



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2024-01-12

MAYORAL COMMITTEE MEETING
WEDNESDAY, 2024-01-17 AT 10:00

TO The Executive Mayor, Ald G Van Deventer
The Deputy Executive Mayor, Cllr J Fasser

COUNCILLORS JC Anthony
R du Toit
P Johnson
J Joon
X Kalipa
L Nkamisa
R Pheiffer
C van Wyk
J Williams

Notice is hereby given that a Mayoral Committee Meeting will be held via **MS Teams** on **Wednesday, 2024-01-17 at 10:00** to consider the attached agenda.

EXECUTIVE MAYOR, ALD GM VAN DEVENTER

CHAIRPERSON

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2024-01-17
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**Confirmation of
Minutes: Mayoral
Committee
Meeting: 2023-11-16**



STELLENBOSCH

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MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2023-11-16

MINUTES

MAYORAL COMMITTEE MEETING:

2023-11-16 AT 10:00

MINUTES
MAYORAL COMMITTEE MEETING
2023-11-16
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PRESENT: Executive Mayor, Ald GM Van Deventer (**Chairperson**)
Deputy Executive Mayor, J Fassler

Councillors: JC Anthony
R du Toit
P Johnson
J Joon
X Kalipa
L Nkamisa
R Pheiffer
C van Wyk
J Williams

Also Present: Councillor P Crawley (Chief Whip)
Q Smit (Speaker)

Officials: Municipal Manager (G Mettler (Ms))
Director: Corporate Services (A de Beer (Ms))
Director: Community & Protection Services (G Boshoff)
Director : Infrastructure Services (S Chandaka)
Chief Financial Officer (K Carolus)
Director: Planning and Economic Development (A Barnes)
Senior Manager: Development Planning (C Alexander)
Senior Manager: Roads and Transport (J Fullard)
Manager: Spatial Planning (B de le Bat)
Senior Administration Officer (B Mgcushe (Ms))

1.	OPENING AND WELCOME
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The Chairperson, Deputy Executive Mayor welcomed everyone present at the Mayoral Committee Meeting.

2.	COMMUNICATION BY THE CHAIRPERSON
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- This coming weekend is voter registration weekend. Voter registration is the initial step that enables individuals to participate in the democratic process of government elections. Every vote count and by registering to vote, individuals contribute to the creation of a government that genuinely reflects the will of the people it purports to govern. Democracy is not a static concept; it requires active participation and vigilant citizenship. Voter registration is a key component of this participation.

- Maak asseblief seker u weet waar u stempunt is en alle nuwe inwoners / intrekkers in Stellenbosch munisipaliteit word aangemoedig om te herregistreer om te verseker u kan in die komende verkiesing van 2024 u stem uitbring.
- Indien u nie weet waar u moet stem en of u dalk moet herregistreer, maak asseblief met u wyksraadslid kontak.
- In komende verkiesing sal u slags kan stem in die wyk waar u geregistreer het.
- Jonkershoek piekniekterrein is nadelig geaffekteer deur die onlangse reën en vloedskade. Skade sluit in skade aan die bestaande paaie, ontwortelde bome en ernstige skade aan die rivieroewer. Die herinstelling verkrygingsproses is in die finale stadiums. Die terrein sal vir die publiek oopgestel word sodra dit volledig opgeknop en veilig verklaar is.
- Stellenbosch Municipality is planning a Festival of Lights to celebrate the Christmas Season within the Greater Stellenbosch. Traders are invited to submit applications to trade at the event and showcase their goods to the bumper crowds expected.
- Applications for stalls for the Festive Market is now open. The market will run from 27 November until 1 December 2023 at the Stellenbosch Town Hall. Please check on the municipal website for the detail where application forms can be downloaded and who the contact person is.
- Auditions are currently underway in different areas to scout for local talent to perform at the Festival of Lights event and the Festive Market. Tonight, 16 November the auditions will be at Kayamandi High School, and starts strictly at 5 pm. Tomorrow evening auditions will be at the Kylemore Community Hall and on Monday, 20 November the auditions will be at Franschoek Town hall.
- Geluk aan Stellenbosch FC, wie onlangs vir Richards Bay 2 – 1 verslaan het. Julle maak ons trots om Stellenbossers te wees. Alle sterkte met die volgende wedstryd teen AmaZulu.
- Please support the upcoming Walk with Disability, taking place on 18 November 2023. It is a 1.5 km walk that starts and ends at Die Braak.

3.	DISCLOSURE OF INTERESTS
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NONE

4.	APPLICATIONS FOR LEAVE OF ABSENCE
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NONE

5.	CONFIRMATION OF PREVIOUS MINUTES
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The minutes of the Mayoral Committee Meeting held on 2023-10-16 were **confirmed as correct without any amendments.**

6.	STATUTORY MATTERS
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6.1	INTEGRATED DEVELOPMENT PLAN (IDP) COMMUNITY INPUTS AND COMMENTS SUBMITTED WITHIN THE PUBLIC PARTICIPATION PERIOD IN SEPTEMBER AND OCTOBER 2023
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Collaborator No:	758994
IDP KPA Ref No:	Good Governance and Compliance
Meeting Date:	16 November 2023

1. SUBJECT: INTEGRATED DEVELOPMENT PLAN (IDP) COMMUNITY INPUTS AND COMMENTS SUBMITTED WITHIN THE PUBLIC PARTICIPATION PERIOD IN SEPTEMBER AND OCTOBER 2023

2. PURPOSE

To submit the following to the Council for notification:

The IDP community inputs and comments submitted within the public participation period in September and October 2023 for the 2nd Review of the 5th Generation Integrated Development Plan (IDP) 2022 – 2027, attached as **ANNEXURE A**.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

In terms of legislation, a municipality is required to conduct a public participation process to solicit community input and comments in preparation for the review of the IDP and budget for the new financial year. In preparation for the drafting of the 2nd Review of the 5th Generation IDP 2022 – 2027, open days and stakeholder engagement were held.

The public participation period commenced on Monday, 04 September 2023 and the closing date for inputs and comments was on Wednesday, 04 October 2023 at 16:30. The public participation open days were held in specified venues from Tuesday, 12 September – Monday, 02 October 2023. A stakeholder engagement was facilitated on Wednesday, 04 September 2023.

The community inputs and comments were submitted to the relevant ward councillors to discuss with their respective ward committees and to review (if so required) their ward priorities for the 2024/25 financial year and / or outer financial years in line with the inputs received.

In addition, the community inputs and comments were also submitted to the various directorates to consider in their respective strategies, projects, programmes, and master plans.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 6.1

- (a) that Council **takes note** of the community inputs and comments received during the September and October 2023 public participation process, attached as **ANNEXURE A**;
- (b) that Council **takes note** that the ward councillor will, in consultation with the ward committee, review the ward priorities of the respective ward; and
- (c) that Council **takes note** that the [re]prioritised ward priorities and community inputs will be considered by the municipality for implementation in the 2024/25 and / or outer financial years.

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 – 808 8025
E-MAIL ADDRESS	Geraldine.Mettler@stellenbosch.gov.za
REPORT DATE	25 October 2023

6.2	ADJUSTMENTS BUDGET (UNFORESEEN AND GRANTS) 2022/2023
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

16 November 2023

1. SUBJECT: ADJUSTMENTS BUDGET (UNFORESEEN AND GRANTS) 2022/2023**2. PURPOSE**

To present the 2023/2024 adjustments budget to Council for approval. The adjustments budget emanates from Unforeseen Expenditure incurred due to the Disaster in September 2023; the Grant rollover approvals received from Western Cape Provincial Government; and the reduction in Grants by National Treasury.

3. DELEGATED AUTHORITY**FOR APPROVAL BY MUNICIPAL COUNCIL****EXECUTIVE SUMMARY**

Attached as **APPENDIX 1** is an executive summary by the Accounting Officer.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 6.2

- (a) that the Adjustments Budget for 2023/2024 as set out in **APPENDIX 1-5**, be approved;
- (b) that the Adjustments Budget Tables as prescribed by the Budgeting and Reporting Regulations, as set out in **APPENDIX 3**, be approved; and
- (c) that the Service Delivery and Budget Implementation Plan be adjusted accordingly inclusive of the non-financial information (performance measurement).

FOR FURTHER DETAILS CONTACT:

NAME	MONIQUE STEYL
POSITION	SENIOR ANAGER: FINANCIAL MANGEMENT SERVICES
DIRECTORATE	FINANCIAL SERVICES
CONTACT NUMBERS	021 808 8512
E-MAIL ADDRESS	Monique.Steyl@stellenbosch.gov.za
REPORT DATE	09 November 2023

6.3	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR OCTOBER 2023
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

16 November 2023

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR OCTOBER 2023

2. PURPOSE

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2023/2024 to report the deviations to Council.

3. DELEGATED AUTHORITY

Council

FOR NOTING.

4. EXECUTIVE SUMMARY

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2023/2024) stipulate that SCM deviations be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during October 2023.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 6.3

that Council notes the deviations as listed for the month of October 2023.

FOR FURTHER DETAILS CONTACT:

NAME	Dalleel Jacobs
POSITION	<i>Senior Manager: Supply Chain Management</i>
DIRECTORATE	<i>Financial Services</i>
CONTACT NUMBERS	<i>021 808 8528</i>
E-MAIL ADDRESS	<i>Dalleel.Jacobs@stellenbosch.gov.za</i>
REPORT DATE	09 November 2023

7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER]
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7.1	PROTECTION SERVICES: (PC: CLLR R PHEIFFER)
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NONE

7.2	SPORTS, YOUTH AND CULTURE: [PC: CLLR JC ANTHONY]
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7.2.1	STANDARDIZATION OF LIBRARY HOURS AT THE MUNICIPAL PUBLIC LIBRARIES OF STELLENBOSCH WCO24
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Collaborator No: 753464
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: STANDARDIZATION OF LIBRARY HOURS AT THE MUNICIPAL PUBLIC LIBRARIES OF STELLENBOSCH WCO24

2. PURPOSE

2.1 To request Council to retract Council resolution of the 31st Council meeting: 2015-06-24: ITEM 7.8 which stated:

- (a) That council approve the amendment of library hours i.e. services be closed Good Friday, 24 and 31 December;
- (b) that library services be closed on the day before Good Friday at 12h00 and
- (c) that the library services at Cloeteville, Plein Street, Kayamandi and Groendal operate from 09h30 until 18h00 daily.

2.2 To gain council approval to standardize library operational hours at all of the Municipal Public Libraries within the Stellenbosch WCO24.

To schedule hours of opening for the maximum convenience of the residents, thereby ensuring the best possible access to library services and applying the principle of cost effectiveness.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

At the Council meeting of 24 June 2015, a decision was taken that the libraries at Cloeteville, Plein Street, Kayamandi, Idas Valley and Groendal operate daily between 09h00 and 18h00. The detail of this decision is under the heading 6.6 Previous / Relevant Council Resolutions.

Secondly the resolution taken was that the staff at Cloeteville, Plein Street, Kayamandi, Idas valley and Groendal libraries are permitted to leave the work place at 12h00 on the day before Good Friday, 24 and 31 December of each year.

The decision does not include the following libraries: Jamestown, Pniel, Franschoek, Klapmuts and Koelenhof. Although the information cannot be verified, the reason why only certain libraries were permitted to close earlier is only because the staff at those libraries requested it.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.2.1

- (a) that the Council resolution of the 31st Council meeting: 2015-06-24: ITEM 7.8 be rescinded;
- (b) that Council approve all Municipal Public Libraries public opening and closing hours be standardized; and
- (c) that all municipal libraries are subject to the municipality policy regarding early closure of libraries and reduced hours of operation as recommended on "ANNEXURE 1".

FOR FURTHER DETAILS CONTACT:

NAME	Sarala Majudith
POSITION	Manager: Library Services Services
DIRECTORATE	Community and Protection Services
CONTACT NUMBERS	021 808 8393
E-MAIL ADDRESS	Sarala.majudith@ Stellenbosch.gov.za
REPORT DATE	20 June 2023

7.3	CORPORATE SERVICES: (PC: CLLR L NKAMISA)
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7.3.1	LEASE AGREEMENT APPLICATION: USE OF COUNCIL-OWNED LAND FOR PARKING PURPOSES: MEDI-CLINIC: A PORTION OF ERF 235, STELLENBOSCH
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

16 November 2023

1. SUBJECT: LEASE AGREEMENT APPLICATION: USE OF COUNCIL-OWNED LAND FOR PARKING PURPOSES: MEDI-CLINIC: A PORTION OF ERF 235, STELLENBOSCH

2. PURPOSE

To consider the request to enter into a further lease agreement with Medi-Clinic for a portion of erf 235 Stellenbosch for parking purposes. This erf is part of the van Der Stel sport complex.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has the delegated authority to enter into lease agreements of three (3) years or less.

4. EXECUTIVE SUMMARY

The municipality and Stellenbosch Development Company entered into a 20-year lease agreement for a portion of erf 235 Stellenbosch on 4 November 2003 which agreement will lapse on 31 October 2023. During 2014 Medi – Clinic bought the building in Alexander Street 24 from British American Tobacco and the lease agreement was linked to this building.

Medi-Clinic has now applied for a lease agreement for the already developed parking area consisting of 274 parking bays for additional parking bays for their staff from 07:00 Mondays to 18:00 on Fridays for a period of 9 years 11 months. Erf 235 forms part of the van der Stel Sport Complex that council resolved to put out on tender for management, upgrade and development of parking. That process is still underway. Stellenbosch Development Company's agreement allowed for the payment of an amount every 5 years instead of a monthly or yearly fee.

The department does not support the application for a medium-term lease due to the developments around the van der Stel complex but suggests that the parking be leased on a month-to-month basis until the tender has been evaluated and awarded.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.1**RESOLVED**

- (a) that the portion of erf 235 used for parking purposes, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- (b) that an agreement be entered into on a month-to-month basis until the tender process for the van der Stel complex's management and development is concluded; and
- (c) that the monthly rental amount be determined as per the tariff book per parking bay.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Annalene de Beer</i>
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	<i>021-8088018</i>
E-MAIL ADDRESS	annalene.debeer@ Stellenbosch.gov.za
REPORT DATE	<i>2023-10-31</i>

7.3.2	BOTMASKOP ESTATE DEVELOPMENT PROPOSED EXCHANGE OF LAND: BOTMASKOP ESTATE DEVELOPMENT ERF 3363 AND REMAINDER OF FARM 333, STELLENBOSCH
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

16 November 2023

1. SUBJECT: BOTMASKOP ESTATE DEVELOPMENT PROPOSED EXCHANGE OF LAND: BOTMASKOP ESTATE DEVELOPMENT ERF 3363 AND REMAINDER OF FARM 333, STELLENBOSCH

2. PURPOSE

To consider the request on a possible land swap between the Municipality and Botmaskop Estate Development.

3. DELEGATED AUTHORITY

Council must consider the matter.

4. EXECUTIVE SUMMARY

The Botmaskop Development was approved by the Municipality several years ago. On 16 April 2018 an encroachment agreement was entered into between the municipality and the Reset Properties.

The developers of the Botmaskop Development have now requested that council consider a possible land swap for this encroached area (adjacent to the Botmaskop Estate Development), portions of erf 3363 and Remainder of Farm 333 Stellenbosch for a similar size portion of land higher up against the mountain portion of portion 2 of farm 490 Stellenbosch. Both portions of land are 4.69 hectares. Valuations of the property have not been obtained.

The Property Management Policy provide for exchange of Land Agreements to be concluded, subject thereto that reasons for justifying such a step is recorded in writing. Because this will also be seen as an asset transfer the asset transfer regulations will also be applicable to such a transaction including an information statement that will have to be published. This land that is requested for the swop currently forms part of the Botmaskop nature area.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.2

RESOLVED

that this item be referred back to Administration for further discussion and refinement.

NAME	Annalene de beer
POSITION	Director
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088018
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REPORT DATE	2023-10 -31

7.3.3	AMENDMENT TO LONG-TERM LEASE AGREEMENT FOR FARM 377B, STELLENBOSCH: KIRSTEN EIENDOMTRUST
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Collaborator No:	759297
IDP KPA Ref No:	Good Governance
Meeting Date:	16 November 2023

1. SUBJECT: AMENDMENT TO LONG-TERM LEASE AGREEMENT FOR FARM 377B, STELLENBOSCH: KIRSTEN EIENDOMTRUST

2. PURPOSE

To obtain Council-approval for the amendment to the long-term lease agreement for Farm 377B, Stellenbosch currently being rented by Kirsten Eiendomstrust as the municipality needs the land for a sewerage pipeline.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

On 27 March 1986 the municipality and Goedvertrouw Boerdery (Pty) Ltd entered into a lease agreement in respect of Farm 377B, Stellenbosch. The initial lease period was from 1 April 1982 to 31 March 2007. On 15 November 2000 an extension to the lease agreement was entered into between the municipality and Kirsten Eiendomstrust whereby it was agreed that the lease agreement will extend for a further 25 years from 01 April 2007 to 31 March 2032. There is an agreement in place and entered into prior to the asset transfer regulations coming into place in 2008. He is currently paying R41 948.46 per annum to lease the 16.27 hectare. This decision was taken before the current municipality (Stellenbosch Municipality WC024) was proclaimed. The election was held on 1 December 2000 and writer could not find a resolution of Council in that respect. It is likely that the decision was taken by the previous Manager Property Management.

The municipality entered into negotiations with various farm owners in respect of the registration of a servitude and access to a sewerage pipeline that runs through numerous farms, including Farm 377B. The majority of the farm owners have agreed to the registration of a servitude over their property and the servitude registrations have been registered at the deeds office. The lessee of Farm 377B did not provide his co-operation and an item served before Mayco in September 2023 to cancel the lease agreement in terms of the provisions of the agreement.

In terms of Clause 18.1.5 of the lease agreement the municipality has the right to terminate the agreement should the property be needed for any *bona fide* municipal purposes. As the municipality needs access to the pipeline and it is an essential service and we the Lessee is not prepared to co-operate to release the area where the pipeline is situated from the current lease agreement without the payment of money in relation to alleged loss of income plus interest thereon. The municipality does not pay interest unless a court compels us to. The municipality is further of the view that the lessee has no right to claim any loss of income. The municipality was always prepared and still is to reimburse the lessee for the fence that was damaged when the pipeline was installed. The item was referred back to have discussions again with the lessee to obtain his co-operation. He has now agreed to amend the current lease agreement to exclude the .71 hectare from the agreement and to allow access to the

pipeline as and when needed by the municipality. The amended draft agreement is attached for approval.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.3.3

- (a) that Council takes note of the report; and
- (b) that Council note and approve the amendment to the current agreement.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Annalene de Beer</i>
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	<i>021-8088073</i>
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REPORT DATE	<i>2023-11-09</i>

7.3.4	PROPOSED LEASE AGREEMENT: ERF 8402 (1 ADRINGA STREET), TOEBROODJIE
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Collaborator No: 759282
IDP KPA Ref No: Good Governance
Meeting Date: 16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 8402 (1 ADRINGA STREET), TOEBROODJIE

2. PURPOSE

To consider an application from Toebroodjie to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreements of three (3) years and less has been delegated to the Municipal Manager.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Toebroodjie trading of erf 8402, Stellenbosch. The application is not in line with the provisions / requirements of the Outdoor Dining Policy as there is not 1.5m unobstructed sidewalk space left open for pedestrian use. There is space left open next to the street for car doors to open, however it is not 0.8m as required. Under 6.2.1 are photos showing how area is currently being used. The photos were taken by the property management section. The applicant does not have an encroachment agreement or lease agreement with the municipality, and they are not paying for the current use of the area. We served the applicant with a letter requesting that they apply for the outdoor dining lease to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in is 9 m² as per the application form and diagram, however the current usage is not in line with the application and diagram and it appears that a larger area is being used.

The applicant has provided a diagram for the current use however same does not show what furniture will be used or the exact placement. It can be seen on the photographs in the item. At the Mayco meeting in October the department was requested to get some guidelines from the Heritage advisory committee for the outdoor dining in the heritage area of town. We had a meeting with them and the next meeting is planned for Monday 13 November 2023.

Council approved the overlay zone for outdoor dining in October 2023 and it will be published shortly.

The department does not support the application in its current form due to the non-compliance with the unobstructed walking area for pedestrians and the requirement for the opening of car doors from the curb.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.4

RESOLVED

- 5.1. That the land 8402, measuring approximately 9m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services

purposes or when the applicant refuses the municipality or other public service providers access if required.

- 5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

NAME	Annalene de Beer
POSITION	Director: Corporate Services
DIRECTORATE	CORPORATE SERVICES
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REPORT DATE	2023-11- 09

7.3.5	RETURN ITEM: PROPOSED LEASE AGREEMENT: ERF 13830, 111 DORP STREET, STELLENBOSCH: JACK'S BAGELS
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Collaborator No:	759299
IDP KPA Ref No:	Good Governance
Meeting Date:	16 November 2023

1. SUBJECT: RETURN ITEM: PROPOSED LEASE AGREEMENT: ERF 13830, 111 DORP STREET, STELLENBOSCH: JACK'S BAGELS

2. PURPOSE

To consider an application from Jacks Bagels, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes, after receiving further information and attending to an inspection on the premises. The item served before the Council on 30 August 2023.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreements of three (3) years and less has been delegated to the Municipal Manager.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Jacks Bagels trading from erf 13830, Stellenbosch. The application is in line with the council resolution setting out the requirements for the application and is supported by the Engineering Department. Under 6.2.1 are photos showing how area is currently being used. These photos were taken by Property administration as the applicant did not submit any information apart from what is attached as appendices.

The applicant does not currently have any lease agreement or previous encroachment agreement with the municipality and is paying rent for current use. We served the applicant with a letter requesting that they apply for the outdoor dining lease to ensure compliance. They have not specified a requested time for the lease and the area they are interested in is 15 m². They have however did not make it clear on their draft plan of what furniture will be used and how the area will be demarcated or where the 1,5 m will be left open for pedestrian use.

For the reasons indicated in the item the application was not supported and referred back at the Special Mayoral Committee on 28 August 2023 meeting for refinement. Since then, the applicant has filed a new diagram and the contract management team attended to an inspection on site. The application is now in line with the outdoor dining policy and can be supported by the department.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.5**RESOLVED**

- (a) that the portion of ERF 13830, Stellenbosch applied for to use as outdoor dining area be identified as a land not required for the delivery of basic services; and
- (b) that the application be approved as per the standard conditions of outdoor dining:

5.1. That the land....., measuring approximatelym² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;

5.2 That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:

5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.

