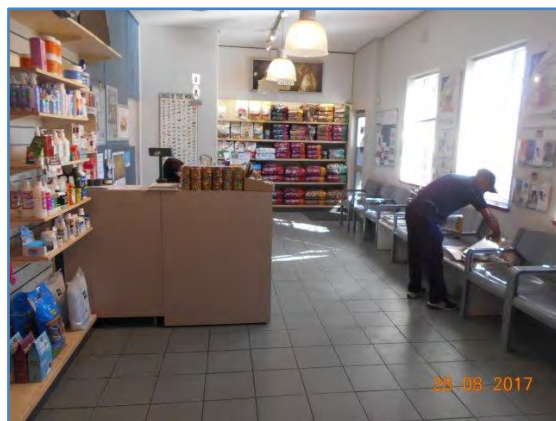
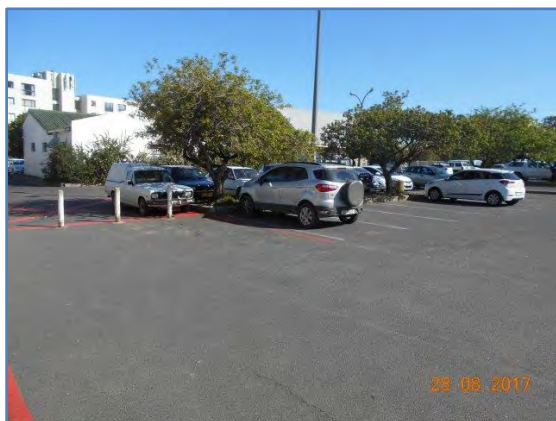
Opgemeet in Sept. 1974 en deur my, April-Mei 1981

P. Burger
 Landmeter

Hierdie kaart is geheg aan No. gedateer t.g.v. Registrateur van Aktes	Die oorspronklike kaart is. No. A3534/1931 geheg aan Transport/ Grondboek No. 1932-126-6333	Lêer No. S/2641/32 M.S. No. E2309/74 en E 1000/81 Komp. BH-8DA/Z.51 (1480) BH-8DA/Z.53 (1482)
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ANNEXURE C: PHOTOGRAPHS OF SUBJECT BUILDINGS





End of report

5.6	INFRASTRUCTURE: (PC: CLLR J DE VILLIERS)
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NONE

5.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: CLLR N JINDELA)
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NONE

5.8	PROTECTION SERVICES: (PC: CLLR Q SMIT)
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NONE

5.9	YOUTH, SPORT AND CULTURE: (PC: XL MDEMKA (MS))
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NONE

6.	REPORTS SUBMITTED BY THE MUNICIPAL MANAGER
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NONE

7.	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

8.	MOTIONS AND QUESTIONS RECEIVED BY THE MUNICIPAL MANAGER
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NONE

9.	URGENT MATTERS
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10.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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NONE