5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.

In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.

5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:

(a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.

(b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.

5.2.4 Demarcation must be provided and maintained by the lessee.

5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.

5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.

5.2.7 Any awnings will require pre-approval from council.

5.2.8 Council is indemnified against all possible 3rd party claims.

5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.

5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director: Corporate Services
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088073
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REPORT DATE	2023-10-17

7.3.6	PROPOSED LEASE AGREEMENT: ERF 1321 (11 CHURCH STREET), STELLENBOSCH: HYGGE HYGGE
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Collaborator No: 759330
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

**1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 1321 (11 CHURCH STREET),
STELLENBOSCH: HYGGE HYGGE**

2. PURPOSE

To consider an application from Hygge Hygge, to enter into a Lease Agreement with Stellenbosch Municipality, in terms of whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has the delegated authority to enter into a lease agreement less than three (3) years.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Hygge Hygge trading from erf 1321, Stellenbosch. The current area being used is not in line with the provisions /requirements of the Outdoor Dining Policy. There is not sufficient walkway left for the public in that the seating does not provide a 1.5m unobstructed area for sidewalk users. Under 6.2.1 are photographs of the current area being used by the establishment. The applicant does not have a current lease agreement or previous encroachment agreement with the municipality and is therefore not paying any rent. We served the applicant with a letter requesting that they apply for the outdoor dining lease to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in and currently using is 20m². They have filed a diagram with the application indicating the area, furniture to be used and how that the area of 1.5m will be left open for pedestrian use. The information evident from the photographs indicates that there is not 1.5m left open on the sidewalk. The photos were taken by the property management section. This particular street has several old oak trees next to the pavement which does not leave unobstructed area for pedestrians to walk. If they use an area next to the shopfront and only put one row of tables, the department may be able to support the applications.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.6**RESOLVED**

- 5.1. That the land 1321, measuring approximately 20 m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

- 5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director: Corporate Services</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
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<i>REPORT DATE</i>	<i>2023-11 - 09</i>

7.3.7	RETURN ITEM: PROPOSED LEASE AGREEMENT: ERF 2539 KAYA MANDI: ZUSIPHE RESTAURANT
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Collaborator No:	759384
IDP KPA Ref No:	Good Governance
Meeting Date:	16 November 2023

1. SUBJECT: RETURN ITEM: PROPOSED LEASE AGREEMENT: ERF 2539 KAYA MANDI: ZUSIPHE RESTAURANT

2. PURPOSE

Is to consider the application of Blueprint SA on behalf of Zusiphe Restaurant, to enter into a Lease Agreement with Stellenbosch Municipality, in terms of where they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreements of three (3) years and less has been delegated to the Municipal Manager.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from Blueprint SA, the owner of Zusiphe Restaurant situated on erf 2539, Kaya Mandi. The application is in line with the provisions /requirements of the Outdoor Dining Policy and is supported by the Engineering Department. Under 6.2.1 are photographs showing how area is currently being used. The photos were taken by the Property Management Unit. The applicant does not have a current lease agreement or previous encroachment agreement with the municipality and is currently not paying for the use of the area.

They have not specified a requested time for the lease and the area they are interested in is 9m². They have also filed a diagram indicating the proposed area as well as a photograph indicating the area. The photos have been taken by the Property Management Section. There was an allegation that the restaurant is not trading as a restaurant, but as a liquor store and the matter was referred back for further investigations. It was established that it is in fact trading as a restaurant selling food and that they do have the correct zoning for trading.

The department can support the application based on current use and is in line with the current practise of a three (3) year lease.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.7**RESOLVED**

- 5.1. That the land 2539, measuring approximately 9m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

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- 5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director: Corporate Services</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
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<i>REPORT DATE</i>	<i>2023-11- 09</i>

7.3.8	PROPOSED LEASE AGREEMENT: ERF 11136 (32 RYNEVELD STREET) STELLENBOSCH – MONARCH COFFEE CARTEL
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Collaborator No: 759385
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 11136 (32 RYNEVELD STREET) STELLENBOSCH – MONARCH COFFEE CARTEL

2. PURPOSE

To consider an application from Monarch Coffee Cartel, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreements of three (3) years and less has been delegated to the Municipal Manager.

There is delegated authority to the Municipal Manager to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Monarch Coffee Cartel trading of erf 11136, Stellenbosch. The application is in line with the provisions /requirements of the Outdoor Dining Policy. Under 6.2.1 are photos showing how are is currently being used. The photos were taken by the property management unit. The applicant does not have any lease agreement or previous encroachment agreement with the municipality and is not paying rent for current use. The applicant was served with a letter to request compliance and subsequently filed an application.

They have not specified a requested time for the lease and the area they are interested in is 18 m².

The applicant has not submitted a diagram which indicates the area they are interested in. Compliance with the requirements is however evident from the photographs in the item taken by the contract management team.

The department can support the application subject to them providing the required outstanding documentation.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.8**RESOLVED**

- 5.1. That the land 11136, measuring approximately 18m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

-
- 5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director: Corporate Services
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088073
E-MAIL ADDRESS	Annalene.debeer@ Stellenbosch.gov.za
REPORT DATE	2023-10-19

7.3.9	PROPOSED LEASE AGREEMENT: ERF 9547 (cnr CHURCH AND ADRINGA STREETS), STELLENBOSCH: JAVABISTRO AND CO
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Collaborator No:	759386
IDP KPA Ref No:	Good Governance
Meeting Date:	16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 9547 (cnr CHURCH AND ADRINGA STREETS), STELLENBOSCH: JAVABISTRO AND CO

2. PURPOSE

To consider an application from Java Bistro and Co, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has the delegated authority to enter into lease agreements under three (3) years.

The Municipal Manager has existing delegations to enter into agreements on behalf of Council.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Java Bistro Co trading from erf 9547, Stellenbosch. The current area being used is not in line with the provisions /requirements of the Outdoor Dining Policy. There is not sufficient walkway left for the public in that the seating does not provide a 1.5m area for sidewalk users. Under 6.2.1 are photographs of the current area being used by the establishment. The photos were taken by the Property Management unit. The applicant does not have a lease agreement or previous encroachment agreement with the municipality and is therefore currently not paying any rent for use of the area. We served the applicant with a letter requesting that they apply for the outdoor dining lease to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in and currently using is 42m². They have filed a diagram with the application indicating the area which also indicates that only 1.2 meters will be left open on the sidewalk. The department cannot support the application based on the current use.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.9**RESOLVED**

that this application be referred to the Heritage Advisory Committee.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director: Corporate Services</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	021-8088073
<i>E-MAIL ADDRESS</i>	Annalene.debeer@stellenbosch.gov.za
<i>REPORT DATE</i>	2023-11-09

7.3.10	PROPOSED LEASE AGREEMENT: ERF 1859 (36 RYNEVELD STREET) STELLENBOSCH, VADAS PASTES DE NATA AND CAFE
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Collaborator No: 759387
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 1859 (36 RYNEVELD STREET) STELLENBOSCH, VADAS PASTES DE NATA AND CAFÉ

2. PURPOSE

To consider an application from Vada Pastes de Nata and Cafe, to enter into a Lease Agreement with Stellenbosch Municipality, in terms of where they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreements of three (3) years and less has been delegated to the Municipal Manager. The Municipal Manager has existing delegations to enter into agreements on behalf of the Municipality.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Vada Pastes de Nata and Cafe trading of erf 1861, Stellenbosch. The application is in line with the provisions /requirements of the Outdoor Dining Policy. Under 6.2.1 are photos showing how are is currently being used. The photos were taken by the Property management Unit. The applicant does not currently have any lease agreement or previous encroachment agreement with the municipality and is not paying rent for current use. The applicant was served with a letter to request compliance and subsequently filed an application.

They have not specified a requested time for the lease and the area they are interested in is 15 m².

The applicant has submitted a diagram which indicates the area they are interested in. It does not indicate that there is a 1.5m unobstructed walkway for pedestrian use however same is evident from the photographs taken by the contract management department.

The department can support the application.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.10**RESOLVED**

- 5.1. That the land 1859, measuring approximately 15m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

-
- 5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director: Corporate Services</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	Annalene.debeer@ Stellenbosch.gov.za
<i>REPORT DATE</i>	<i>2023-11-09</i>

7.3.11	PROPOSED LEASE AGREEMENT: ERF 4163 (7 CHURCH STREET), STELLENBOSCH: CAFÉ SOFIA
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Collaborator No: 759389
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 4163 (7 CHURCH STREET), STELLENBOSCH: CAFÉ SOFIA

2. PURPOSE

To consider an application from Café Sofia, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has the delegated authority to enter into lease agreements under three (3) years.

The Municipal Manager has approved delegations to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Café Sofia trading from erf 4163, Stellenbosch. The current area being used is not in line with the provisions /requirements of the Outdoor Dining Policy. There is not sufficient walkway left for the public in that the seating does not provide a 1.5m area for sidewalk users. Under 6.2.1 are photographs of the current area being used by the establishment. The photos were taken by the property management unit. The applicant does not have a lease agreement or previous encroachment agreement with the municipality and is therefore currently not paying any rent for use of the area. We served the applicant with a letter requesting that they apply for the outdoor dining lease to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in and currently using is 25m². They have also failed to file a diagram with the application indicating the area, furniture to be used and how the area of 1.5m will be left open for pedestrian use. The above information is however evident from the photographs.

The department does not support the application as indicated in the photographs. We can support one row of tables next to the shopfront to leave open the 1,5 meters area next to the curb for pedestrian use.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.11**RESOLVED**

that this application be referred to the Heritage Advisory Committee.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director: Corporate Services</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	<i>021-8088073</i>
<i>E-MAIL ADDRESS</i>	Annalene.debeer@Stellenbosch.gov.za
<i>REPORT DATE</i>	<i>2023-11-09</i>

7.3.12	PROPOSED LEASE AGREEMENT: ERF 8394 (19 ADRINGA STREET) STELLENBOSCH, FIDDERS CAFE
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Collaborator No: 759389
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 8394 (19 ADRINGA STREET) STELLENBOSCH, FIDDERS CAFÉ

2. PURPOSE

To consider an application from Fidders (Pty) Ltd t/a Fidders Cafe, to enter into a Lease Agreement with Stellenbosch Municipality, in terms of where they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreements of three (3) years and less has been delegated to the Municipal Manager.

The Municipal Manager has approved delegations to enter into agreements on behalf of the Municipality.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Fidders Cafe trading of erf 8394, Stellenbosch. The application does include a diagram of the intended use although the area is currently not being used as the applicants are waiting for approval from council. This is commendable as most restaurants do first and ask later. The contract management team attended to an inspection and this specific space has sufficient walkway and if the applicant places four tables as indicated on their diagram and they will therefore be compliant with the Outdoor Dining policy in terms of 1.5m unobstructed walkway to be left open as well as 80cm next to the street for car doors to open. Under 6.2.1 are photos showing the area they are interested in as well as the furniture they are intending on using on the sidewalk. The photos were taken by the property management unit. The applicant does not have an agreement with the municipality at the moment and applied without us requesting them to.

They have not specified a requested time for the lease and the area they are interested in is 12 m².

The department supports the application provided that they comply with the provisions as set out.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.12**RESOLVED**

- 5.1. That the land 8394, measuring approximately 12m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director: Corporate Services
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088073
E-MAIL ADDRESS	Annalene.debeer@ Stellenbosch.gov.za
REPORT DATE	2023-11-09

7.3.13	PROPOSED LEASE AGREEMENT: ERF 2051 (5 PLEIN STREET), STELLENBOSCH: GARY ROM MAN
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Collaborator No: 759390
IDP KPA Ref No: Good Governance
Meeting Date: 16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 2051 (5 PLEIN STREET), STELLENBOSCH: GARY ROM MAN

2. PURPOSE

To consider an application from Gar Rom Man Stellenbosch, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of the lease agreement of three (3) years and less has been delegated to the Municipal Manager. The Municipal Manager has approved delegations to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes (seating only) has been received from Gary Rom Man trading from erf 2051, Stellenbosch. The application is in line with the provisions / requirements of the Outdoor Dining Policy. Under 6.2.1 are photos showing how the area is currently being used. The photos were taken by the property management unit. The applicant does not have a lease agreement with the municipality and is not paying rent for the use of the area. We served the applicant with a letter requesting that they apply for the outdoor dining lease in order to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in is 6m².

They have not filed a diagram to indicate placement of furniture, however the same is evident from the photographs in the item. An area of 1.5m is left open for public and pedestrian use of the sidewalk.

The department can support the application provided that appropriate demarcation is done to prevent spilling into a bigger area. We are currently awaiting some guidelines from eth heritage advise committee.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.13**RESOLVED**

- 5.1. That the land 2051, measuring approximately 6m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- 5.2. That the application for outdoor dining be approved for an initial period of 3 years with the option of a renewal subject to the following conditions:
- 5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.
- 5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, next to the street curb, the municipal manager is mandated to amend the layout and demarcation of the area when approving the layout.
In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.
- 5.2.3 That a site development plan be submitted for approval which must address at least the following requirements:
- (a) Demarcation of the lease area relative to its abutting context with the street, the user property, and neighbouring properties. The demarcation of the outdoor dining area should preferably where possible be demarcated by natural features like for example plants. If such demarcation is not possible the delimitation must be indicated on the plan with lines and applicable measurements. A line indicating the area for outdoor dining may also be used. In the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.
- (b) Indicate the accurate location of all existing infrastructure, landscaping features and street furniture. The layout of all furniture and features that will be used for the outdoor dining activity.
- 5.2.4 Demarcation must be provided and maintained by the lessee.
- 5.2.5 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council and if such signs is displayed it must be within the demarcated area. All signs and outdoor dining furniture outside the demarcated area can be confiscated and repeated offences may result therein that the lease be cancelled forthwith.
- 5.2.6 All umbrellas to be used has to be at least 2.2m high and may not have any signage on them.
- 5.2.7 Any awnings will require pre-approval from council.
- 5.2.8 Council is indemnified against all possible 3rd party claims.
- 5.2.9 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.
- 5.2.10 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

-
- 5.3 That the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director: Corporate Services</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	Annalene.debeer@stellenbosch.gov.za
<i>REPORT DATE</i>	<i>2023-11-09</i>

7.3.14	PROPOSED LEASE AGREEMENT: ERF 143, FRANSCHHOEK: COL'CACCHIO
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Collaborator No:	759391
IDP KPA Ref No:	Good Governance
Meeting Date:	16 November 2023

1. SUBJECT: PROPOSED LEASE AGREEMENT: ERF 143, FRANSCHHOEK: COL'CACCHIO

2. PURPOSE

To consider an application from Carido 165 CC on behalf of Col'Cacchio Franschhoek, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreement of three (3) years and less has been delegated to the Municipal Manager.

The Municipal Manager has approved delegations to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of the building wherein Col'Cacchio Franschhoek trades, trading from erf 143, Franschhoek. The application is in line with the council resolution setting out the requirements for the application and is supported by the Engineering Department. Under 6.2.1 are photos showing how area was used before the September floods. The photos were taken by the property management unit. The applicant does have a previous encroachment agreement with the municipality which has lapsed but continued to pay the fee. The previous agreement is attached hereto as **APPENDIX 1**.

They have not specified a requested time for the lease and the area they are interested in is 300 m². They have however not made it clear on their draft plan of what furniture will be used and how the area will be demarcated.

During the floods in September this area suffered a severe damage and was not usable. The applicants informed us that they are not going to pay any fees until the municipality rectifies the damage.

There is a need for parking in Franschhoek and this property is situated next to the building used for the Wine Tourism in Franschhoek.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.14

RESOLVED

that the application be referred back for renegotiation.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director: Corporate Services
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088018
E-MAIL ADDRESS	Annalene.debeer@ Stellenbosch.gov.za
REPORT DATE	2023-11-09

7.3.15	LEASE AGREEMENT APPLICATION: USE OF COUNCIL-OWNED LAND FOR PARKING PURPOSES: ATTERBURY: PORTION OF LEASE FARM 369P
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Collaborator No: 759383
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: LEASE AGREEMENT APPLICATION: USE OF COUNCIL-OWNED LAND FOR PARKING PURPOSES: ATTERBURY: PORTION OF LEASE FARM 369P

2. PURPOSE

To consider the application from Atterbury to lease a portion Farm 369P (also known as Trumali parking) for parking purposes for a period of 9 Years and 11 months.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreement of three (3) years and less has been delegated to the Municipal Manager.

The Municipal Manager has approved delegations to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

When this property (Farm 961/3) was previously owned by Medi Clinic, they had an Encroachment Agreement with Council to use the portion of Farm 369P for parking purposes. This area was excluded from the K.W.V Lease Agreement. This agreement, however, lapsed when they sold the property and relocated their offices to the ex-BAT property in Stellenbosch.

Council on 2020-11-25 considered a request from Attebury to lease Farm 369P (also known as Trumali parking) for parking purposes and inter alia resolved :

- that council in principle approves the lease agreement with Atterbury, to enable them to use a portion of Lease Farm 369P, consisting of 100 parking bays;
- provided that Council's intention to conclude a lease Agreement with Atterbury for a period of 12 months be advertised for public comments/inputs/objections, where after a Council will consider any inputs and then make a final determination in this regard;
- that council lease the land based on the "encroachment" parking tariffs as approved in the latest tariff book; and
- that the applicants be allowed to use the parking bays until council can make a final determination provided that the tariff set out in the tariff book is paid on a monthly basis".

The notice was published and no objections were received.

The matter served again before Mayco in May 2021 **EXECUTIVE MAYORAL COMMITTEE: 2021-05-19: ITEM 7.2.3 RESOLVED**

- (a) that Council takes note of the fact that no comments/inputs or objections were received on the advertisement indicating an intention to lease the property for 12 months;
- (b) that Council approves the lease agreement for 12 months;
- (c) that the Municipal Manager be delegated to determine a market-related rental amount; and
- (d) that the new request of Atterbury follows the normal process after the Task Team completed the process on the assessment of Council properties.

No record can be found that the previous Manager Property Management concluded the agreement with Attebury for the parking area.

Attebury when informed about the in-principle council resolution in 2020 however, requested that the term of Lease be for a period of 9 years and 11 months. This request could not be considered at that stage as the public participation process was dealt with based on a 12-month lease agreement. Council also requested the Municipal Manager to follow a process to assess council properties and report back by December 2021.

Atterbury has again applied to lease the already developed parking area consisting of 100 parking bays for additional parking bays for their staff.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.15

RESOLVED

that this matter be referred to the Special Mayoral meeting of December 2023.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Annalene de Beer</i>
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	<i>021-8088018</i>
E-MAIL ADDRESS	<i>annalene.debeer@stellenbosch.gov.za</i>
REPORT DATE	<i>2023-011-09</i>

7.3.16	RENEWAL OF LEASE AGREEMENT APPLICATION: USE OF COUNCIL-OWNED LAND FOR TELECOMMUNICATIONS BASE STATION ON ERF 46 LANQUEDOC (LANQUEDOC SPORTS GROUNDS)
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Collaborator No: 759331
 IDP KPA Ref No: Good Governance
 Meeting Date: 16 November 2023

1. SUBJECT: RENEWAL OF LEASE AGREEMENT APPLICATION: USE OF COUNCIL-OWNED LAND FOR TELECOMMUNICATIONS BASE STATION ON ERF 46 LANQUEDOC (LANQUEDOC SPORTS GROUNDS)

2. PURPOSE

For Council-to consider the request from Helios Towers (Pty) Ltd for the lease of a portion of Council-owned land for an existing Telecommunications Base Station (previously leased by Eagle Towers).

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The approval of lease agreement of three (3) years and less has been delegated to the Municipal Manager.

The Municipal Manager has approved delegations to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

A lease agreement was entered into between the Municipality and Eagle Towers on 14 June 2018 an initial period will be 5 years with the option to renew for a further 4 years and 11 months. This lease agreement was ceded over to Helios Towers by Eagle Towers and the lease is up for renewal as from July 2023 for a further period of 4 years and 11 months. The property Management Department was informed about the cession agreement between Eagle Towers and Helios Towers during May 2020. Helios Towers has brought an application for lease of municipal land, and they have also provided a lease agreement subject to the approval of Council. It must be noted that their proposal is for 9 years and 11 months and not just for the remainder of the period as per the 2018 agreement and the cession agreement that was signed in 2020.

The department does not support the application outside the original agreement which gave an option for another 4 years and 11 months.

EXECUTIVE MAYORAL COMMITTEE: 2023-11-16: ITEM 7.3.16**RESOLVED**

- (a) that erf 46 Lanquedoc (Lanquedoc Sports Grounds) be identified as land not needed to provide basic services but is required for the delivery of services to residents;
- (b) that Helios Towers be allowed to lease the existing Telecommunication Base station for the additional period of 4 years and 11 months from 1 July 2023 subject to Council advertising the intention for public input and comments; and
- (c) that the applicant continues to pay rent for the current structure and until a renewal agreement is signed.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Annalene de Beer</i>
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	<i>021-8088073</i>
E-MAIL ADDRESS	annalene.debeer@stellenbosch.gov.za
REPORT DATE	<i>31/10/2023</i>

7.3.17	POSSIBLE DISPOSAL OF A PORTION 7 OF ERF 3363 STELLENBOSCH (23 SIMONSBURG STREET)
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

16 November 2023

1. SUBJECT: POSSIBLE DISPOSAL OF A PORTION 7 OF ERF 3363 STELLENBOSCH (23 SIMONSBURG STREET)

2. PURPOSE

To obtain Council's in principle approval for the disposal of Erf Portion 7 of Erf 3363 Stellenbosch situated at 23 Simonsburg Street.

3. DELEGATED AUTHORITY

For decision by Municipal Council.

4. EXECUTIVE SUMMARY

Stellenbosch Municipality is the registered owner Erf 3363 Stellenbosch. This is a large property which includes several residential properties, offices, the Beltana Depot and large portions of the Botmaskop Nature Area.

Portion 7 of Erf 3363 is better known as No. 23 Simonsburg Street, Stellenbosch. This property was used for staff housing and later as offices however the property has been vacant for some time now. The property has been vandalised and it is not intended to be used for municipal employee housing any further.

The vacant property is causing issues for the broader community due to the vandalization and the fact that the property is not maintained as it is vacant. Corporate Services Directorate therefore recommends that the property be alienated by way of public auction although it still falls under the housing rental properties portfolio. The property must still be subdivided from the bigger erf.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.3.17

that this item be referred to Council.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	021-8088018
E-MAIL ADDRESS	annalene.debeer@stellenbosch.gov.za
REPORT DATE	15/11/2023

7.3.18	RETURN ITEM: REPORT ON FRANSCHHOEK JEUGONTWIKKELINGSTRUST
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

16 November 2023

1. SUBJECT: RETURN ITEM: REPORT ON FRANSCHHOEK JEUGONTWIKKELINGSTRUST

2. PURPOSE

For Council to consider further action in the matter.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Erf 580 was donated to the “Voortrekkerbeweging van Suid Afrika, Franschhoek Kommando”, however, the fall-back clause was activated during 2001. The “Voortrekkerbeweging” agreed to give the erf back on conditions. One of the conditions was that a Youth Trust be establishment. Subsequently, the Franschhoek Jeugontwikkelingstrust was established on 19 June 2002. The then Councillor, Andricus van der Westhuizen, was appointed as trustee to act on behalf of the Municipality when the Trust was registered.

The Trust Deed provided in clause 12 that in the event that the trustees unanimously, and in their discretion decide that the objective of the Trust is not fully fulfilled, they have the right to immediately end the trust, liquidate it and transfer the balance of its assets to the Stellenbosch Municipality. This provision was however amended to replace the Municipality as “beneficiary” of the assets of the Trust should the Trust be dissolved with a non-governmental charity organisation. The municipality has never received any feedback from the Trust regarding their actions to fulfil the objectives of the trust. Erf 2886, Franschhoek is registered in the name of the trust and belonged to the Municipality before donated to the trust. The land is currently littered with debris from the adjacent La Lude wine Estate and recently it has come to our attention that there are illegal occupants on the land. When this was brought to the attention of the trust the trust wrote an email to request the Municipality’s help with the illegal occupiers (**ANNEXURE 8**). Legally the municipality may not spend money on another landowner’s property and where the municipality has in past done so the owner undertook to pay the money back to the municipality. There is no such offer from the trust contained in the email. The current situation with illegal occupation and the trust’s inability to deal with it put that asset at risk of being invaded beyond control.

Despite the indication by email that there is information available none such information was forwarded to the municipality. The Municipality was removed as a “beneficiary” of the assets of the trust (after dissolution of the trust). Further, and as is detailed hereinbelow, Mr Andricus van der Westhuizen is no longer a Councillor at the Municipality which has the ultimate effect that the Municipality, as founder of the Trust, no longer has a representative as trustee and accordingly has no input into the activities of the trust or its assets.

The matter served before Council in August 2023 and was referred back to have discussions with the trust. The Municipality's attorneys had "without prejudice" meetings with two of the trustees and reports that the proposals made by the trust includes that they are willing to again amend the Trust Deed to provide that the municipality "beneficiary" of the assets of the trust (after dissolution) provided that it does not affect their status as an NGO. They also claim that they are operational. In terms of the trust Deed can decide if they are fulfilling the objectives of the trust. They have not been able to provide concrete evidence of any of the benefits for the greater community. No facility has been developed and all the plans brought forward is only on paper. There have been no clear developments that benefits the youth from what was presented. No information was forwarded to the municipality despite the request to send information.

Mr van der Westhuizen wrote a letter to the municipality dated 29 September 2023 and the copy of the letter is attached as **ANNEXURE 9**.

Our attorney's had an informal and without prejudice discussion with Mr van der Westhuizen and 1 of the other trustees on 3 October 2023. We are advised inter alia that council should take the following into consideration in making a decision on a way forward:

- a) The trust informed the attorney that they have plans with the property – allegedly for an international sport centre, but there are no official plans or agreements in place.
- b) It has been two decades since the trust was established and no concrete development has taken place and no information has been provided that the trust is achieving its objectives. The trust however leaves that decision in the hands of the trustees.
- c) The present illegal occupation is a big red flag.
- d) There is no way to know if the municipality's reinstatement as a will affect the Trust's status as an NGO and the municipality is advised not to agree to such a condition unless they are certain that the condition can be fulfilled.
- e) Even if the municipality is again added as "beneficiary" to the trust the municipality still has no representation on the trust and no guarantee that we will receive feedback or will not be removed as "beneficiary again.
- f) The municipality is not a "beneficiary" of the trust anymore as they have been removed unilaterally by the trustees and can therefore not be bound by any provision in the trust document about mediation and arbitration.
- g) The fact that the Municipality does not have a representative as trustee affects the Municipality's involvement in the trust decisions etc.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.3.18

that this item be referred to Council.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	Director
<i>DIRECTORATE</i>	Corporate Services
<i>CONTACT NUMBERS</i>	021 808 8018
<i>E-MAIL ADDRESS</i>	Annalene.deBeer@stellenobsoch.gov.za
<i>REPORT DATE</i>	1 November 2023

7.3.19	REPORT ON POSSIBLE MANAGEMENT MODEL FOR RHENISH COMPLEX ERF 9672, STELLENBOSCH
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

16 November 2023

1. SUBJECT: REPORT ON POSSIBLE MANAGEMENT MODEL FOR RHENISH COMPLEX ERF 9672, STELLENBOSCH

2. PURPOSE

To inform council about a possible option for the management of the Rhenish complex that forms part of the heritage portfolio which Council requested the municipal manager to investigate solutions for the management and maintenance of the heritage buildings.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

The Rhenish Complex as its colloquially known is located on Erf 9672 Stellenbosch the subject complex is currently developed with a number of buildings – see **APPENDIX 1**. Council resolved as part of the resolution dealing with the property framework that it is recognised as one of the historic portfolio properties and that as such it would remain the property of the municipality whilst finding ways to manage and maintain the properties for the community.

The Historiese Huise van Suid-Afrika Limited submitted a written proposal which is attached as **APPENDIX 2** to the Municipality to get involved in the much-needed restoration, maintenance, management and sustainable use of the Rhenish complex. This includes what is commonly known as the PMU building where the ward offices are situated as well as the old information centre in Market street. The exact details of how this project is envisaged to work is not yet clear and they propose as a next step for the municipality to indicate its willingness to support and participate in the project and to enter into a non-binding memorandum of understanding that will allow the appointment of a project manager and the implementation of further steps to develop a model for the maintenance and management of the complex.

Historiese Huise van Suid Afrika has a long history of involvement with the preserving and management of historical assets all over the country and has the expertise of how to maintain and sustainably manage such historical buildings and properties. They have several of these properties as part of their own portfolio.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.3.19

- (a) that council take note of the proposal from Historiese Huise van Suid Afrika;
- (b) that council supports the Municipalities participation in the project;
- (c) that the Municipal Manager be authorised to enter into a non-binding memorandum of understanding to investigate how the project may be rolled out; and
- (d) that once the investigation is concluded the matter be resubmitted for Council consideration.

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	<i>Municipal Manager</i>
DIRECTORATE	<i>Office of the Municipal Manager</i>
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	Municipal.Manager@Stellenbosch.gov.za
REPORT DATE	14 November 2023

7.4	FINANCIAL SERVICES: (PC: CLLR J FASSER)
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NONE

7.5	HUMAN SETTLEMENTS: (PC: CLLR R DU TIOT)
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7.5.1	STELLENBOSCH MUNICIPALITY: DRAFT INTEGRATED HUMAN SETTLEMENT PLAN (IHSP) FOR THE PERIOD 2022 - 2027
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Collaborator No: 758926
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 November 2023

1. SUBJECT: STELLENBOSCH MUNICIPALITY: DRAFT INTEGRATED HUMAN SETTLEMENT PLAN (IHSP) FOR THE PERIOD 2022 – 2027

2. PURPOSE

To approve the draft Integrated Human Settlement Plan (IHSP), 2022 – 2027, compiled in accordance with the Provincial Department of Infrastructure (previously known as Provincial Department of Human Settlements) guidelines and aligned with the Integrated Development Plan (IDP) and Municipal Spatial Development Framework (MSDF), for public participation.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The National Housing Act 107 of 1997 requires that all municipalities must plan to facilitate the delivery of housing opportunities as part of their overall plan for their municipality.

The aim of the draft Integrated Human Settlements Plan (IHSP) is therefore:

- To outline the Municipality's implementation plan in providing for the housing needs of its steadily growing and increasing population.
- to enable the Municipality to prepare funding applications for submission to the Provincial Department of Infrastructure, that are consistent with funding conditions and included in the municipal IDP and Housing Pipeline, as per Provincial Department of Infrastructure guidelines is a requirement; and
- To inform the municipal Housing Pipeline spanning over ten years reflected in five-year periods the funding required in the Provincial Department of Infrastructure's Business Plan.

The development of the IHSP will therefore not only comply with the requirements of the National Housing Act whereby the municipality are obliged to facilitate the delivery

of housing opportunities as part of their municipal but will also develop credible Housing Pipeline and operational models for human settlements development within the WC024.

The draft Integrated Human Settlements Plan is a component of the Integrated Development Plan (IDP) and therefore outlines the Human Settlements contribution to the Municipality's five-year Integrated Development Plan (2022 – 2027).

It should be further mentioned that the need for shelter within the Stellenbosch Municipal area is outlined in the Spatial Development Framework (SDF). By 2036, the need for subsidised housing was projected as 40 953 opportunities consisting of and separated between 17 847 indigent and 23 106 others (excluding privately funded).

The draft IHSP also commits to the following principle aligned with the IDP and SDF focus areas:

IDP & SDF Focus Areas	IHSP Principles	IHSP Implication
Valley of Possibility	Equal access	Require well located land
Safe Valley	Place Identify	Provide for amenities & safe communal spaces
Dignified Living	Well-being & individual capability.	Secured tenure (title or rental)
Good Governance and compliance	Corporate capabilities	Secured funds & services
Green & sustainable valley	Resource frugal	Healthy ecological infrastructure

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.4.1

- (a) that Council take note that the process of public participation has been concluded;
- (b) that gentrification be investigated and that the necessary instruments (including policy) be developed to address the occurrence thereof which could be included in the MSDF; and
- (c) that the Integrated Human Settlements Plan be adopted by the Council.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Lester van Stavel</i>
POSITION	<i>Manager: Housing Development</i>
DIRECTORATE	<i>Planning & Economic Development, Integrated Human Settlements</i>
CONTACT NUMBERS	<i>021 808 8462</i>
E-MAIL ADDRESS	<i>Lester.vanstavel@stellenbosch.gov.za</i>
REPORT DATE	

7.6	INFRASTRUCTURE SERVICES : (PC : CLLR P JOHNSON)
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7.6.1	STELLENBOSCH STATION PARKING AREA
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Collaborator No: 758593
IDP KPA Ref No: Good Governance & Compliance
Meeting Date: 16 November 2023

1. SUBJECT: STELLENBOSCH STATION PARKING AREA

2. PURPOSE

That Council takes note of this report and approves the proposals contained herein.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

Taxi operators are currently using the Stellenbosch Station parking area as a holding and loading facility, which is problematic since adequate provision is not made for such a facility at this location. The lack of public parking spaces, increasing activities in taxi operators, lack of ablution facilities, increase in noise, litter etc are some of the complaints from the community that the municipality receives on a regular basis.

Following an internal assessment of the matter, it was confirmed that the Stellenbosch Station parking area must be re-established as a parking area, as it would address a parking need in the area and function as a park and ride when train services resume. Utilizing the area as a tour bus facility is not feasible since the Municipality has tour bus facilities earmarked for implementation in the medium term.

The Bergzicht Taxi Rank is proposed as the alternative ranking location for those with valid permits. The provision of an adequate relocation facility must be complete and operational before the Stellenbosch Station Parking area can be re-established as a parking area.

When taxi operators are relocated to the new facility, the Municipality should undertake assessments to determine the most appropriate parking management model. The most appropriate parking management model should be implemented ensuring that the parking area operates efficiently and ensuring that the concerns raised by the community are addressed.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.6.1

that Council makes provision for assessments to determine the most appropriate parking management model for the Stellenbosch Station parking area.

7.6.2	DENNESIG NEIGHBOURHOOD PEDESTRIANISATION
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Collaborator No: 758590
 IDP KPA Ref No: Good Governance & Compliance
 Meeting Date: 16 November 2023

1. SUBJECT: DENNESIG NEIGHBOURHOOD PEDESTRIANISATION

2. PURPOSE

That Council takes note of this report and approves the proposals contained herein.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

The Municipality aims is to promote and prioritize Non-Motorised Transport (NMT), as these were outcomes from IDP consultative processes and forms part of the Municipality's and National Government's Strategic Planning. The Municipality's Comprehensive Integrated Transport Plan also list the partial or full pedestrianization of streets in CBD (Central Business District) as a strategic transport intervention.

Urban Design Guidelines and a Transport Master Plan for the Dennesig Neighborhood was approved in 2019 after receiving multiple development proposals within the area. The objective is to change the character of the neighborhood and the behavior of motorists to create "living streets" that would prioritize pedestrians and cyclists.

Pedestrianization is therefore proposed along Dennesig Road (between Bird and Hofman Streets), along Hofman Street (between Paul Kruger and Dennesig Roads) and Paul Kruger Street in front of the church.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.6.2

- (a) that the content of this report be noted;
- (b) that the Dennesig neighborhood pedestrianization be accepted as the copy to be used in a Public Participation process;
- (c) that the Dennesig neighborhood pedestrianization be duly advertised for the purpose of a public participation process; and
- (d) that upon the completion of the public participation process, together with any comments/objections be resubmitted to Council for final approval and adoption.

7.6.3	REQUEST FOR APPROVAL OF THE 2023-2028 COMPREHENSIVE INTEGRATED TRANSPORT PLAN 2023-2028
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance & Compliance

16 November 2023

1. SUBJECT: REQUEST FOR APPROVAL OF THE 2023-2028 COMPREHENSIVE INTEGRATED TRANSPORT PLAN 2023-2028

2. PURPOSE

For Council to approve the 2023-2028 Comprehensive Integrated Transport Plan.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

The Provincial Minister of Infrastructure (previously Minister of Transport and Public Works) had designated Stellenbosch Municipality as a Type 1 Planning Authority, in terms of the National Land Transport Act 2009. Stellenbosch Municipality is therefore required by legislation to compile a Comprehensive Integrated Transport Plan (CITP). CITP's are valid for a five-year period, are overhauled / reviewed every 5 years and are updated annually.

The Comprehensive Integrated Transport Plan (CITP) presents the municipality's long-term transport vision and objectives, as well as providing the strategy that would enable the municipality to realize its transport vision.

The Draft CITP was tabled at Council on the 29 March 2023, where Council accepted the Draft CITP and approved it to proceed for public comment. The Draft CITP was advertised for public comment on the 6 April 2023, and the comment period closed on the 12 May 2023.

A considerable number of comments were received from the public when the Draft CITP was advertised for public comments.

Most notable among the comments were the following: The "Dualling of Dorp Street Project" and the proposed implementation of portions of the "Eastern Link Road".

Dorp Street Dualling: This project involves the dualling of a relatively short section (300m) of Dorp Street, between Adam Tas Road and Strand Street only. Some approval processes and consultants had been undertaken up to the Preliminary Design Phase.

During the CITP public participation process however, numerous comments and enquiries have been received with respect to the Dorp Street project. The Municipality has taken note of these comments and commissioned the project team to undertake more focussed public engagements and to review the design of the Dorp Street project. To address community concerns, the following will now be included into the design of the project:

- Insertion of a median break to improve access and mobility for local residents. To prohibit any possible any rat running across the median break, the Municipality will consider signage and enforcement.
- To offset the loss of some on-street parking bays along Dorp Street and Aan de Wagen Road, the Municipality has started processes to re-establish the public parking facility opposite Stellenbosch Station, providing alternative taxi ranking facilities at Bergsig Taxi rank for the taxis currently using this parking area.
- A further analysis of the traffic flows will be undertaken, to improve access for the local residents, and to ensure that households within the block are minimally affected by the project.

Ultimately the project will improve access to residents and businesses and alleviate the congestion of all vehicles wanting to enter and exit the CBD area. Municipal Officials will also be engaging with the public during, and up to the conclusion of the Design Phase.

Eastern Link Road: The matter was also raised during the CITP Public Participation phase of the now approved Roads Master Plan which was formally approved by Council. The road formally known as the Eastern Link Road cannot be constructed as initially envisaged. In summary the Municipality proposes, within the next 10 years, to implement the Wildebosch Extension north to Trumali (Phase 1), and thereafter the possible Wildebosch Extension south to Technopark Avenue as a Phase 2. To provide more clarity on the Municipality's position on the above portions of the Eastern Link Road, amendments to various paragraphs in the Plan were made, these amended paragraphs have been highlighted in yellow.

The Directorate has the view that the final document incorporates all relevant inputs from the engagements held and duly addresses comments received when the Draft CITP was advertised for public comment.

Favourable comments were also received on the Draft Transport Vision namely:

Stellenbosch Municipality has an integrated, effective and sustainable transport system, which unlocks economic opportunities and is accessible, safe, reliable and affordable to all communities serviced by the Municipality.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.6.3

- (a) that Council takes note that, following extensive consultation sessions, the Draft Comprehensive Integrated Transport Plan (CITP) was published for public comment;
- (b) that Council adopts the Transport Vision;
- (c) that Council notes the comments received, and the Directorates view; and
- (d) that Council approves the 2023-2028 CITP.

7.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J WILLIAMS)
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NONE

7.8	PLANNING AND LOCAL ECONOMIC DEVELOPMENT AND TOURISM :(PC: CLLR C VAN WYK)
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7.8.1	PRECINCT PLAN: FUTURE DEVELOPMENT AND UTILIZATION OF THE RHENISH COMPLEX AND SURROUNDS
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Collaborator No: 758683
 IDP KPA Ref No: Valley of Opportunity
 Meeting Date: 16 November 2023

1. SUBJECT:PRECINCT PLAN: FUTURE DEVELOPMENT AND UTILIZATION OF THE RHENISH COMPLEX AND SURROUNDS

2. PURPOSE OF REPORT

To obtain approval from Council for the precinct plan for the Rhenish Complex and Surrounding area.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The Directorate: Planning and Economic Development commissioned a study to evaluate and analyse all the existing planning and planning related documentation as it relates to the future utilization of the Rhenish Complex and surrounds and to prepare a consolidated precinct plan for the area for council's consideration and approval.

The report provides an urban design framework which serves as a precinct plan that guides the future utilization, preservation and development of the study area with a view to unlock the potential of this area to play an important role to activate the Rhenish complex as a key site of cultural and heritage significance.

Council approved the advertisement of the draft report for public comment on 29 March 2023. The report was advertised on 1 June 2023 for comment after which two comments were received. The final report is now submitted to Council for consideration and approval.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.8.1

- (a) that Council approves the final precinct plan for the Future Development and Utilization of the Rhenish Complex and Surrounds attached hereto as **APPENDIX 1**;
- (b) that the approved precinct plan for the Future Development and Utilization of the Rhenish Complex and Surrounds serves as a guideline when Council considers further development on the land, consider applications for the lease of buildings or land and when considering applications on privately owned land adjacent to or that might have an impact on the Rhenish Complex and Surrounds; and
- (c) that the Municipal Manager be mandated to investigate and submit a proposal for an appropriate institutional mechanism for an overarching management structure for the role-out and implementation of the Rhenish complex and surrounds precinct plan which includes *inter alia* the management, security arrangements, restoration of buildings, development and maintenance and utilization of the properties, and that a report in this regard be submitted to the next Council meeting.

7.8.2	REQUEST TO UNDERTAKE THE PUBLIC PARTICIPATION PROCESS (“PPP”) IN RESPECT OF THE DRAFT STELLENBOSCH MUNICIPALITY EVENTS BY-LAW, 2023
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Collaborator No: 758941
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 November 2023

1. SUBJECT: REQUEST TO UNDERTAKE THE PUBLIC PARTICIPATION PROCESS (“PPP”) IN RESPECT OF THE DRAFT STELLENBOSCH MUNICIPALITY EVENTS BY-LAW, 2023

2. PURPOSE

To provide Council with the pertinent facts in order to approve that the draft Stellenbosch Municipality Events By-Law, 2023 be advertised for a period of thirty (30) days to obtain public comment in respect of the subject draft bylaw.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The draft Events By-Law aims to replace the Stellenbosch Municipality Events By-Law and is aimed at updating the current bylaw, which was adopted during 2016.

A number of concerns were raised by Local Tourism Organisations and stakeholders within the tourism fraternity regarding the outdated bylaw, as well as the tedious land use application processes which deemed it necessary for the bylaw to be updated.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.8.2

- (a) that Council take note of the draft Stellenbosch Municipality Events By-Law, 2023, attached as **APPENDIX 1** to this report, and
- (b) that Council approve that the draft Stellenbosch Municipality Events By-Law, 2023, be advertised for public comment for a period of thirty (30) days, whereafter same be resubmitted to Council for final consideration and subsequent approval in terms of the Local Government Municipal Systems Act No.32 of 2000.

7.8.3	APPOINTMENT OF ADDITIONAL BUILDING CONTROL OFFICER
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Collaborator No: 759197
 IDP KPA Ref No: Valley of Opportunity
 Meeting Date: 16 November 2023

1. SUBJECT: APPOINTMENT OF ADDITIONAL BUILDING CONTROL OFFICER

2. PURPOSE

Is to request to Council to appoint additional official, currently in the employ of the Municipality, as Building Control Officers (BCO's) to complement the existing appointed BCO to enhance service delivery.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

A Local Authority is required to appoint a Building Control Officer (BCO) to perform the prescribed duties in terms of the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977), hereafter referred to as "the Act". The designation and appointment of a BCO in accordance with the Act is a requirement of the Act, which qualified person is permitted to make recommendation to the authorized decision maker to decide on a building plan application. The purpose of this Item is to request the Council to appoint an additional official in the employ of the Municipality as BCO in terms of the Act to consider the existing appointed BCO to enhance service delivery.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.8.3

- (a) that the appointment of the following suitably qualified official in the employment of Stellenbosch Municipality as Building Control Officer in terms of such designation in Section 5 of the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977), **BE APPROVED:**
- (b) Mr. Monray Lourens

FOR FURTHER DETAILS CONTACT:

NAME	Stiaan Carstens
POSITION	Senior Manager: Development Management
DIRECTORATE	Planning and Economic Development
CONTACT NUMBERS	021 808 8674
E-MAIL ADDRESS	Stiaan.Carstens@ Stellenbosch.gov.za
REPORT DATE	06 November 2023

7.8.4	APPROVAL OF THE CORE FESTIVE PERIOD AND ARRANGEMENTS FOR THE PROCESSING OF LAND USE AND BUILDING PLAN APPLICATIONS AND ASSOCIATED PUBLIC PARTICIPATION
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Collaborator No: 759199
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 November 2023

1. SUBJECT: APPROVAL OF THE CORE FESTIVE PERIOD AND ARRANGEMENTS FOR THE PROCESSING OF LAND USE AND BUILDING PLAN APPLICATIONS AND ASSOCIATED PUBLIC PARTICIPATION

2. PURPOSE

To seek approval for arrangements for the processing and associated public participation pertaining to land use planning and building plan applications over the festive period.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Land use and building development applications are subject to prescribed legislative timeframes and associated public participation processes. During the festive season most families undertake extended holiday breaks away from home, which presents a challenge when most staff is also on holiday breaks and during which notices are not received by potential interested and affected parties on land use applications. For this purpose, it has become a practice to determine a core festive period during which public participation is not permitted or, alternatively, that such periods are disregarded with the extension of notice periods, and that such core festive period is also not taken into account in the prescribed timeframes for the processing for such applications. It is consequently proposed to adopt these arrangements to ensure ongoing compliance with legislative prescripts on timeframes as well as fair administrative processes regarding public participation for any potential interested and affected parties.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.8.4

that the core festive period determined as 14 December 2023 to 12 January 2024 **BE APPROVED** for the purpose:

- (a) That no serving or publishing of land use and land development application notices be undertaken during the determined core festive period.
- (b) That the determined core festive period is not taken into account for purposes of calculating the number of days for public participation and/ or the processing of land use and building development applications, and that any such periods affected be accordingly extended.

- (c) That any new land use and building plan applications submitted during the determined core festive period will not be administratively processed and that this period will also not be taken into account for the purpose of calculating any of the legislative prescribed timeframes for the processing of land use and building plan applications.
- (d) That no appeal period can commence which will be affected by the core festive period and that no notifications of decisions on land use applications will be communicated after 1 December 2023, and only be communicated from 12 January 2024.

FOR FURTHER DETAILS CONTACT:

NAME	Stiaan Carstens
POSITION	Senior Manager: Development Management
DIRECTORATE	Planning and Economic Development
CONTACT NUMBERS	021 808 8674
E-MAIL ADDRESS	Stiaan.carstens@ Stellenbosch.gov.za
REPORT DATE	6 November 2023

7.8.5	TO REQUEST COUNCIL'S APPROVAL TO PILOT THE BICYCLE PARK AND WALK FACILITIES INITIATIVE WITHIN THE WC024 AREA FOR A PERIOD OF 12 MONTHS
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Collaborator No: 759241
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 November 2023

1. SUBJECT: TO REQUEST COUNCIL'S APPROVAL TO PILOT THE BICYCLE PARK AND WALK FACILITIES INITIATIVE WITHIN THE WC024 AREA FOR A PERIOD OF 12 MONTHS

2. PURPOSE

To request Council's approval to pilot the Bicycle Park and Walk Facilities concept within the WC024 for a period of twelve (12) months.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

The Municipality aims is to promote and prioritize Non-Motorised Transport (NMT), as these were outcomes from IDP consultative processes and forms part of the Municipality's and National Government's Strategic Planning.

Stellenbosch Trail Fund (STF) approached Stellenbosch Municipality with the concept idea of having Bicycle Park and Walk Facilities within the Central Business District, with each facility being no larger than 40m².

Three sites have been identified by Stellenbosch Trail Fund as possible Park and Walk facilities, being a portion of the Bloemhof parking, a portion of the Eikestad Mall Parking and a portion next to Town Hall. Comment from internal Departments have found these proposed sites to not all be suitable and have requested that the initiative be supported but that further discussion be had with the Stellenbosch Trail Fund around the identification of more suitable sites to accommodate such an initiative.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.8.5

- (a) that Council approve the request to pilot the initiative of Bicycle Park and Walk Facilities concept; and
- (b) that further consultation and engagement with Stellenbosch Trail Fund take place to identify more suitable Bicycle Park and Ride sites.

Name	Lesley van Gensen
Position	Manager: Economic Development and Tourism
Directorate	Planning and Economic Development
Contact Numbers	021 808 8179
E-mail Address	Lesley.vangensen@stellenbosch.gov.za
Report Date	01.11.2023

7.8.6	PERMISSION TO ALLOW FOR AN EXTENSION OF MOBILE UNITS TO TRADE AT PRE-DETERMINED SITES WITHIN THE WC024 AREA
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Collaborator No: 759296
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 November 2023

1. SUBJECT: PERMISSION TO ALLOW FOR AN EXTENSION OF MOBILE UNITS TO TRADE AT PRE-DETERMINED SITES WITHIN THE WC024 AREA

2. PURPOSE

Is to request approval for the extension of the pilot for mobile trucks / kiosks on predetermined sites for a period of one (1) year.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Mobile traders, often referred to as street vendors or food trucks, offer several benefits in cities. These mobile businesses have become increasingly popular and have a significant impact on urban areas. Some of the benefits are accessibility to the community, promotion of entrepreneurship. It acts as a stimulus for local economic development and growth and through this alleviating joblessness.

On the 9th Council Meeting dated 2022-11-23: ITEM 11.9.1 Council resolved as follows:

- a) that Council approves the request of the Directorate: Planning & Economic Development for the pilot period of one (1) year in order to issue permits to informal traders using mobile units to trade within pre-determined areas in accordance with the terms and conditions as set out under 6.2 of this report;
- b) that Council approve that such mobile informal trading also be allowed on the premises of the Stellenbosch Municipality`s Traffic Department (Stellenbosch), Jan Marais Park, or any other identified municipal property, with approval from the user Department of such property; and
- c) that the Section: Economic Development & Tourism in consultation with the Director: Community & Safety Services and Directorate: Infrastructure Services allocate such trading bays and areas within the premises of the Traffic Department (Stellenbosch) or on any other pre-determined areas.

To date, four (4) mobile trading licences have been issued, however interest increased towards the end of this pilot. We anticipate ten mobile trading permits, inclusive of the current four, for the next year, which indicates a growth of 60%.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.8.6

that Council approve the extension of the Mobile Trading Pilot as approved in Council on 23 November 2022 for another year.

FOR FURTHER DETAILS CONTACT:

NAME	Carmen Saville
POSITION	<i>Local Economic Development Officer: LED & Tourism</i>
DIRECTORATE	<i>Planning & Economic Development</i>
CONTACT NUMBERS	021 808 8151
E-MAIL ADDRESS	Carmen.saville@ Stellenbosch.gov.za
REPORT DATE	18 October 2023

7.9	COMMUNITY SERVICES:(PC: CLLR X KALIPA)
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NONE

7.10	RURAL MANAGEMENT: (PC: CLLR J JOON)
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7.10.1	RETURN ITEM: REQUEST FOR THE ALLOCATION OF FARM No(s): 502BH PORTIONS 9 AND 10, AND 502BH PORTIONS 23 AND 24 TO EMERGING FARMERS IN ACCORDANCE WITH THE STELLENBOSCH MUNICIPALITY POLICY FOR MANAGEMENT OF MUNICIPAL AGRICULTURAL LAND, 2016
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Collaborator No: 758951
 IDP KPA Ref No: Valley of Opportunity
 Meeting Date: 16 November 2023

1. SUBJECT: RETURN ITEM: REQUEST FOR THE ALLOCATION OF FARM No(s): 502BH PORTIONS 9 AND 10, AND 502BH PORTIONS 23 AND 24 TO EMERGING FARMERS IN ACCORDANCE WITH THE STELLENBOSCH MUNICIPALITY POLICY FOR MANAGEMENT OF MUNICIPAL AGRICULTURAL LAND, 2016

2. PURPOSE

To provide Council with the pertinent facts in order to approve the request to allocate the subject two (2) agricultural land portions to emerging farmers as prescribed in the said Policy.

3. DELEGATED AUTHORITY

Executive Mayor in consultation with the Executive Mayoral Committee has the delegated powers, in terms of Stellenbosch Municipality: System of Delegations as amended on 22 June 2022 to approve lease agreements of Council properties for a period shorter than 10 years and a contract value of less than R5 million.

4. EXECUTIVE SUMMARY

Stellenbosch Council adopted "The Policy for the Management of Municipal Agricultural Land (2016)" with the purpose of availing agricultural land for emerging farmers. The item deals with the allocation of vacant municipal land to successful land applicants after Council resolved to advertise portions of vacant municipal agricultural land for leasing purposes to current and potential emerging farmers.

Portions 502BH 17 and 18; and Portion 502AU was allocated in terms of council resolution on 25 October 2023 and the Portion 502BH 9 and 10, and Portion BH 23 and 24 was referred back by the Mayoral Committee on 11 October 2023 for re-consideration.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2023-11-16: ITEM 7.10.1

- (a) that Council takes note of the process undertaken in allocating the two (2) municipal agricultural land units to emerging farmers. This process encompasses the minutes of a clarification meeting and the conclusions reached by the Operational Committee. The minutes are provided as **APPENDIX 1** for reference;

- (b) that Council **approves** that Farm No.: 502BH, Portions 9 and 10, Stellenbosch Division, in extent of 5ha with 2ha of allocated water rights, be awarded to Veldt Boerdery, copy of application is attached as **APPENDIX 2**;
- (c) that Council **approves** that Farm No.: 502BH, Portions 23 and 24, Stellenbosch Division, in the extent of 5ha with 2ha of allocated water rights, be awarded to Herbal View Hydroponics, copy of application is attached as **APPENDIX 3**;
- (d) that Council approve that the land units awarded in (b) and (c) be leased for a period of less than 10 years, with the option of renewal; and
- (e) that Council **take note** that the monthly rental amount for emerging farmers is determined as per the calculation for the previously allocated tariff for emerging farmers.

FOR FURTHER DETAILS CONTACT:

NAME	Mark Harris
POSITION	Senior Economic Development Officer
DIRECTORATE	Planning and Economic Development
CONTACT NUMBERS	021 808 8159
E-MAIL ADDRESS	<u>Mark.Harris@stellenbosch.gov.za</u>
REPORT DATE	29 September 2023

7.11	MUNICIPAL MANAGER
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NONE

8.	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

9.	URGENT MATTERS
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10.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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SEE PINK DOCUMENTATION

The meeting adjourned at 13:10

CHAIRPERSON:

DATE:

Confirmed on

6.	STATUTORY MATTERS
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6.1	TABLING OF THE DRAFT ANNUAL REPORT 2022/23
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

17 January 2024

1. SUBJECT: TABLING OF THE DRAFT ANNUAL REPORT 2022/23

2. PURPOSE

- a) To table to Council the Draft Annual Report 2022/23 for consideration and to be released for public comment.
- b) Furthermore, it is also the purpose of this submission, after the adoption of the Draft Annual Report 2022/23 by the Council, to refer the Draft Annual Report 2022/23 to the Municipal Public Accounts Committee (MPAC) to fulfil the role of an Oversight Committee and to make a recommendation to Council as contemplated in terms of Section 129(1) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

The annual report must be tabled by the executive mayor within seven months after the end of the financial year. The draft annual report must be made public, and the municipal manager must invite the public to provide input into the draft report. It has become a practice for the MPAC to also invite the public to make verbal representations at meetings where the report is being discussed.

A schedule with proposed dates for the MPAC meetings is also attached hereto as **ANNEXURE A**. The Council resolved that MPAC has, as part of its terms of reference, the role of sitting as the Oversight Committee to consider the Draft Annual Report 2022/23.

5. RECOMMENDATIONS

- (a) that the Council takes note of the draft Annual Report 2022/23;
- (b) that the Council takes note that the Municipal Manager will make the draft Annual Report 2022/23 public for comment on the official website of the Stellenbosch Municipality, the local print media, and at the offices of the municipality for 21 days;
- (c) that the commencement of the public participation process will be the date the draft Annual Report 2022/23 is published on the municipal website;
- (d) that the Council refer the draft Annual Report 2022/23 (**ANNEXURE B**) to the MPAC to consider the draft Annual Report 2022/23 and to make a

recommendation to the Council as contemplated in terms of Section 129(1) of the MFMA;

- (e) that the Council takes note of the proposed dates for the MPAC meetings where the draft Annual Report 2022/23 will be discussed, as detailed in **ANNEXURE A**. These dates are subject to change. The final dates will be published on the municipality's website and in the local media;
- (f) that the Council approves the MPAC's mandate to co-opt two members of the public with expertise in specific fields to assist and advise the MPAC; and
- (g) that the Council approves that the co-opted members can be remunerated in line with the recommendations of National Treasury Regulation in this regard.

Rates for additional nominated community members as per Treasury Regulation 20.2.2. The once-off preparation tariff was used as a guide since the National Treasury does not have guidance in that regard. Consultation must take place to decide if the rate will remain the same.

Tariff	Number of co-opted Members	Not exceeding no. of hours	Remuneration
Per-hour tariff for attendance of meeting as a member	2	45 hours	R 337.00 per hour
Once-off Tariff for duties performed in preparation	2	6 hours	R 2 698 (for six hours)

6. DISCUSSION

6.1 Background

The MFMA promotes transparency and accountability for the fiscal and financial affairs of all municipalities and municipal entities through in-year and annual reporting. This can be achieved where there is a clear link between the strategic objectives agreed upon with the community, the Integrated Development Plan (IDP), the Budget, the Service Delivery and Budget Implementation Plan (SDBIP), performance agreements of senior management and officials, in-year reports, annual financial statements, the annual performance report, and the annual report.

All this forms one process to ensure that the actual performance is reported against what was planned and contained in the IDP. In this manner, the annual reporting reflects financial and non-financial performance for the financial year that ended and was audited. It is therefore a post-financial year document.

It is necessary to gather and compile a variety of financial and non-financial performance data about the municipality for the annual report. It offers a reliable account of the municipality's operations and results for every financial year. It will eventually function as an important historical document for the town, demonstrating the advancement, expansion, and development of municipal performance and services.

In terms of Section 121(3) of the MFMA, the annual report of a municipality or municipal entity must include the following core components. These core components are normally annexed to the draft annual report:

-
- a) The Annual Financial Statements as submitted to the AGSA (Section 121(3)(a));
 - b) the AGSA's audit report in terms of section 126(3) on those financial statements (Section 121(3)(b));
 - c) the annual performance report of the municipality prepared by the municipality in terms of Section 46 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA) (Section 121(3)(c));
 - d) the AGSA's audit report in terms of section 45(b) of the MSA (Section 121(3)(d)); and
 - e) particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d) in the MFMA (Section 121(3)(g)).

The Council should take notice that the draft Annual Report 2022/23 must be submitted to the Council within seven months after the financial year, thereby satisfying Section 127(2) of the MFMA.

Furthermore, the Council should also take notice that the draft Annual Report 2022/23 is complete, as it contains all relevant information and all the core components listed in Section 121(3) of the MFMA.

6.2 Financial Implications

There are no financial implications beyond what was approved in the 2022/23 MTREF Budget.

6.3 Legal Implications

Section 121(3) of the MFMA states that the annual report of a municipality must include—

(a) the annual financial statements of the municipality, and in addition, if section 122(2) applies, consolidated annual financial statements, as submitted to the Auditor-General for audit in terms of section 126(1);

(b) the Auditor-General's audit report in terms of section 126(3) on those financial statements;

(c) the annual performance report of the municipality prepared by the municipality in terms of section 46 of the Municipal Systems Act;

(d) the Auditor-General's audit report in terms of section 45(b) of the Municipal Systems Act;

(e) an assessment by the municipality's accounting officer of any arrears on municipal taxes and service charges;

(f) an assessment by the municipality's accounting officer of the municipality's performance against the measurable performance objectives referred to in section 17(3)(b) for revenue collection from each revenue source and for each vote in the municipality's approved budget for the relevant financial year;

(g) particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d);

(h) any explanations that may be necessary to clarify issues in connection with the financial statements;

(i) any information as determined by the municipality;

(j) any recommendations of the municipality's audit committee; and

(k) any other information as may be prescribed.

Section 127(2) of the MFMA states that, "The mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control."

Furthermore, Section 127(3) of the MFMA states that "If the mayor, for whatever reason, is unable to table in the council the annual report of the municipality, or the annual report of any municipal entity under the municipality's sole or shared control, within seven months after the end of the financial year to which the report relates, the mayor must— (a) promptly submit to the council a written explanation referred to in section 133(1)(a) setting out the reasons for the delay, together with any components of the annual report listed in section 121(3) or (4) that are ready; and (b) submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible."

6.4 Staff Implications

This report has no additional staff implications for the municipality.

6.5 Risk Implication

None.

6.6 Comments from Senior Management

6.6.1 Director: Community and Protection Services

Supported

6.6.2 Chief Financial Officer

Supported

6.6.3 Director: Infrastructure Services

Supported

6.6.4 Director: Corporate Services

Supported

6.6.5 Director: Planning and Economic Development

Supported

6.6.6 Comments from the Municipal Manager

Supported

ANNEXURES

Annexure A: Schedule of MPAC Meetings

Annexure B: Draft Annual Report 2022/23

(Appendices will be distributed under separate cover)

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	mm@stellenbosch.gov.za
REPORT DATE	09 January 2024

6.2

MID-YEAR ADJUSTMENTS BUDGET FOR 2022/2023

(Item will be distributed under separate cover)

6.3	REVISED TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN 2023/24
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

17 January 2024

1. SUBJECT: REVISED TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN 2023/24

2. PURPOSE

To obtain the Council's approval for the revisions made to the Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) 2023/24.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The TL SDBIP 2023/24 was approved by the Executive Mayor on 27 June 2023. It is common practice for a municipality, as provided for in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), to review its performance indicators and targets after approving the adjustments budget.

All the necessary changes, which must be deleted or amended, are indicated with a strikethrough and an underline, respectively (for ease of reference). It should be noted that the TL SDBIP 2023/24 is the in-year plan of the municipality, and amendments made to the TL SDBIP 2023/24 must be read in conjunction with the Integrated Development Plan (IDP). Therefore, changes made in the Revised TL SDBIP 2023/24 are considered to be made in the IDP as well.

The reasons for the amendments to the following KPIs are as follows:

- a) KPI004 – Editorial change made.
- b) KPI010 – The wording of the deliverable was revised.
- c) KPI049 – The target date of the deliverable was revised from 01 July to 31 March.
- d) KPI060 – The wording of the deliverable was revised.
- e) KPI061 – The KPI was removed as it was achieved in the previous financial year.
- f) KPI062 – The wording of the deliverable was revised.

Any detected spelling, grammatical and or alignment errors in the document were also corrected where needed.

5. RECOMMENDATIONS

- (a) that the Revised TL SDBIP 2023/24 be approved;
- (b) that the Revised TL SDBIP 2023/24 be published on the Municipal Website; and
- (c) that the Revised TL SDBIP 2023/24 be submitted to:
 - i. Internal Audit Unit (for notification);
 - ii. Department of Local Government: Western Cape;
 - iii. Provincial Treasury: Western Cape;
 - iv. Auditor General of South Africa; and
 - v. National Treasury.

6. DISCUSSION**6.1 Background**

In terms of the MFMA, the mayor must take all reasonable steps to ensure that the municipality's TL SDBIP is approved within 28 days after the municipal budget is approved.

The Draft Top Layer SDBIP 2023/24 was made public for public participation in April 2023 as part of the Integrated Development Plan (IDP) and Budget consultative process.

The municipal manager, CFO, and Directors as well as all the managers, participated in the setting of key performance indicators (KPIs) and targets.

The TL SDBIP 2023/24 was approved by the Executive Mayor on 27 June 2023, after the approval of the IDP and Budget in May 2023. The Council should note that the provisions of the MFMA allow the Executive Mayor to approve the TL SDBIP within 28 days after the approval of the Budget.

6.2 Financial Implications

There are no financial implications beyond that which was approved in the 2023/24 MTRF Budget and Adjustments Budget.

6.3 Legal Implications

In terms of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), section 54(1)(c) *“On receipt of a statement or report submitted by the accounting officer of the municipality in terms of section 71 or 72 the mayor must- the mayor must, consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget”*

6.4 Staff Implications

This report has no staff implications for the municipality.

6.5 Risk Implication

None

6.6 Previous Council Decisions

None

6.7 Comments from Senior Management**6.7.1 Director: Community and Protection Services**

Supported.

6.7.2 Chief Financial Officer

Supported.

6.7.3 Director: Infrastructure Services

Supported.

6.7.4 Director: Corporate Services

Supported.

6.7.5 Director: Planning and Economic Development

Supported.

6.7.6 Comments from the Municipal Manager

Supported.

ANNEXURES**Annexure A:** Revised Top Layer Service Delivery and Budget Implementation Plan 2023/24**FOR FURTHER DETAILS CONTACT:**

<i>NAME</i>	Geraldine Mettler
<i>POSITION</i>	Municipal Manager
<i>DIRECTORATE</i>	Office of the Municipal Manager
<i>CONTACT NUMBERS</i>	021 – 808 8025
<i>E-MAIL ADDRESS</i>	mm@stellenbosch.gov.za
<i>REPORT DATE</i>	11 January 2024

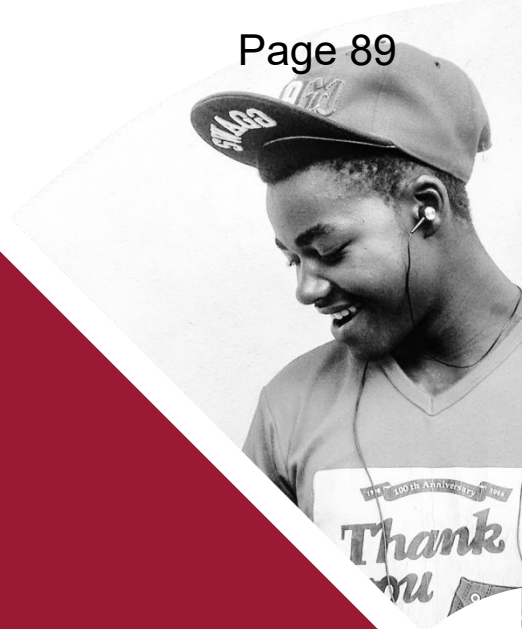
ANNEXURE A



STELLENBOSCH

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MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



**REVISED TOP LAYER SERVICE
DELIVERY AND BUDGET
IMPLEMENTATION PLAN 2023/24**

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1. MUNICIPAL MANAGER'S QUALITY CERTIFICATE

I, Geraldine Mettler, the Municipal Manager of the Stellenbosch Municipality, hereby submit the Revised Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) for the 2023/24 financial year for consideration by the Executive Mayor. This Revised TL SDBIP 2023/24 has been prepared in terms of the stipulated requirements as documented in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and regulations made under this Act.

GERALDINE METTLER
MUNICIPAL MANAGER

Date: _____

2. EXECUTIVE MAYOR'S CERTIFICATE OF APPROVAL

I, Gesie Van Deventer, in my capacity as the Executive Mayor of the Stellenbosch Municipality, hereby submit the Revised Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) for the 2023/24 financial year to the Council for approval, as required in terms of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and the regulations made under this Act.

GERALDINE METTLER
MUNICIPAL MANAGER

Date: _____

3. IMPLEMENTATION, MONITORING AND REVIEW – ONE YEAR

The Local Government: Municipal Finance Management, 2003 (Act No. 56 of 2003) (MFMA) requires that municipalities prepare a Service Delivery and Budget Implementation Plan (SDBIP) as a strategic financial management tool to ensure that budgetary decisions that are adopted by municipalities for the financial year are aligned with their strategic planning tool, the Integrated Development Plan (IDP). The SDBIP is a contract between Council, the administration and the community. It gives effect to the IDP and budget of the municipality.

The municipal budget shall give effect to the Strategic Focus Areas (SFAs) as contained in the IDP. The Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) shall contain details on the execution of the budget and information on programmes and projects. Quarterly, half-yearly and annual performance reports must also be submitted to the Council to monitor the implementation of the predetermined objectives as contained in the IDP.

The SDBIP is a one-year detailed implementation plan which gives effect to the IDP and Budget of the Municipality. It is a contract between the administration, Council and community expressing the goals and objectives set by the Council as quantifiable outcomes that can be implemented by the administration over the next twelve months. This provides the basis for measuring the performance in service delivery against end-year targets and implementing the budget.

Indicators developed for the Stellenbosch Municipality address the SFAs of the municipality. The municipality utilises the one-year TL SDBIP to ensure that it delivers on its service delivery mandate by indicating clear indicators and targets. These indicators also form the basis of the performance plans of the Municipal Manager and Directors, hence, the Municipal Manager and Directors are being evaluated on the approved TL SDBIP indicators.

REVISED TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) 2023/24: PER STRATEGIC FOCUS AREA (SFA)

4.1 SFA 1 - VALLEY OF POSSIBILITY

SFA 1 – Valley of Possibility													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI003	Planning and Economic Development	The number of jobs created through the municipality's local economic development initiatives including capital projects (NKPI Proxy - MSA, Reg. S10(d))	Number of job opportunities created through the municipality's local economic development initiatives including capital projects by 30 June	Programme	ALL	1 100 per annum	1 439	1 100 job opportunities created through the municipality's local economic development initiatives including capital projects by 30 June	330 (330)	660 (660)	990 (990)	1 100 (1 100)	Output
KPI004	Planning and Economic Development	Submission of Land-use applications to the Municipal Planning Tribunal (MPT) within 120 days from the conclusion of the administrative processing of the application	Percentage of Land-use applications submitted to the MPT within 120 days from the conclusion of the administrative processing of the application	Programme	ALL	75% per annum	66.66%	75% of land-use applications submitted to the Municipal MPT within 120 days from the conclusion of the administrative processing of the application	75%	75%	75%	75%	Output
KPI005	Planning and Economic Development	Provide training opportunities to entrepreneurs and Small, Medium and Micro Enterprises (SMMEs)	Number of quarterly training opportunities provided to entrepreneurs and SMMEs	Programme	All	4 per annum	11	4 quarterly training opportunities provided to entrepreneurs and SMMEs	1 (1)	1 (2)	1 (3)	1 (4)	Output
KPI006	Planning and Economic Development	Submission of the revised Spatial Development Framework (SDF) to the Council	Number of revised SDFs submitted to the Council by 30 June	Programme	All	1 per annum	1	1 revised SDF submitted to the Council by 30 June	n/a	n/a	n/a	1	Output
KPI007	Planning and Economic Development	Submission of the revised Housing Pipeline (document) to the MayCo	Number of revised Housing Pipelines (document) submitted to the MayCo by 31 May	Programme	ALL	1 per annum	1	1 revised Housing Pipeline (document) submitted to the MayCo by 31 May	n/a	n/a	n/a	1	Output

SFA 1 – Valley of Possibility													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI061	Planning and Economic Development	Submission of the revised Economic Development Strategy to the MayCo	Number of revised Economic Development Strategies submitted to the MayCo by 31 May	Programme	ALL	1 per annum	1	1 revised Economic Development Strategy submitted to the MayCo by 31 May	n/a	n/a	n/a	1	Output

4.2 SFA 2 - GREEN AND SUSTAINABLE VALLEY

SFA 2 – Green and Sustainable Valley													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI010	Infrastructure Services	Installation of the SCADA Master Station Upgrade the telemetry monitoring system	Number of the SCADA Master Stations installed by 30 June Number of telemetry monitoring systems upgraded by 30 June	Project	All	1 per annum	New KPI	1 SCADA Master Station installed by 30 June 1 telemetry monitoring system upgraded by 30 June	n/a	n/a	n/a	1	Output
KPI011	Infrastructure Services	Construction of a new landfill cell at the Stellenbosch Landfill Facility	Number of new landfill cells constructed at the Stellenbosch Landfill Facility by 30 June	Project	All	1 per annum	New KPI	1 new landfill cell constructed at the Stellenbosch Landfill Facility by 30 June	n/a	n/a	n/a	1	Output
KPI014	Planning and Economic Development	Process building plan applications of <500sqm within 30 days after the date of receipt	Percentage of building plan applications of <500sqm processed within 30 days after the date of receipt	Programme	All	60% per annum	62.35%	60% of building plan applications of <500sqm processed within 30 days after the date of receipt	60%	60%	60%	60%	Outcome
KPI016	Infrastructure Services	Reduce organic waste	Percentage of organic waste reduced by 30 June	Programme	All	20% per annum	42%	20% of organic waste reduced by 30 June	n/a	n/a	n/a	20%	Output
KPI019	Infrastructure Services	Submission of a Service Level Charter to the Municipal Manager	Number of Service Level Charters submitted to the Municipal Manager by 30 June	Key Initiative	All	1 per annum	New KPI	1 Service Level Charter submitted to the Municipal Manager by 30 June	n/a	n/a	n/a	1	Output
KPI020	Infrastructure Services	Conduct an external audit of the Stellenbosch Municipal Waste Disposal Facilities	Number of external audits of the Stellenbosch Municipal Waste Disposal Facilities conducted by 30 June	Programme	All	1 per annum	1	1 external audit of the Stellenbosch Municipal Waste Disposal Facilities conducted by 30 June	n/a	n/a	n/a	1	Output

SFA 2 – Green and Sustainable Valley

IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI021	Infrastructure Services	Implementation of identified waste minimisation projects	Number of identified waste minimisation projects implemented by 30 June	Programme	All	2 per annum	2	2 identified waste minimisation projects implemented by 30 June	n/a	n/a	1 (1)	1 (2)	Output
KP022	Infrastructure Services	Wastewater quality measured to the Department of Water and Sanitation's License Conditions for physical and micro parameters	Percentage of wastewater quality compliance as per the analysis certificate, measured quarterly	Programme	All	70% per annum	51.75%	70% of wastewater quality compliance as per the analysis certificate, measured quarterly	70%	70%	70%	70%	Outcome

4.3 SFA 3 - SAFE VALLEY

SFA 3 – Safe Valley													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result 2021/22)	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI024	Community and Protection Services	Submission of the revised Disaster Management Plan to the Municipal Manager	Number of revised Disaster Management Plans submitted to the Municipal Manager by 31 March	Programme	All	1 per annum	1	1 revised Disaster Management Plan submitted to the Municipal Manager by 31 March	n/a	n/a	1	n/a	Output
KPI025	Community and Protection Services	Submission of the revised Safety and Security Strategy to the Municipal Manager	Number of revised Safety and Security Strategies submitted to the Municipal Manager by 30 April	Programme	All	1 per annum	1	1 revised Safety and Security Strategy submitted to the Municipal Manager by 30 April	n/a	n/a	n/a	1	Output
KPI026	Community and Protection Services	Submission of the revised Traffic Management Plan to the Municipal Manager	Number of revised Traffic Management Plans submitted to the Municipal Manager by 31 March	Programme	All	1 per annum	1	1 revised Traffic Management Plan submitted to the Municipal Manager by 31 March	n/a	n/a	1	n/a	Output

4.4 SFA 4 - DIGNIFIED LIVING

SFA 4 – Dignified Living													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI028	Infrastructure Services	Provision of waterborne toilet facilities in informal settlements as identified by the Department: Integrated Human Settlements	Number of waterborne toilet facilities provided in Informal settlements as identified by the Department: Integrated Human Settlements by 30 June	Programme	All	20 per annum	0	20 waterborne toilet facilities provided in Informal settlements as identified by the Department: Integrated Human Settlements by 30 June	n/a	n/a	n/a	20	Output
KPI029	Infrastructure Services	Limit unaccounted electricity to less than 9% annually {(Number of Electricity Units Purchased and / or Generated - Number of Electricity Units Sold (incl. Free basic electricity)) / Number of Electricity Units Purchased and/or Generated} x 100}	Percentage of average electricity losses, measured by 30 June	Programme	All	<9% per annum	9.60%	<9% of average electricity losses, measured by 30 June	n/a	n/a	n/a	<9%	Outcome
KPI030	Infrastructure Services	Water quality measured quarterly ito the SANS 241 physical and micro parameters	Percentage of water quality level as per the analysis certificate, measured quarterly	Programme	All	90% per annum	95%	90% of water quality level as per the analysis certificate, measured quarterly	90%	90%	90%	90%	Outcome
KPI031	Infrastructure Services	Limit unaccounted water to less than 25%	Percentage of average unaccounted water, measured by 30 June	Programme	All	<25% per annum	18.70%	<25% of average unaccounted water, measured by 30 June	n/a	n/a	n/a	<25%	Outcome
KPI032	Financial Services	Registered indigent formal households with access to free basic water (NKPI Proxy - MSA, Reg. S10(a), (b))	Percentage of registered indigent formal households with access to free basic water, measured quarterly	Programme	All	100% per annum	100%	100% of registered indigent formal households with access to free basic water, measured quarterly	100%	100%	100%	100%	Outcome

SFA 4 – Dignified Living													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI033	Financial Services	Registered indigent formal households with access to free basic electricity provided by the municipality (NKPI Proxy - MSA, Reg. S10(a), (b))	Percentage of registered indigent formal households with access to free basic electricity provided by the municipality, measured quarterly	Programme	All	100% per annum	100%	100% of registered indigent formal households with access to free basic electricity provided by the municipality, measured quarterly	100%	100%	100%	100%	Outcome
KPI034	Financial Services	Registered indigent formal households with access to free basic refuse removal (NKPI Proxy - MSA, Reg. S10(a), (b))	Percentage of registered indigent formal households with access to free basic refuse removal, measured quarterly	Programme	All	100% per annum	100%	100% of registered indigent formal households with access to free basic refuse removal, measured quarterly	100%	100%	100%	100%	Outcome
KPI035	Financial Services	Registered indigent formal households with access to free basic sanitation (NKPI Proxy - MSA, Reg. S10(a), (b))	Percentage of registered indigent formal households with access to free basic sanitation, measured quarterly	Programme	All	100% per annum	100%	100% of registered indigent formal households with access to free basic sanitation, measured quarterly	100%	100%	100%	100%	Outcome
KPI036	Financial Services	Formal households with access to water (NKPI Proxy - MSA, Reg. S10(a))	Number of formal households with access to water, measured quarterly	Programme	All	27 000 per annum	26 825	27 000 formal households with access to water, measured quarterly	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	Outcome
KPI037	Financial Services	Formal households with access to electricity (NKPI Proxy - MSA, Reg. S10(a))	Number of formal households with access to electricity, measured quarterly	Programme	All	27 000 per annum	26 825	27 000 formal households with access to electricity, measured quarterly	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	Outcome
KPI038	Financial Services	Formal households with access to refuse removal (NKPI Proxy - MSA, Reg. S10(a))	Number of formal households with access to refuse removal, measured quarterly	Programme	All	27 000 per annum	26 825	27 000 formal households with access to refuse removal, measured quarterly	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	Outcome

SFA 4 – Dignified Living													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result (2021/22))	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI039	Financial Services	Formal households with access to sanitation (NKPI Proxy - MSA, Reg. S10(a))	Number of formal households with access to sanitation, measured quarterly	Programme	All	27 000 per annum	26 825	27 000 formal households with access to sanitation, measured quarterly	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	27 000 (27 000)	Outcome

4.5 SFA 5 - GOOD GOVERNANCE AND COMPLIANCE

SFA 5 – Good Governance and Compliance													
IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result 2021/22)	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI040	Financial Services	Actual expenditure of the approved Capital Budget for the municipality by 30 June (NKPI - MSA, Reg. S10(c))	Percentage of the approved Capital Budget for the municipality actually spent by 30 June	Programme	All	90% per annum	84.29%	90% of the approved Capital Budget for the municipality actually spent by 30 June	10%	30%	60%	90%	Input
KPI042	Financial Services	Financial viability measured in terms of the available cash to cover fixed operating expenditure (NKPI Proxy - MSA, Reg. S10(g)(iii))	Cost coverage as at 30 June annually [(Cash and Cash Equivalents - Unspent Conditional Grants - Overdraft) + Short Term Investment] / Monthly Fixed Operational Expenditure excluding (Depreciation)	Programme	All	2 per annum	3	2	n/a	n/a	n/a	2 (months)	Input
KPI043	Financial Services	Achieve an average payment percentage of 96% by 30 June (Gross Debtors Opening Balance + Billed Revenue - Gross Debtors Closing Balance - Bad Debts Written Off) / Billed Revenue x 100	(Gross Debtors Opening Balance + Billed Revenue - Gross Debtors Closing Balance - Bad Debts Written Off) / Billed Revenue x 100	Programme	All	96% per annum	96%	96%	n/a	n/a	n/a	96%	Input
KPI044	Office of the Municipal Manager	Employment equity appointments made within the financial year in the three highest levels of management	Percentage of employment equity appointments made within the financial year in the three highest levels of management, measured by 30 June	Programme	All	50% per annum	33.30%	50% of employment equity appointments made within the financial year in the three highest levels of management, measured by 30 June	n/a	n/a	n/a	50%	Output

SFA 5 – Good Governance and Compliance

IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result 2021/22)	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI045	Corporate Services	The percentage of the payroll budget spent on implementing the Municipal Workplace Skills Plan (NKPI Proxy - MSA, Reg. S10(f))	Percentage of the municipality's payroll budget actually spent on implementing its Workplace Skills Plan ((Total Actual Training Expenditure / Total Annual payroll Budget) x 100), measured by 30 June	Programme	All	0.20% per annum	0.43%	0.20% of the municipality's payroll budget actually spent on implementing its Workplace Skills Plan ((Total Actual Training Expenditure / Total Annual payroll Budget) x 100), measured by 30 June	n/a	n/a	n/a	0.20%	Input
KPI046	Financial Services	Financial viability measured in terms of the municipality's ability to meet its service debt obligations (NKPI Proxy - MSA, Reg. S10(g)(i))	Debt coverage ratio ((Total operating revenue - operating grants received) / (Debt service payments due within the year)) measured by 30 June	Programme	All	15% per annum	17.55%	15%	n/a	n/a	n/a	15%	Input
KPI047	Financial Services	Financial viability measured in terms of the outstanding service debtors (NKPI Proxy - MSA, Reg. S10(g)(ii))	Service debtors to revenue ratio – (Total outstanding service debtors / revenue received for services) measured by 30 June	Programme	All	27% per annum	15.56%	27%	n/a	n/a	n/a	27%	Input
KPI048	Office of the Municipal Manager	Submission of the revised Risk-Based Audit Plan (RBAP) to the Audit and Performance Audit Committee (APAC)	Number of revised RBAPs submitted to the APAC by 30 June	Programme	All	1 per annum	1	1 revised RBAP submitted to the APAC by 30 June	n/a	n/a	n/a	1	Output
KPI049	Office of the Municipal Manager	Submission of the Auditor General of South Africa (AGSA) Audit Action Plan (AAP) to the APAC	Number of AGSA Audit Action Plans submitted to the APAC by 31 March July	Programme	All	1 per annum	1	1 AGSA Audit Action Plan submitted to the APAC by 31 March July	$\frac{n/a}{1}$	n/a	$\frac{1}{n/a}$	n/a	Output
KPI050	Office of the Municipal Manager	Submission of the revised Strategic Risk Register (SRR) to the Risk Management Committee	Number of revised SRRs submitted to the Risk Management Committee by 30 June	Programme	All	1 per annum	1	1 revised SRR submitted to the Risk Management Committee by 30 June	n/a	n/a	n/a	1	Output

SFA 5 – Good Governance and Compliance

IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result 2021/22)	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI051	Corporate Services	Submission of the revised Information and Communication Technology (ICT) Backup Disaster Recovery Plan to the ICT Steering Committee	Number of revised ICT Backup Disaster Recovery Plans submitted to the ICT Steering Committee by 31 March	Programme	All	1 per annum	1	1 revised ICT Backup Disaster Recovery Plan submitted to the ICT Steering Committee by 31 March	n/a	n/a	1	N/A	Output
KPI052	Corporate Services	Submission of the revised Strategic ICT Plan to the ICT Steering Committee	Number of revised Strategic ICT Plans submitted to the ICT Steering Committee by 31 March	Programme	All	1 per annum	1	1 revised Strategic ICT Plan submitted to the ICT Steering Committee by 31 March	n/a	n/a	1	N/A	Output
KPI053	Office of the Municipal Manager	Submission of the draft Integrated Development Plan (IDP) to the Council	Number of draft IDPs submitted to the Council by 31 March	Programme	All	1 per annum	1	1 draft IDP submitted to the Council by 31 March	n/a	n/a	1	N/A	Output
KPI054	Office of the Municipal Manager	Submission of the IDP / Budget / SDF time schedule (process plan) to the Council	Number of IDP / Budget / SDF time schedules (process plan) submitted to the Council by 31 August	Programme	All	1 per annum	1	1 IDP / Budget / SDF time schedule (process plan) submitted to the Council by 31 August	1	n/a	n/a	N/A	Output
KPI055	Infrastructure Services	Submission of the revised Wastewater Master Plan to the Municipal Manager	Number of revised Wastewater Master Plans submitted to the Municipal Manager by 30 June	Programme	All	1 per annum	New KPI	1 revised Wastewater Master Plan submitted to the Municipal Manager by 30 June	n/a	n/a	n/a	1	Output
KPI056	Infrastructure Services	Submission of the revised Electrical Master Plan to the Council	Number of revised Electrical Master Plans submitted to the Council by 30 June	Key Initiative	All	1 per annum	New KPI	1 revised Electrical Master Plan submitted to the Council by 30 June	n/a	n/a	n/a	1	Output
KPI059	Office of the Municipal Manager	Submission of the revised Communication Policy to the MayCo	Number of revised Communication Policies submitted to the MayCo by 31 May	Programme	All	1 per annum	New KPI	1 revised Communication Policy submitted to the MayCo by 31 May	n/a	n/a	n/a	1	Output

SFA 5 – Good Governance and Compliance

IDP Ref No	Directorate	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator Type	Wards	5-year target	Baseline (Actual result 2021/22)	Annual Target 2023/24	TOP LAYER: Service Delivery and Budget Implementation Plan (SDBIP 2023/24)				Delivery Indicator
									Q1	Q2	Q3	Q4	
KPI060	Infrastructure Services	Submission of the updated Comprehensive Integrated Transport Plan (CITP) 2023 - 2028 to the <u>MayCo</u> Municipal Manager	Number of updated CITPs <u>2023 - 2028</u> submitted to the <u>MayCo</u> Municipal Manager by 30 June	Programme	All	1 per annum	1	1 updated CITP <u>2023 - 2028</u> submitted to the <u>MayCo</u> Municipal Manager by 30 June	n/a	n/a	n/a	1	Output
KPI062	Planning and Economic Development	Submission of the <u>draft</u> revised Integrated Zoning Scheme to the MayCo	Number of <u>draft</u> revised Integrated Zoning Schemes submitted to the MayCo by 30 June	Programme	All	1 per annum	New KPI	1 revised Integrated Zoning Schemes submitted to the MayCo by 30 June	n/a	n/a	n/a	1	Output

6.4	OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY-REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: QUARTER 2 (01 OCTOBER 2023 – 31 DECEMBER 2023)
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

17 January 2024

1. SUBJECT: OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY-REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: QUARTER 2 (01 OCTOBER 2023 – 31 DECEMBER 2023)

2. PURPOSE

To submit to Management a report for the period 01 October 2023 – 31 December 2023 on the implementation of Council's Supply Chain Management Policy. The report covers the performance of the various delegated functions and the implementation thereof.

3. FOR DECISION BY MUNICIPAL COUNCIL

Section 6 (3) & 4 of the SCM Policy 2023/2024, determines that the Accounting Officer must within 10 days at the end of each quarter; submit a report on the implementation of the SCM Policy to the Executive Mayor. This report must be made public in accordance with section 21A of the Municipal Systems Act (32 of 2000).

4. EXECUTIVE SUMMARY

On a quarterly basis the Accounting Officer must submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor. In terms of the SCM Regulations and Council's SCM Policy the SCM unit has been delegated to perform powers and functions that related to the procurement of goods and services, disposal of goods no longer needed, the selection of contractors to aid in the provision of municipal services.

5. RECOMMENDATIONS

- (a) that Council approves this report and **ANNEXURE A** attached to the report, and
- (b) that the report be made public in accordance with section 21A of the Municipal Systems Act.

6 DISCUSSION/CONTENTS**6.1 Background**

SCM must report within 10 days before the end of each quarter on the implementation of the SCM System.

6.2 Constitutional and Policy Implications

Paragraph 2(1) of Council's SCM Policy determines that all officials and other role players in the supply chain management system of the Stellenbosch Municipality must implement the SCM Policy in a way that gives effect to section 217 of the Constitution and Part 1 of Chapter 11 of the Municipal Finance Management Act (56 of 2003) and other applicable provisions of the Act; is fair, equitable, transparent, competitive and cost-effective; complies with the Regulations and any norms and standards that may be prescribed in terms of section 168 of the MFMA; is consistent with other applicable legislation; does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

Paragraph 6(1) of the Supply Chain Management Policy of Council determines that the Council of Stellenbosch municipality reserves the right to maintain oversight over the implementation of the SCM Policy as approved and amended from time to time. Paragraph 6(3) of the above stated Policy determines that the Accounting Officer must within 10 days of the end of each quarter; submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor.

6.3 Environmental implications

None.

6.4 Financial Implications

The financial implications are the transactions for the procurement of goods and services that were processed during the 01 October 2023 – 31 December 2023 and the payments that will derive from these commitments.

6.5 Legal Implications

The Municipal Finance Management Act (section 112) stipulates that the SCM Policy should comply with a prescribed framework as set out in section 112(1) and section 112(2) that stipulates that the regulatory framework for the municipal supply chain management must be fair, equitable, transparent, competitive, and cost-effective. Reporting back in terms of paragraph 6(3) of the SCM Policy 2023/2024 to the Executive Mayor and Council on the implementation of the supply chain management system and processes enables the Executive Mayor and Council to maintain the oversight role over the implementation of the SCM Policy as approved by Council.

6.6 Staff Implications

None.

6.7 Previous / Relevant Council Resolutions

None.

6.8 Comments from Senior Management

Report not circulated for comments.

APPENDICES

ANNEXURE A: Report for the period 01 October 2023 – 31 December 2023 on the Implementation of Council's Supply Chain Management Policy

FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	<i>Financial Services</i>
REPORT DATE	<i>03 January 2024</i>

ANNEXURE A

STELLENBOSCH MUNICIPALITY

IMPLEMENTATION OF SYSTEM – SUPPLY CHAIN MANAGEMENT (SCM)

**SECTION 6 (3) OF SCM REGULATIONS:
OVERSIGHT ROLE OF COUNCIL OVER THE IMPLEMENTATION OF SCM POLICY**

PERIOD: 01 OCTOBER 2023 – 31 DECEMBER 2023

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLE-MENTED	COMMENTS
3(1)(a)	Prepare and submit a draft supply chain management policy complying with regulation 2 to the council of the municipality for adoption.	Accounting Officer	Chief Financial Officer	YES	Done
3(1)(b)	Review at least annually the implementation of the policy.	Accounting Officer	Chief Financial Officer	YES	Done
3(1)(c)	Submit when considered necessary, proposals for amendment of the policy by the Council.	Accounting Officer	Chief Financial Officer	YES	The SCM Policy are part of the budget related policies that are annually reviewed.
3(2)(a)	Make use of any Treasury guidelines determining standards for municipal supply chain management policies, and submit to the council that guidelines standard or modified version therefore, as a draft policy.	Accounting Officer	Chief Financial Officer	YES	All NT guidelines are included in standard documents and the municipalities SCM policy is aligned with the Model SCM policy of NT.
3(2)(b)	Ensure that a draft policy submitted to council that differs from the guideline standard complies with Regulation 2.	Accounting Officer	Chief Financial Officer	YES	Not Applicable
3(1)(c)	Report any deviation from the guideline standard to the National Treasury and relevant provincial treasury	Accounting Officer	Chief Financial Officer	YES	Not Applicable
3(4)	Must, in terms of section 62(1)(f)((iv) take all reasonable steps to ensure that the municipality has and implements a supply chain management policy as set out in Regulation 2	Accounting Officer	Chief Financial Officer	YES	Done

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
5(2)(a)	Make a final award above R10 million (VAT included).	Accounting Officer (after considering recommendation of Bid Adjudication Committee)		YES	In the second quarter, there were five (5) final award above R10 million.
5(2)(b)	Make a final award above R200 000(VAT included), but not exceeding R10 million (VAT included).	Accounting Officer	Bid Adjudication Committee	YES	In the second quarter, there were sixteen (16) final awards above R200 000 but not exceeding R10 million.
5(2)(c)	Make a final award not exceeding R200 000(VAT included) including the appointment of consultants	Accounting Officer	CFO and Senior Manager - SCM and Senior Accountants	YES	Operational Delegations are in place with clear segregation of duties as stipulated in MFMA section 115 (b)
5(3)	Submit to the officials referred to in regulation 5(4) within five days of the end of each month a written report containing particulars of each final award, except procurements made out of petty cash, made during that month, including – (a) the amount of the award; (b) the name of the person to whom the award was made; (c) the reason why the award was made to that person; and (d) the BEE/HDI status of that entity/person.	Bid Adjudication Committee (refer regulation 5(4)(a) Chief Financial Officer – 5(4)(b)	Chief Financial Officer Senior Manager SCM	YES	The awards made were submitted on the following dates within this quarter: 03 November 2023 05 December 2023 03 January 2024
6(1)	Maintain oversight over the implementation of the supply chain management policy	Municipal Council		YES	The Supply Chain Management policy has been submitted to council in the last quarter of the previous financial year as part of the Budget Related policies.

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
6(2)(a)(i)	Submit a report to council within 30 days of the end of each financial year on the implementation of the supply chain management policy of the municipality.	Accounting Officer		YES	Done
6(2)(a)	Immediately submit a report to council whenever there are serious and material; problems in the implementation of the supply chain management policy, including such a report from any municipal entity as envisaged by this Regulation 6(2)(a)(iii)	Accounting Officer		N/A	To date no serious or material problems occurred in implementing the SCM policy.
6(3)	Submit a report to the mayor of the municipality within ten days of each quarter on the implementation of the supply chain management policy.	Accounting Officer	Chief Financial Officer	YES	Done.
7(1)	Establish a supply chain management unit.	Accounting Officer	Chief Financial Officer	YES	Unit operates under direct supervision of CFO
12(1)	<p><u>Direct that:</u></p> <p>a) cash purchases up to transaction value as defined I Council's Petty Cash policy</p> <p>b) one verbal quotation be obtained for any specified procurement of a transaction value lower than R2,000 (VAT included);</p> <p>c) written or verbal quotations for procurement of goods and/or services of a transaction value between R 2, 000.00 and R 10 000.00 (VAT included)</p> <p>d) formal written price quotations for procurement of goods and/or services of a transaction value between R 10,000.00 and R 200,000.00</p> <p>e) a competitive bidding process be followed for any specific procurement of a transaction value higher than R200 000.</p>	Accounting Officer	Operational delegations in place	YES	Done

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
12(2)(a)	Allow the Accounting Officer to lower, but not to increase, the different threshold values specified in sub regulation(1).	Accounting Officer	Chief Financial Officer	YES	Delegated officials act within delegated thresholds.
14(1)(a)(ii)	Invite prospective providers of goods and services at least once a year through newspaper commonly circulating locally, the website of the municipality	Accounting Officer	Senior : Manager SCM	YES	To be advertised in quarter three
14(1)(b)	Specify the listing criteria for accredited prospective providers.	Accounting Officer	Chief Financial Officer	YES	Listing criteria is contained within the registration form.
14(1)(c)	Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.	Accounting Officer		YES	SCM consult National Treasury's database of defaulters before awarding of tenders and quotations
14(2)	Update the list of prospective providers at least quarterly to include any additional prospective providers and any new commodities or types of services.	Municipal Council	Chief Financial Officer	YES	Done
15	Requesting reconciliation's on petty cash purchases on a monthly basis.	Chief Financial Officer	Manager: Expenditure section	YES	Done
16(c)	If it is not possible to obtain at least three written quotations, record and report quarterly to the accounting officer, or another official designated by the accounting officer, the reasons for this.	Accounting Officer	Chief Financial Officer	YES	Reports were submitted on the following dates within this quarter: 03 November 2023 05 December 2023 03 January 2024

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
16(e)	Record the name of potential providers requested to provide written quotation with their quoted prices.	Accounting Officer	Chief Financial Officer	YES	Reports were submitted on the following dates within this quarter: 03 November 2023 05 December 2023 03 January 2024
17(1)(c)	Approve the recorded reasons for not obtaining at least three written price quotations.	Chief Financial Officer	Senior Manager SCM & CFO: below R200,000 Accountants: Acquisitions, Contracts and SCM: Accountant Demand and Chief Buyer : below R200,000	YES	
17(1)(d)	Record the names of the potential formal written price quotation providers and their written quotations.	Accounting Officer	Senior Manager : Supply Chain Management	YES	
17(2)	Report to the CFO within three days at the end of the month on any approvals given during that month by that the designed official referred to in sub-regulation (1) (c).	Chief Financial Officer	Senior Manager: Supply Chain Management	YES	
18 (a)	All requirements in excess of R30,000 (VAT included) by means of formal written price quotations should be advertised for at least 7 days on the website and municipal official website.	Chief Financial Officer	Senior Manager: Supply Chain Management	YES	
18 (b)	When using the list of accredited prospective providers, it should promote ongoing competition amongst providers by inviting providers to submit quotations on a rotational basis.	Chief Financial Officer	Senior Manager: Supply Chain Management	YES	Done
18(c)	Must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused.	Accounting Officer	Chief Financial Officer	YES	Quotations and Formal written quotations are placed on the website and only opened on the closing date and time and mitigate the risks during the calling for quotations.

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
18(d)	Notify the Accounting Officer or CFO in writing on a monthly basis of all written quotations and formal written price quotations accepted by the official acting in terms of a sub-delegation	Chief Financial Officer	Senior Manager : Supply Chain Management	YES	Reports were submitted on the following dates within this quarter: 03 November 2023 05 December 2023 03 January 2024
22 (b) (i)	The publication notice must contain the closure date for the submission of bids, which may not be less than 3 weeks in case of transactions over R10m (VAT included), or which are of long term nature, or 14 days in any other case, from date on which the advertisement is placed in a newspaper.	Accounting Officer	Bid Specifications Committee	YES	For quarter two, thirty-four (34) tenders specifications served before the Bid Specifications committee.
22(2)	The Accounting Officer may determine the closure date for the submission of bids which is less than the 30 days or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.	Accounting Officer		YES	None
23(a) (i)(ii)	The handling, opening and recording of bids should be (i) be opened in public (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;	Accounting Officer	Senior Manager: Supply Chain Management	YES	Done
23 (c)	(ii) make the register available for public inspection (iii) publish the entries in the register and the bid results on the website of the municipality	Accounting Officer	Senior Manager: Supply Chain Management	YES	Done
24(1)	Negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –	Accounting Officer	Relevant user department Head of Department or Director	YES	Provision for the signing of a Form of Tender/Service Level Agreement with successful vendors is being made in

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	<p>(a) does not allow any preferred bidder a second or unfair opportunity;</p> <p>(b) is not to the detriment of any other bidder; and</p> <p>(c) does not lead to a higher price than the bid submitted.</p> <p>Minutes of such negotiations must be kept.</p>				the tender documents
26(1)(b)	Appoint the members of the bid specification, evaluation and adjudication committees, taking into account Section 117 of the MFMA.	Accounting Officer		YES	Done
26(1)(c)	Appoint a neutral or independent observer to a bid specification, evaluation or adjudication committee for an attendance and oversight process when this is appropriate for ensuring fairness and promoting transparency.	Accounting Officer		N/A	Not Applicable
26(3)	Apply the committee system to formal written price quotations.	Accounting Officer		N/A	Committee system is applied for goods/services above R200 000
27(1)	Compile specifications for the procurement of goods and services by the municipality.	Accounting Officer	Bid Specifications Committee, upon advice of the relevant user department	YES	The Director signs for items to serve on Specification committee.
27(2)(g)	Approve specifications compiled by the bid specification committee prior to publication of the invitation for bids.	Accounting Officer	Bid Specifications Committee, upon advice of the relevant user department	YES	The specifications are accompanied with a questionnaire that the relevant department has to complete. Meetings are held according pre-determined schedule.
28(1)(a)	Evaluate bids in accordance with – (i) the specifications for a specific procurement ; and (ii) the points system as must be set out in the supply chain management policy of the municipality in terms of Regulation 27(2)(f)	Accounting Officer	Bid Evaluation Committee upon advice of the relevant user department.	YES	Have regular BEC scheduled meetings.

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	and a prescribed in terms of the Preferential Procurement Policy Framework Act.				
28(1)(b)	Evaluate each bidder's ability to execute the contract.	Accounting Officer	Bid Evaluation Committee, upon advice from SCM	YES	Currently part of the Standard Evaluation Report
28(1)(c)	Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.	Accounting Officer	Bid Evaluation Committee	YES	Has a screening list that has to be completed.
28(1)(d)	Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.	Bid Evaluation Committee		YES	Currently part of the Standard Evaluation Report
29(1)(a)	Consider the report and recommendations of the bid evaluation committee where the award value exceeds R200 000 (VAT incl.) and make the award up to value of R10m (as per delegated authority)	Accounting Officer	Bid Adjudication Committee	YES	In the second quarter there were eleven (11) BAC meetings
29(1)(b)(i)	For bids above R10 million, the SCM BAC will make recommendation to the Municipal Manager to make the final award.	Accounting Officer		YES	In the second quarter there were five (5) final awards above R10 million.
29(1)(b)(ii)	Make another recommendation to the accounting officer on how to proceed with the relevant procurement.	Accounting Officer		YES	None.
29(3)	Appoint the chairperson of the bid adjudication committee.	Accounting Officer		YES	Delegations given is kept for record purposes
29(5)(a)	If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid – (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and (ii) notify the accounting officer.	Bid Adjudication Committee		YES	None

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29(5)(b)	<p>(i) After due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in Regulation 29(5)(a); and</p> <p>(ii) If the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.</p>	Accounting Officer		YES	None
29(6)	Refer any recommendation made by the evaluation committee or adjudication committee back to that committee for reconsideration of the recommendation.	Accounting Officer		YES	One (1) tender was referred back to the BEC in the second quarter
29(7)	Comply with Section 114 of the MFMA within ten working days.	Accounting Officer		YES	Not applicable
31(1)	Request the State Information Technology Agency (SITA) to assist the municipality with the acquisition of IT related goods or services through a competitive bidding process.	Accounting Officer	Bid Adjudication Committee	YES	Not Applicable
31(2)	Enter into a written agreement to regulate the services rendered by, and the payments made to, SITA.	Accounting Officer		YES	Not Applicable
31(3)	<p>Notify SITA together with a motivation of the IT needs of the municipality if –</p> <p>(a) the transaction value of IT related goods or services required by the municipality in any financial year will exceed R50 million (VAT incl); or</p> <p>(b) the transaction value of a contract to be procured by the municipality whether for one</p>	Accounting Officer		YES	Not Applicable

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	or more years exceeds R50 million.				
31(4)	Submit to the Council, the National Treasury, the relevant provincial treasury and the Auditor General the SITA comments and the reasons for rejecting or not following such comments if the municipality disagrees with SITA's comments.	Accounting Officer	Senior Manager: Supply Chain Management	YES	Not Applicable
32(1)	To procure goods or services for the municipality under a contract secured by another organ of state, but only if – (a) the contract has been secured by that organ of state by means of a competitive bidding process applicable to that organ of state; (b) the municipality has no reason to believe that such contract was not validly procured; (c) there are demonstrable discounts or benefits for the municipality; and that other organ of state and the provider have consented to such procurement in writing.	Accounting Officer	Bid Adjudication Committee	YES	None
35(1)	Procure consulting services above the value of R200 000 (VAT incl.) provided that any Treasury guidelines in respect of consulting services or CIDB guidelines in respect of services related to the build environment and construction works are taken into account when such procurements are made.	Accounting Officer	Bid Adjudication Committee	YES	Tender in place.
35(4)	Ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.	Municipal Council	Relevant user Department	YES	Not Applicable

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
36(1)(a)	<p>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 –</p> <ul style="list-style-type: none"> (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 worker of art or historical objects where specifications are difficult to compile; (iv) acquisition of animals or zoos; or (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes (vi) any contract relating to the publication of notices and advertisements by or on behalf of the municipality (vii) any purchase on behalf of the municipality at a public auction (viii) any contract with an organ of state, local authority or a public utility corporation or company (ix) any contract in respect of which compliance therein would not be in the public interest or interest of Council (x) ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids (xi) workshop strip & quote 	Accounting Officer	BAC considers deviations and recommend to the Accounting Officer.	YES	Delegations are in place for BAC to recommend deviations to the Accounting Officer. Records and recordings are kept of all meetings. Departments draft memorandums and table items at BEC for consideration and recommendation to the BAC. The BAC upon approval will recommend deviation to the Accounting –Officer.
36(1)(b)	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	Accounting Officer		YES	Done

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	technical nature.				
36(2)	Record the reasons for any deviations in terms of Regulations 36(1)(a) and (b); and Report them to the next meeting of the Council and include as a note to the annual financial statements.	Municipal Council	Accounting Officer	YES	Done
37(2)	Decide to consider an unsolicited bid but only if – (a) the product or service offered is a demonstrably or proven unique innovative concept; (b) the product or service will be exceptionally beneficially to, or have exceptional cost advantages for, the municipality; (c) the person who made the bid is the sole provider of the product or service; and (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.	Accounting Officer		NO	None
37(4)	Submit written comments received pursuant to Regulation 37(3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.	Accounting Officer		NO	None
37(5)	Consider and may award the bid or make recommendations to the accounting officer depending on the delegations to the adjudication committee.	Accounting Officer	Bid Adjudication Committee	YES	None
37(7)	When considering an unsolicited bid, take into account where considering an unsolicited bid –	Accounting Officer		NO	None

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	(i) any comments submitted by the public; and any written comments and recommendations of the National Treasury or the relevant provincial treasury.				
37(8)	Submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following any recommendations of the National Treasury or provincial treasury in regard to the unsolicited bid.	Accounting Officer	Senior Manager: Supply Chain Management	NO	None
38(1)(a)	Take all reasonable steps to prevent abuse of the supply chain management system.	Accounting Officer	Chief Financial Officer	YES	The National Treasury Code of Conduct has been circulated and communicated to municipal staff at various formal and informal meetings.
38(1)(b)	Investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with the supply chain management policy, and when justified – (i) take appropriate steps against such official or other role player; or (ii) report any alleged criminal conduct to the South African Police Service.	Accounting Officer	Internal Audit	YES	None
38(1)(c)	Check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector.	Accounting Officer	Senior Manager: Supply Chain Management	YES	The National Treasury website information of the List of Defaulters is currently used to verify.
38(1)(d)	Reject any bid from a bidder – (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any directors to the municipality are in arrears for	Accounting Officer	Bid Adjudication Committee Senior Manager: Supply Chain Management	YES	Bid Evaluation checklist is in place

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	<p>more than three months;</p> <p>(ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.</p>				
38(1)(e)	Reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract.	Accounting Officer	Bid Adjudication Committee Senior Manager: Supply Chain Management	YES	Bid Evaluation checklist is in place
38(1)(f)	<p>Cancel a contract awarded to a person if – the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or</p> <p>(i) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.</p>	Accounting Officer	Bid Adjudication Committee Senior Manager: Supply Chain Management	YES	Bid Evaluation checklist is in place
38(1)(g)	<p>Reject the bid of any bidder if that bidder or any of its directors –</p> <p>(i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;</p> <p>(ii) has been convicted for fraud or corruption during the last five years;</p> <p>(iii) has willfully neglected or reneged on or failed to comply with any government, municipal or</p>	Accounting Officer	Bid Adjudication Committee Senior Manager: Supply Chain Management	YES	Bid Evaluation checklist is in place

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	<p>other public sector contract during the past five years; or</p> <p>(iv) has been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).</p>				
38(2)	Inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of Regulation 38(1)(b)(ii), (e)	Accounting Officer	Bid Adjudication Committee Senior Manager: Supply Chain Management	YES	Bid Evaluation checklist is in place
40(1)	The Supply chain policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14&90 of MFMA	Municipal Council	Chief Financial Officer	YES	Delegations are in place
40(2) a	<p>A Supply Chain management policy must specify the ways in which assets may be disposed of, including by –</p> <p>(i) Transferring the asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets</p> <p>(ii) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge</p> <p>(iii) Selling the asset</p> <p>(iv) Destroying the asset</p>	Municipal Council	Chief Financial Officer	YES	As per delegations
40(2) (b)	Stipulate that –	Municipal Council		YES	Not Applicable

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	Immoveable property may be sold only at market related prices except when public interest or the plight of the poor demands otherwise				
40(2)(b)(ii)	Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality	Accounting Officer	Chief Financial Officer	YES	As per delegations
40(2)(b)(iii)	In the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.	Accounting Officer	Chief Financial Officer	N/A	Not Applicable
40(2)(b)(iv)	In the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic	Accounting Officer		N/A	Not Applicable
40(2)(c)(ii)	All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed	Municipal Council		YES	Not Applicable
40(2)(d)	Ensure that where assets are traded in for other assets, the highest possible trade-in is negotiated	Municipal Council		N/A	None
40(2)(b)(iii)	In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.			N/A	Not Applicable
41(1)	A Supply chain management policy must provide for	Accounting Officer	Internal Audit	YES	Busy implementing a system for risk

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system				management
42	Establish and implement an internal monitoring system in order to determine, on a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this policy were achieved.	Accounting Officer	Chief Financial Officer	YES	Implemented a system for performance management in SCM
43(2)	Check with SARS whether a person's tax matters are in order before making an award to such person.	Municipal Council	Senior Manager: Supply Chain Management	YES	The Tax Clearance of vendors registered on the Central Supplier Database are checked regularly and before awards are made.
45	Disclose in the notes to the annual financial statements of the municipality particulars of any award of more than R2,000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including – (a) the name of that person; (b) the capacity in which that person is in the service of the state; and (c) the amount of the award.	Municipal Council	Chief Financial Officer	YES	This information was disclosed within financial statements of the municipality.
46(3)(a)	Keep a register of all declarations in terms of Regulation 46(2)(d) and (e).	Accounting Officer	Senior Manager: Supply Chain Management	YES	SCM keep record of it.
46(3)(b)	Declarations must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.	Accounting Officer	Chief Financial Officer	YES	Declarations are kept at SCM section and hard copy on file.

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
46(4)	Adopt the National Treasury's code of conduct and Schedule 2 of the Systems Act for supply chain management practitioners and other role players involved in supply chain management.	Accounting Officer	Senior Manager: Supply Chain Management Council's Speaker	YES	Code of conduct are circulated annually to all officials
47(2)	Report any alleged contravention of Regulation 47(1) to the National Treasury for considering whether the offending person, and any representative or intermediate through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.	Accounting Officer	Chief Financial Officer	YES	Not Applicable
48	Disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted to the municipality whether directly or through a representative or intermediate, by any person who is – (a) a provider or prospective provider of goods or services to the municipality; or (b) a recipient or prospective recipient of goods disposed or to be disposed, of by the municipality.	Accounting Officer	Senior Manager: Supply Chain Management	YES	None.
49	Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.	Accounting Officer		YES	Have an administrative process in place.
50(1)	Appoint an independent and impartial person to assist in the resolution of disputes between the municipality and other persons and to deal with objections, complaints or queries as described more fully in Regulation 49.	Accounting Officer		YES	Done.
50(1)(a)	Responsible to assist the person appointed in terms	Accounting Officer		YES	Done

REG. NO.	CRYPTIC DESCRIPTION OF POWER OR DUTY	POWER CURRENTLY RESIDING	DELEGATED	IMPLEMENTED	COMMENTS
	of Regulation 50(1) to perform his or her functions effectively.				
50(4)(b)	Appointed must submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.	Accounting Officer		YES	The appointed official is responsible for the submission of the monthly report to the Municipal Manager.
51	Service provider that acts on behalf of municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to service provider, contract must stipulate a cap on compensation payable to the service provider; that such compensation must be performance based.	Accounting Officer		YES	Done

6.5	MANAGEMENT OF CONTRACTS OR AGREEMENTS AND CONTRACTOR PERFORMANCE AS AT 01 JULY 2023 – 31 DECEMBER 2023 MFMA S116(2)(d) REPORT
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

17 January 2024

1. SUBJECT: MANAGEMENT OF CONTRACTS OR AGREEMENTS AND CONTRACTOR PERFORMANCE AS AT 01 JULY 2023 – 31 DECEMBER 2023 MFMA S116(2)(d) REPORT

2. PURPOSE

To report in accordance with MFMA, Section 116(2)(d) on the management of contracts or agreements and the performance of contractors.

3. DELEGATED AUTHORITY

None

4. EXECUTIVE SUMMARY

The report indicates the performance of service providers who were active on contracts secured by means of a competitive bidding process for the period 01 July 2023 to 31 December 2023.

5. RECOMMENDATION

that the MFMA S116(2)(d) report on the management of contracts or agreements and contractor performance from 01 July 2023 to 31 December 2023 be noted.

6. DISCUSSION / CONTENTS

6.1. Background

6.1.1 Oversight role of council

The Council must maintain oversight over the implementation of the SCM Policy and Chapter 11 of the MFMA. For such oversight the accounting officer must regularly submit a report on the management of contracts or agreements and the performance of contractors to the Council of the municipality in terms of MFMA S116(2)(d).

6.1.2 Legislative Requirement

MFMA S116(2)(d):

“The accounting officer of a municipality or municipal entity must-

(d) regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contract.”

6.2 Discussion

Contract Management Performance Monitoring has been institutionalized within the Supply Chain Management unit for active contracts as per the contract register. Monitoring of contracts includes the monitoring of contracts awarded in previous financial years which are still active. The total active contracts amount to 319.

Active contracts - does not include service providers appointed on a panel tender not used yet. Additionally, it does not include service providers appointed for if and when the preferred service provider cannot deliver.

To note: This is a month-to-month monitoring tool and the totals below refer to the number of contracts which fell in the rating category from 01 July 2023 until 31 December 2023. This does not mean that the contract remained in the category for the entire period.

Based on the contract monitoring tool the table below depicts the details of a satisfactory, average and poor performance rating:

#	Description of Performance Rating	Total
3	Satisfactory: The quality of service or goods delivery is in compliance with the agreement. Where needed, corrective or preventative action has been taken or agreed upon.	276
2	Average: The quality of the service is fair but needs monitoring and improvement to move to satisfactory standard	23
1	Unsatisfactory: Quality of service or goods delivery is unacceptable. Council either has or must consider termination of the agreement and all services if not improved urgently.	20

All contracts in the contract register (available upon request) up to 31 December 2023 were monitored in terms of the contractor's performance.

When user departments fail to find amicable solutions for contract management issues, it will be referred to our legal services department for assistance and resolution. Comments of Contract Management underneath relating to the unsatisfactory contract's:

#	Contract description	Actions being taken
BSM 027 22	Upgrade / maintenance: dorp street flats	Bidder shows improvement, with constant monitoring. Project completed.
BSM 010 23	Domestic leak repair, water meter replacement and pressure management	Bidder shows improvement, with constant monitoring.
BSM 048 22 . 4	Supply and delivery of rescue tools and equipment for the period ending 30 June 2025	Bidder will be monitored, improvement can only be measure with the next order.

BSM 073 22 . 2	Appointment of a registered professional service provider (s) to provide autioneering services to dispose of municipal moveable assets and immoveable assets until 30 June 2025	Referred to the legal department. Contract terminated.
BSM 013 22 . 14	Supply and erecting of fences as and when required for various projects until 30 June 2025	A letter was sent to the bidder. The bidder was also requested to quote as per tendered rates.
BSM 013 22 . 13	Supply and erecting of fences as and when required for various projects until 30 June 2025	A letter was sent to the bidder. The bidder was also requested to quote as per tendered rates.
BSM 013 22 . 4	Supply and erecting of fences as and when required for various projects until 30 June 2025	A letter was sent to the bidder. The bidder was also requested to quote as per tendered rates.
BSM 123 21	Zone o, kayamandi, housing project: construction of internal civil engineering services - phase 3	Bidder was warned of their poor performance and a new program was requested.
BSM 094 21 . 1	Supply and delivery of toilet paper and hand towel paper for a contract period ending 30 June 2024	Bidder will be monitored, improvement can only be measure with the next order.
BSM 062 23 . 2	Supply, delivery and off-loading of materials for water & sewer connections for the contract period 1 July 2023 ending 30 June 2026	Bidder have an opportunity to rectify.
BSM 062 23 . 3	Supply, delivery and off-loading of materials for water & sewer connections for the contract period 1 July 2023 ending 30 June 2026	Bidder have an opportunity to rectify.
BSM 013 21 - ESLM.3	Professional electrical engineering services for electrification of informal houses in the Enkanini informal settlement in Stellenbosch	Placed on terms for poor performance.
BSM 017 23	Electrification of informal houses in the enkanini informal settlement of Stellenbosch for the period ending 30 June 2024	Placed on terms for poor performance.
BSM 051 22 . 7	Supply, delivery and offloading of coffee, tea, sugar, coffee creamer and longlife milk – (refreshments): period 1 July 2022 to 30 June 2025	Bidder have an opportunity to rectify.
BSM 053 22 . 2	Supply, delivery and offloading of sabs tested and approved personal protective clothing and personal protective equipment until 30 June 2025	Bidder have an opportunity to rectify.
BSM 053 22 . 3	Supply, delivery and offloading of sabs tested and approved personal protective	Bidder have an opportunity to rectify.

	clothing and personal protective equipment until 30 June 2025	
BSM 069 23 . 7	Supply, delivery and off-loading of cleaning materials and equipment for a period 1 July 2023 ending 30 June 2024	Bidder will be monitored, improvement can only be measure with the next order.
BSM 069 23 . 9	Supply, delivery and off-loading of cleaning materials and equipment for a period 1 July 2023 ending 30 June 2024	Bidder will be monitored, improvement can only be measure with the next order.
BSM 069 23 . 10	Supply, delivery and off-loading of cleaning materials and equipment for a period 1 July 2023 ending 30 June 2024	Bidder have an opportunity to rectify.
BSM 053 23 . 15	Supply, delivery and offloading of water meters for the contract period 1 July 2023 ending 30 June 2026	Bidder have an opportunity to rectify.

6.3. **Financial Implications**

There are no financial implications should the recommendations as set out in the report be accepted.

6.4 **Legal Implications**

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 **Staff Implications**

This report has no staff implications to the Municipality.

6.6 **Previous / Relevant Council Resolutions:**

None.

6.7 **Risk Implications**

This report has no risk implications for the Municipality.

6.8 **Comments from Senior Management:**

No comments requested accept from Municipal Manager.

6.8.1 **Municipal Manager:**

Agree with the recommendations.

6.6	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR NOVEMBER AND DECEMBER 2023
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

17 January 2024

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR NOVEMBER AND DECEMBER 2023

2. PURPOSE

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2023/2024 to report the deviations to Council.

3. DELEGATED AUTHORITY

Council

FOR NOTING.

4. EXECUTIVE SUMMARY

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2023/2024) stipulate that SCM deviations be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during November and December 2023.

5. RECOMMENDATION

that Council notes the deviations as listed for the months of November and December 2023.

6. DISCUSSION / CONTENTS

6.1 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.

6.2 Discussion

Reporting the deviations as approved by the Accounting Officer for November and December 2023:

The following deviations were approved with the reasons as indicated below:

DEVIATION NUMBER	CONTRACT DATE	NAME OF CONTRACTOR	CONTRACT DESCRIPTION	REASON	SUBSTANTIATION WHY SCM PROCESS COULD NOT BE FOLLOWED	TOTAL CONTRACT PRICE R
D/SM 7/24	2023/11/01	Evolution Technology Group	Appointment of Evolution Technology Group (ETG) for printing services on a month-to-month basis	Exceptional case and it is impractical or impossible to follow the official procurement processes	<p>Printing services is a critical service and as such the Municipality cannot be without printing services for any space of time.</p> <p>The deviation will ensure that there is no interruption in this critical service.</p> <p>The Municipality appointed Evolution Technology Group (ETG) for printing services on a deviation on 30 June 2023 for a maximum period of 4 months while the municipality concludes its participation on National Treasury's Transversal Tender (RT3-2022) for printing services.</p> <p>The municipality selected a service provider on the transversal tender and requested a contract from it. The service provider submitted a contract to the municipality on 11 September 2023 for a period 1 November 2023 to 30 October 2026 (36 months). The service provider was informed that the contract cannot exceed three financial years and the municipality that the contract commences on 1 November 2023 and end on 30 June 2025 (32 months). The service provider engaged with National Treasury on the</p>	R2 480 012.22 (Inc. Vat)

					<p>municipality's request for the contract period to end 30 June 2025 (32 months).</p> <p>The service provider advised that after engaging with National Treasury and as per the terms and conditions of the transversal tender, the initial contract must be for a period of 36 months. This response was received on 30 October 2023. In view of their unwillingness to budge on the contract period the municipality must follow its own procurement process.</p> <p>Therefor it is impractical or impossible to follow the official procurement processes due to the time constraints and the equipment that is currently in use.</p> <p>The municipality is currently paying no leasing fees for the equipment and only paying for usage. Therefor it is also value for money.</p>	
D/SM 9/24	2023/11/10	Exeo Khokela Civil engineering Construction (Pty) Ltd	Extensive infrastructure damages caused by heavy rains in the western Cape over long weekend of Heritage Day (24-26 September) discovered after 6 October 2023	Emergency	<p>Heavy rains from the 24 – 26 September 2023 caused severe infrastructure damage. The storm led to huge damages to road, electricity and water and wastewater infrastructure which made it impossible to deliver essential services to the affected areas. Gravity sewers and pipelines transports raw sewage by gravity to the Wastewater Treatment Works. Damage to these pipelines is an emergency, as it can result in substantial sewerage spills. This will essentially cause extensive damage to the natural environment, including increased risk to human health, farming activities and pollution to ground water resources.</p> <p>The Water and Wastewater Services department attended to each critically damaged pipeline (Water and Wastewater) as soon as damages were discovered.</p> <p>The department only became aware of the damage to the</p>	R 578 726.00 (Inc. Vat)

					<p>110mm Diameter Gravity sewer/pipeline in Elands Road going past Dirkie Uys Street, Franschoek on the 23rd of October 2023 when a site meeting was called by effected property owners. The delay in the municipality discovering the damaged infrastructure was due to the extensive damage to the roads in the vicinity. An approximate length of 950 meters of the pipeline was damaged.</p> <p>Temporary road repairs and clearing of debris, allowed access and thus the subsequent discovery of the damaged infrastructure. The Municipality is required under the National Environmental Management Act, 1998 (NEMA), Section 28 (3) (c) to "cease, modify or control any act, activity or process causing pollution or degradation;" and Section 28 (3) (c) to "eliminate any source of the pollution or degradation;"</p> <p>No interim measure is possible as installing gravity sewers above ground is not feasible for transporting sewer by gravity.</p>	
D/SM 10/24	2023/11/30	Mpact Plastic containers (Pty) Ltd	Supply and delivery of 240 litre wheelie bins	Exceptional case and it is impractical or impossible to follow the official procurement processes	<p>The Municipality currently uses wheelie bins for collection of household waste. Wheelie bins are needed for new households, applications for additional bins and replacement of bins.</p> <p>Tender B/SM 76/21 was awarded to Jobe Environmental Systems (Pty) LTD in July 2021 for the provision of wheelie bins.</p> <p>The Municipality informed Jobe Environmental Systems (Pty) LTD of its intention to procure wheelie bins on 29 August 2023 and subsequently a purchase order was sent to the service provider on 07 September 2023 and an email confirmation was received for delivery on 20 September 2023. Various follow ups were made, and another</p>	R1 329 400 and spare parts rates

					<p>delivery date was provided, which was 5 October 2023.</p> <p>On 12 October 2023 a letter was sent to Jobe Environmental Systems (Pty) LTD requiring the service provider to deliver goods on or before 19 October 2023 or provide reasons why the tender should not be cancelled.</p> <p>On the 19 October 2023 confirmation email was received, confirming that the estimated time of arrival is the 30 October 2023. By end November 2023 no wheelie bins have been provided by the service provider and there's no new estimated time of arrival provided.</p> <p>Tender B/SM 76/21 was terminated due to poor performance by the service provider and a new tender process has been initiated with B/SM 42/24. The new tender was approved by the Bid Specification Committee and will be advertised in 2024</p> <p>This deviation will allow the Municipality to procure/receive wheelie bins before the factory close on 14 December 2023. The Municipality has been awaiting the bins from Jobe Environmental Services (PTY) LTD since, 7 September 2023. This has resulted in a delay in providing much needed wheelie bins to residents.</p> <p>This is an exceptional case, and it is impractical or impossible to follow the official procurement processes to procure and deliver wheelie bins before the festive season.</p>	
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6.4 Legal Implications

The regulation applicable is:

GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations: Deviations from and ratification of minor breaches of, procurement processes.

6.5 Staff Implications:

No staff implications.

6.6 Previous / Relevant Council Resolutions:

None.

6.7 Risk Implications

That the market may not be tested. The measures in place to deal with deviations mitigate the risk to an acceptable level. The auditor general also audit the deviations during the yearly audit.

6.8 Comments from Senior Management:

The item was not circulated for comment except to Municipal Manager.

6.8.1 Municipal Manager

Supports the recommendations.

FOR FURTHER DETAILS CONTACT:

NAME	Dalleel Jacobs
POSITION	Senior Manager: Supply Chain Management
DIRECTORATE	Financial Services
CONTACT NUMBERS	021 808 8137
E-MAIL ADDRESS	Dalleel.Jacobs@ Stellenbosch.gov.za
REPORT DATE	03 January 2023

7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER]
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7.1	PROTECTION SERVICES: (PC: CLLR R PHEIFFER)
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NONE

7.2	SPORTS, YOUTH AND CULTURE: [PC: CLLR JC ANTHONY]
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NONE

7.3	CORPORATE SERVICES: (PC: CLLR L NKAMISA)
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7.3.1	RENEWAL OF LEASE AGREEMENT: STELLENBOSCH ANIMAL HOSPITAL: ERVEN 2498 AND 2499, STELLENBOSCH
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Collaborator No: 761555
 IDP KPA Ref No: Good Governance
 Meeting Date: 17 January 2024

1. SUBJECT: RENEWAL OF LEASE AGREEMENT: STELLENBOSCH ANIMAL HOSPITAL: ERVEN 2498 AND 2499, STELLENBOSCH

2. PURPOSE

To consider the application from Dr. GA Giliomee on behalf of Stellenbosch Animal Hospital for the renewal of their lease agreement for a period of 9 years 11 months.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has approved delegations to enter into agreements on behalf of the municipality.

4. EXECUTIVE SUMMARY

On 1 October 1981 a five-year lease agreement was concluded between Stellenbosch Municipality and the Stellenbosch Animal Hospital in relation to the building on erven 2498 and 2499. Subsequently in 1986, 1996 and 2006 the lease agreement was renewed for 9 years 11 months.

In June 2016 a renewal of the lease agreement was given for 12 months and in 2018 the agreement was renewed for a period of five years. The current lease agreement expired in December 2023 and the applicant has therefore applied for a further extension for 9 years 11 months.

The applicants have been using the premises for 42 years and they have used their own money to upgrade the facilities. They currently employ 13 people. It provides a service to the bigger Stellenbosch and has a number of parking bays allocated to them at the back of the pick and pay parking (Stelmark) area across the Mosque and the church.

5. RECOMMENDATIONS

- (a) that **erven 2498 and 2499** be identified as land not needed for the delivery of minimum basic municipal services;
- (b) that the application for renewal of the lease for a further period of 9 years 11 months be approved in principle;

- (c) that the monthly rental be determined by a valuator;
- (d) that the municipality follow a public participation process advertising the intention to lease the property for 9 years 11 months for alternative proposals/comments or objections;
- (e) that the item be brought back to Mayco for final determination after the public participation process; and
- (f) that the applicant be allowed to lease the property whilst the renewal process runs its course at the current rental of R29 586.61.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Previous lease agreements:

On 1 October 1981 a five-year lease agreement was concluded between Stellenbosch Municipality and the Stellenbosch Animal Hospital in relation to the building on erven 2498 and 2499. Subsequently in 1986, 1996 and 2006 the lease agreement was renewed for 9 years 11 months.

In June 2016 a renewal of the lease agreement was given for 12 months and in 2018 the agreement was renewed for a period of five years. The current lease agreement expires in December 2023 and the applicant has therefore applied for a further extension for 9 years 11 months. A copy of the current lease agreement is attached hereto as **APPENDIX 1**.

6.1.2 Application from Stellenbosch Animal Hospital

The application filed by Dr. Giliomee is attached hereto as **APPENDIX 2**. The application indicates that they request a lease agreement for 9 years 11 months.

6.2 DISCUSSION

6.2.1 Location and context

The property under discussion is situated next to Stelmark (Pick 'n Pay centre) on Erven 2498 and 2499, Stellenbosch.

6.3 Financial implication

The previous lease was concluded for R20 903.20 with an annual escalation of 6%. Their current rental amount is R29 586.61. They have no outstanding amount.

The current market value for rental in the area needs to be determined by a valuator for the new contract. That the new contract makes provision for the applicants to pay for services as that is currently not in the rental agreement.

6.4 Legal requirements

6.4.1 Municipal Asset Transfer Regulations

In terms of Section 36 of the Municipal Asset Transfer Regulation, when considering an application for an approval of a right to use municipal property, the following needs to be taken 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 improvements or enhancements to the asset, will result in a significant financial benefit to the municipality;
- c) the (possible) risks and rewards associated with the use in relation to the municipality's interests;
- d) Any comments received from the local community, and
- e) Compliance with the legislative regime applicable to the proposed granting of the right.

6.4.2 Property Management Policy

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.

6.5 STAFF IMPLICATIONS

No additional staff implications

6.6 RISK IMPLICATIONS

The risks are addressed in the content of the item.

6.7 PREVIOUS COUNCIL RESOLUTIONS:**EXECUTIVE MAYORAL COMMITTEE: 2018-05-16: ITEM 5.5.3****RESOLVED**

- (a) that Council, in principle, dispense with the prescribed competitive process;
- (b) that Council approve, in principle, to enter into an agreement for a period of 5 years at a minimum rental of R19 720/month, with an annual escalation of 6%;
- (c) that Council's intention be advertised, calling for public comments/counter proposals; and
- (d) that the matter be re-submitted to Council for a final decision after the public participation process.

6.8 COMMENTS FROM SENIOR MANAGEMENT

The item has not been circulated for comments yet.

ANNEXURES: **Appendix 1: Current lease agreement**
 Appendix 2: Application

FOR FURTHER DETAILS CONTACT:

NAME	<i>Annalene de Beer</i>
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	<i>021-8088018</i>
E-MAIL ADDRESS	<u>annalene.debeer@stellenbosch.gov.za</u>
REPORT DATE	<i>2024- 01 -11</i>

DIRECTOR: CORPORATE SERVICES

APPENDIX 1



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

STELLENBOSCH ANIMAL HOSPITAL

Herein represented by **Dr G.A Gilomee** in his capacity as
owner, being duly authorised (herein after called the **LESSEE**)

For the lease of erven 2498 and 2499 (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 (*Stellenbosch Animal Hospital*) ("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 erven 2498 and 2499, with improvements,
 - 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 "*the Premises*" has the same meaning as the **PROPERTY**
 - 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** 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 January 2019* and shall subsist for 5 years, notwithstanding the date of signature hereof.

4.2 Notwithstanding the above, should the **LESSOR** require the property for any *bona fide* municipal purposes, this agreement can be terminated by giving the **LESSEE** 3 months written notice, in which event the **LESSEE** will have no claim for compensation or otherwise against the **LESSOR**.

4.3 Notwithstanding the above, should the **LESSEE** want to terminate the agreement for whatever reason, it can do so by giving the **LESSOR** 3 month written notice, in which event the **LESSOR** will have no claim for compensation or otherwise against the **LESSEE**.

5. RENT

5.1 The rent shall be

5.1.1 R20 903.20 (Inclusive of VAT)

per month for the year ending 30 June 2019; and

5.1.2 shall thereafter, on an annual basis escalate with 6%.

6. PAYMENTS

6.1 The rent payable by the **LESSEE** to the **LESSOR** in terms of this Agreement shall be payable monthly in advance on or before the 7th day of each month free of exchange at such address or by electronic funds transfer as directed by the **LESSOR** in writing from time to time.

6.2 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.

7. INSURANCE



7.1 It is recorded that the LESSEE is responsible to insure its own assets on the property.

8. SUB-LETTING AND RELATED MATTERS

- 8.1 The LESSEE shall not, without the LESSOR's prior written consent:
- 8.1.1 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;
 - 8.1.2 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.
- 8.2 Should the LESSEE wish to sub-let the whole or any part of the PREMISES at any time during the currency of the 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:
- 8.2.1 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 8.2, or
 - 8.2.2 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.

9. GENERAL OBLIGATIONS OF LESSEE

- 9.1 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.
- 9.2 The LESSEE shall at all times keep the PREMISES in a clean, tidy and sanitary condition.
- 9.3 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.
- 9.4 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,

Handwritten initials 'JR' and two signatures.

fittings or effects which are subject to any hire purchase or lease agreement and which are not the **LESSEE's** own **PROPERTY**.

10. ALTERATIONS, ADDITIONS AND IMPROVEMENTS

- 10.1 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.
- 10.2 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 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.
- 10.3 Save for any improvement which is removed from the Premises as required by the **LESSOR** in terms of clause 10.2, 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.

11. EXCLUSION OF LESSOR FROM CERTAIN LIABILITY AND INDEMNITY

- 11.1 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
- 11.1.1 a breach by the **LESSOR** of any of its obligations under this lease;
- 11.1.2 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;
- 11.1.3 the condition or state of repair at any time of the **PROPERTY**, or any part of the **PROPERTY**;
- 11.1.4 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 or the **PROPERTY** (including, without generality being limited, any cleaning service), whatever the cause;
- 11.2 The **LESSOR** shall not, however, be excused from specific performance of any of its obligations under this lease, whether express or implied, and particularly

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(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.

- 11.3 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.

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

- 12.1 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

12.1.1 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

12.1.2 carry out elsewhere 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. DAMAGE TO OR DESTRUCTION OF PREMISES

- 13.1 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.

- 13.2 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**.

- 13.3 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).

14. SPECIAL REMEDY FOR BREACH

- 14.1 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.
- 14.2 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**.

15. NEW TENANTS AND PURCHASERS

- 15.1 The **LESSEE** shall at all reasonable times:-
- 15.1.1 during the Lease Period, allow prospective purchasers of the **PROPERTY** or of any shares or other interests in the **LESSOR**; and
- 15.1.2 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.

16. DOMICILIA AND NOTICES

- 16.1 The parties choose as their *domicilia citandi et executandi* the addresses mentioned in clause 16.2, 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.
- 16.2
- 16.2.1 The **LESSOR**:
Town Hall Complex
Plein Street
STELLENBOSCH
- 16.2.2 The **LESSEE**:

Stellenbosch Animal Hospital
15 Banghoek Road
Stellenbosch
- 16.3 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.

17. WHOLE AGREEMENT

- 17.1 This is the entire agreement between the parties.
- 17.2 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.
- 17.3 No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

18. NON-WAIVER

- 18.1 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.
- 18.2 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.

19. WARRANTY OF AUTHORITY

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

20. SALE OF PREMISES

- 20.1 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.

21. BREACH

- 21.1 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

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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.

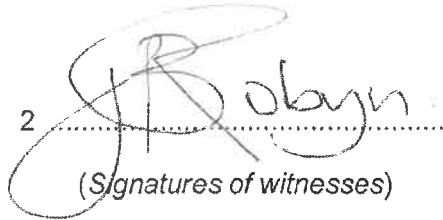
- 21.2 Notwithstanding anything to the contrary herein contained, it is specifically recorded that in the event of that **LESSEE** failing at any time to comply with any of its obligations in terms of this lease, the **LESSOR** shall be entitled, but not obliged, and without prejudice to any other rights 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.
- 21.3 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.

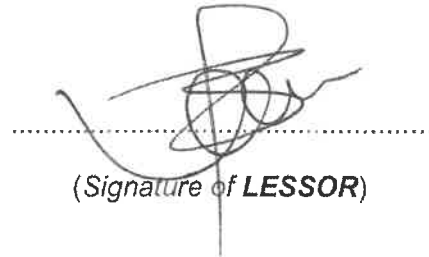
SIGNED at Stellenbosch on this 22nd of January 2019 in the presence of the undersigned witnesses

Witnesses:

1 [Signature]

[Signature]

2 
(Signatures of witnesses)


(Signature of LESSOR)

SIGNED at on this.....of.....2019 in
the presence of the undersigned witnesses

Witnesses:

1
2
(Signatures of witnesses)

.....
(Signature of LESSEE)

APPENDIX 2



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

APPLICATION FOR LEASE OF MUNICIPAL LAND APPLICATION FORM

A: APPLICANT'S DETAILS

Name : Dr G A GILIMEE for STELLENBOSCH
ANIMAL HOSPITAL CL

Physical address:
1 BANGHOEK RD
STELLENBOSCH

Postal code: 7600

Mailing address: PO Box 186
STELLENBOSCH

Postal code: 7599

E-mail address: stel.dier@telkomsa.net

Telephone: 021 887 7052

Cell phone: 072 607 0432

B: PROPERTY DETAILS OF APPLICANT

Erf/farm number : 2498 + 2499

Suburb: STELLENBOSCH CENTRAL

Town: STELLENBOSCH

C: PROPERTY DETAILS OF LEASE AREA APPLYING FOR

Erf/farm number: 2498 T 2499

Suburb: CENTRAL

Town: STELLENBOSCH

Area applying for 219 m²

* To be supplemented with a sketch-plan with dimension in m²

D: TYPE OF APPLICATION:

Please mark the appropriate block

- For commercial purposes, other than for parking
- For commercial parking purposes
- For residential parking purposes
- For non-commercial purposes
- For projecting structures onto street reserves
- For projecting structures onto other council-owned land
- Other: please provide description:

Brief description of application: APPLICATION FOR THE RENEWAL OF LEASE AGREEMENT FOR STELLENBOSCH ANIMAL HOSPITAL BUILDING FOR A FURTHER PERIOD OF

Motivation: 9 YEARS AND 11 MONTHS. OUR PRACTICE WAS OFFERED THE VALANT OLD DENNERIG POST OFFICE BUILDING IN 1981.

OVER THE PAST 47 YEARS, WE CONVERTED THE BUILDING (ALL AT OWN COST) TO A MODERN ANIMAL HOSPITAL. OUR PRACTICE SERVES THE MAJORITY OF FARM AND HOUSEHOLD ANIMALS IN THE STELLENBOSCH DISTRICT. WE EMPLOY 13 PEOPLE FULL TIME, INCLUDING FIVE VETERINARIANS.

E: LIST OF ATTACHEMENTS AND SUPPORTING DOCUMENTS

Please mark the appropriate box

- Special Power of Attorney, where Applicant is not the owner
- Diagram of proposed area of the lease area
- Letters of consent (affected neighbours)
- Application fee (non-refundable)

I hereby certify that the information supplied in this application form is correct and that I am property authorized to make this application.

Applicant's signature:  Date: 22/8/2023

Full name: GERHARDOUS APRHAAN GILJAMES
FOR STELLENBOSCH ANIMAL HOSPITAL

7.3.2	POSSIBLE DISPOSAL OF ERF 5 WEMMERSHOEK
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Collaborator No:	761556
IDP KPA Ref No:	GoodGovernance
Meeting Date:	17 January 2024

1. SUBJECT: POSSIBLE DISPOSAL OF ERF 5 WEMMERSHOEK**2. PURPOSE**

To obtain Council's in principle approval for the disposal of Erf 5 Wemmershoek.

3. DELEGATED AUTHORITY

For decision by Municipal Council.

4. EXECUTIVE SUMMARY

In 2007 the Cape Winelands Municipality donated several properties in La Motte and Wemmershoek to the Stellenbosch Municipality. Erf 5 Wemmershoek was one of the properties donated in the Deed of Donation and was registered in the name of the Municipality in 2012.

The current zoning of the erf is "Local Business Zone" and the property is situated next to the Community Hall in Wemmershoek.

The erf has always been vacant and several enquiries have been received from the public about the intentions of council with this property. In 2021 the ward councillor for Wemmershoek made a request that this property, amongst others, be considered for disposal by way of tender or public auction. Council must therefore consider the way forward for the erf.

5. RECOMMENDATIONS

- (a) that Council confirms that the property is not needed to provide the minimum basic municipal services; and
- (b) For consideration

6. DISCUSSION / CONTENT**6.1 Background**

Stellenbosch Municipality is the registered owner Erf 5 Wemmershoek situated next to the Community Hall. Attached as **APPENDIX 1** is a WinDeed report as proof of ownership. The municipal valuation for Erf 5 is R 25 000.00.

6.2. DISCUSSION**6.2.1 Location and context**

The property is located next to the Community Hall in Wemmershoek. Council owns several properties in this area. This is a vacant property.



Fig 1. Location



Fig 2. View of Erf

6.2.3 Ownership

The ownership of the property vests with Stellenbosch Municipality by virtue of Title Deed T29444/2012. See copy of Windeed record attached as **APPENDIX 1**.

6.2.4 Legal Framework

6.2.4.1: Municipal Finance management act, no 56 of 2003 (MFMA)

In terms of section 14(1) of the MFMA *“a municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.”*

Further, in terms of sub-section (2) *“a municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public—*

(a) *has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*

(b) *has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.”*

In terms of subsection (5) *“any transfer of ownership of a capital asset in terms of subsection (2) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111.”*

6.2.4.2 Municipal Asset Transfer Regulations(ATR)

In terms of Regulation 5 of the ATR :-

“1) A municipality may transfer or dispose of a non-exempted capital asset only after—

(a) *the accounting officer has in terms of regulation 6 conducted a public participation process to facilitate the determinations a municipal council must make in terms of section 14(2)(a) and (b) of the Act; and*

(b) *the municipal council—*

(i) *has made the determinations required by section 14(2)(a) and (b)* and*

(ii) *has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.*

(2) *Sub-regulation (1)(a) must be complied with only if the capital asset proposed to be transferred or disposed of is a high value *capital asset.*

* i.e. in excess of R50M

6.2.4.3 Property Management Policy

In terms of par.7.2.1 of the policy, ***“unless otherwise provided for in this policy*,”*** the disposal of Viable Immovable property shall be effected-

(a) *by means of a process of **public competition**; and*

(b) ***at market value*** except when the public interest or the plight of the poor demands

Further, in terms of par.7.2.3, before alienating Immovable property or rights in Immovable property the Municipality shall be satisfied that ***alienation is the appropriate methodology and that reasonable economic, environmental and***

social return cannot be derived whilst ownership of the Immovable property or Property rights is retained by the Municipality.

In term of par.9.1 of the Policy, the Municipality may use any of the following methods, depending on the circumstances pertaining the specific Immovable property:

- a) *The type of a formal tender may vary, depending on the nature of the transaction:*
- i) Outright tender may be appropriate where the Immovable property ownership is not complex, and the Municipality is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance.*
 - ii) Qualified tenders/call for proposals will be appropriate where the Immovable property ownership position is complex or the development proposals for the Immovable property are insufficiently identified or otherwise incapable of detailed specification at the pre-tender stage.*
 - iii) Call for proposals on a build-operate transfer (B.O.T) basis will be used if a developer is required to undertake the construction, including the financing, of a facility on Municipal-owned land, and the operation and maintenance thereof. The developer operates the facility over a fixed term during which it is allowed to charge facility users appropriate fees, rentals and charges not exceeding those proposed in its bid or as negotiated and incorporated in the contract, to enable the developer to recover its investment and operating and maintenance expenses in the project. The developer transfers the facility to the municipality at the end of the fixed term.*
- b) *The nature of the formal tender process is that a legally binding relationship is formed between the parties when the Municipality accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents could include a contract for sale or lease which could be completed with the tenderer's details, the tender price and be signed by the tenderer. A binding legal agreement is created upon the acceptance in writing of a tender by the Municipality.*
- c) *Such a process may, depending on the nature of the transaction, include a two-stage or two- envelope bidding process (proposal call) in terms of which only those bidders that meet the pre-qualification criteria specified in the first stage are entitled to participate in the second stage.*

Should Council approve the disposal of the erf by way of public auction a reserve price must be determined by an independent valuator;

The buyer will be responsible for the payment of the costs for the transfer and possible rezoning of the property;

The item will be returned to council after the auction for a final decision.

It is recommended that a provision be built in that the successful bidder has to take occupation and transfer of the property within 6 months after the auction has been finalised.

6.3 Financial Implications

The disposal is recommended on market related prices set as a reserved price.

The municipal value of the entire property is R 25 000.00 and a valuator will have to be appointed to determine the value of the specific portion. The valuation report will be paid by the municipality.

6.4 Legal Implications

All legal implications have been addressed in the item.

6.5 Staff Implications

No additional staff implications.

6.6 Previous / Relevant Council Resolutions

None.

6.7 Risk Implications

Addressed in the item.

6.8 Comments from Senior Management

The item has not been circulated yet.

ANNEXURES: Appendix 1: Windeed Erf 5 Wemmershoek

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director
DIRECTORATE	Corporate Services
CONTACT NUMBERS	021-8088018
E-MAIL ADDRESS	annalene.debeer@stellenbosch.gov.za
REPORT DATE	11/01/2024

APPENDIX 1

WinDeed Database D/O Property

WEMMERSHOEK, 5, 0, CAPE TOWN

Lexis® WinDeed



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

SEARCH CRITERIA

Search Date	2023/08/23 08:25	Erf Number	5
Reference	-	Portion Number	-
Report Print Date	2023/08/23 08:25	Township Remaining Extent	NO
Township	WEMMERSHOEK	Search Source	WinDeed Database
Deeds Office	Cape Town		

PROPERTY INFORMATION

Property Type	ERF	Diagram Deed Number	T29444/2012
Township	WEMMERSHOEK	Local Authority	STELLENBOSCH MUN
Erf Number	5	Province	WESTERN CAPE
Portion Number	0	Remaining Extent	NO
Registration Division	PAARL RD	Extent	517.0000SQM
Previous Description	-	LPI Code	C05500180000000500000

OWNER INFORMATION (1)

MUN STELLENBOSCH		Owner 1 of 1	
Company Type	LOCAL AUTHORITY	Document	T29444/2012
Registration Number	-	Microfilm / Scanned Date	-
Name	MUN STELLENBOSCH	Purchase Price (R)	1
Multiple Owners	NO	Purchase Date	2007/05/31
Multiple Properties	NO	Registration Date	2012/06/19
Share (%)	-		

ENDORSEMENTS (1)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	GENERAL PLAN FROM	TOWN WEMMERSHOEK ,ERF 2 ,PRTN	-	0000000000 00 *

DISCLAIMER

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7.3.3	REQUEST FOR POSSIBLE WAIVER OF PRE-EMPTIVE RIGHT: ERF 756 KAYAMANDI
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Collaborator No: 761557
 IDP KPA Ref No: GoodGovernance
 Meeting Date: 17 January 2024

**1. SUBJECT: REQUEST FOR POSSIBLE WAIVER OF PRE-EMPTIVE RIGHT: ERF 756
KAYAMANDI**

2. PURPOSE

To obtain Council's in principle approval to waive council's pre-emptive right to buy-back Erf 756 Kaya Mandi and consent to the property being sold to a third party.

3. DELEGATED AUTHORITY

For decision by Municipal Council.

4. EXECUTIVE SUMMARY

Erf 756 Kaya Mandi was allocated to Mister KI Monaheng in 1996. An agreement of sale was entered into between the municipality and Mr Monaheng which was signed on 15 August 1996. The original agreement was misplaced and a new agreement with the same terms and conditions was signed in 2023.

The purchaser paid the purchase price and all outstanding debt due to the Municipality during 2019, however the purchaser only appointed an attorney to attend to the transfer in 2023.

In terms of the agreement of sale the municipality has a pre-emptive right to buy-back the property for the same purchase price it was sold, in the event that the purchaser wants to sell same. In the case of the municipality not exercising this pre-emptive right, the plot can be sold to any third party who will also be bound by the terms as set out in the agreement of sale.

Mr KI Monaheng has now, through his attorneys, requested that the Municipality waives it's pre-emptive rights to buy-back the property as he is of the intention of selling same to a third party, Mr Baleni.

5. RECOMMENDATION

For consideration.

6. DISCUSSION / CONTENT

6.1 Background

Stellenbosch Municipality is currently the registered owner Erf 756 Kayamandi however this property was allocated to Mr KI Monaheng in 1996, an agreement of sale was entered into in 1996 and the purchase price was paid in 2019. The original agreement of sale has been misplaced and a new agreement was entered into in 2023 on the same terms and conditions as the original agreement. A copy of the agreement is attached hereto as **APPENDIX 1**.

We have now received a letter from the attorneys acting on behalf of Mr KI Monaheng requesting that we waive our pre-emptive right to buy-back the property as Mr Monaheng is of the intention to sell the property to Mr Baleni. A copy of the letter received from the attorneys are attached hereto marked as **APPENDIX 2**.

6.2. DISCUSSION

6.2.1 Location and context

The property is located in Kayamandi. The images reflected below is from the GIS which is 7 years old. There appears to be at least 3 or 4 structures on the erf, one of which appears to be over the boundary line encroaching onto the side walk. No in loco inspection has been done by the property management unit.



6.2.3 Ownership

The ownership of the property vests with Stellenbosch Municipality and is in the process of being transferred to Mr KI Monaheng. The zoning is residential.

6.3 Financial Implications

If Council decides to exercise the pre-emptive right council will have to pay the original purchase price of R 15 988.50 to Mr Monaheng.

Council will then have the right to sell the property ourselves on an auction to the highest bidder. Properties in Kayamandi is scarce.

6.4 Legal Implications

All legal implications have been addressed in the item.

6.5 Staff Implications

No additional staff implications.

6.6 Previous / Relevant Council Resolutions

None.

7.7 Risk Implications

Addressed in the item.

7.8 Comments from Senior Management

None has been requested yet.

ANNEXURES: **Appendix 1: Agreement of Sale**
 Appendix 2: Letter from Attorneys

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director
DIRECTORATE	Corporate Services
CONTACT NUMBERS	021-8088018
E-MAIL ADDRESS	annalene.debeer@stellenbosch.gov.za
REPORT DATE	11/01/2024

APPENDIX 1

AGREEMENT OF SALE

Entered by and between

STELLENBOSCH MUNICIPALITY

Herein represented by **GARALDINE LEZETTE METTLER** in her capacity as

Municipal Manager, being duly authorized

("The Seller")

and

KI MONAHENG

("The Purchasers")

In respect of

**ERF 756
KAYA MANDI
STELLENBOSCH
WESTERN CAPE PROVINCE**

("The Property")


KIM





SCHEDULE OF PARTICULARS

1. SELLER

- 1.1 NAME: **STELLENBOSCH MUNICIPALITY**
- 1.2 PHYSICAL ADDRESS: **MUNICIPAL MAIN BUILDING
STELLENBOSCH TOWN HALL
14 PLEIN STREET
STELLENBOSCH, 7600**
- 1.3 POSTAL ADDRESS: **PO BOX 17
STELLENBOSCH, 7599**
- 1.4 E-mail: municipal.manager@ Stellenbosch.gov.za
- 1.5 TEL NO.: **021 – 808 8025**

2. PURCHASERS

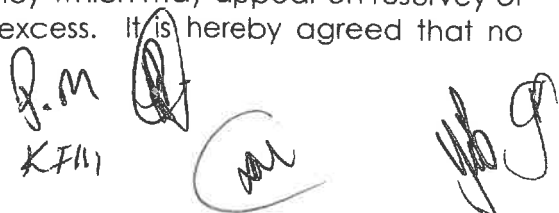
- 2.1 NAME/S **KI MONAHENG**
- 2.2 Business address: **ERF 756, KAYA MANDI**
- 2.3 Postal address: **AS ABOVE**
- 2.4 E-mail: monaheng123@gmail.com

3. THE PROPERTY

ERF 756 KAYA MANDI
In the STELLENBOSCH MUNICIPALITY
WESTERN CAPE PROVINCE

4. PURCHASE PRICE

- 4.1 The purchase price is the amount of R15 988.50 (Fifteen Thousand Nine Hundred and Eighty Eight Rand Fifty Cents), plus VAT of R2 238.39 (Two Thousand Two Hundred and Thirty Eight Rand Thirty Nine Cents).
- 4.2 The purchase price in the amount has already been paid by the Purchaser to the Seller.
- 4.3 The property is sold subject to and entitled to the special conditions mentioned or referred to in the existing Title Deed of the Property. The Property is also sold according to the existing diagram and the Seller shall not be responsible for any deficiency which may appear on resurvey of the ground and renounces any excess. It is hereby agreed that no



representations or warranties, verbal or written, have been made by or on behalf of the Seller other than is stated in this agreement.

5. **OCCUPATION**

The Purchaser already has possession and occupation of the Property. The property is currently not being used and no occupational rent is payable.

6. **RATES AND TAXES**

The purchaser shall be liable for payment of all rates, taxes and services charges as levied by the local authorities in respect of the property as of date of signing of the agreement.

7. **BEACONS AND BOUNDARIES**

The Seller shall not be obliged to point out the beacons and boundaries of the property to the Purchaser and should any beacons and boundaries be pointed out it will be done for the account of the Purchaser.

8. **NEGLIGENCE OF PURCHASER**

In the event of the Purchaser neglecting or failing to comply with any condition on due date or to fulfil any other condition of this agreement, the Seller shall be entitled to:

- 8.1 cancel this agreement and in the event of such cancellation the Seller shall be entitled to the immediate possession and vacant occupation of the Property and to eject the Purchaser and everyone who occupies the Property either through or on behalf of the Purchaser;
- 8.2 the Purchaser shall be forfeited to the Seller (as liquidated damages) 20% of the purchase price;
- 8.3 in the alternative the Seller shall be entitled to the purchase price/balance of the purchase price in terms of this agreement without prejudice to the Seller's right to claim damages against the Purchaser;
- 8.4 the Purchaser shall pay outstanding rates and taxes; and
- 8.5 the Purchaser must pay outstanding lawyers' fees.

9. **VOETSTOOTS**

The property is bought and sold "voetstoots".

The Seller shall not be liable for any defects therein, whether patent or latent.

10. **TRANSFER**

Transfer of the property shall be given by the Seller when the full purchase price

has been paid or guaranteed and the Seller shall be entitled to determine which and to whom guarantees shall be furnished.

11. **COSTS AND FEES**

The Purchaser shall be entitled to appoint his own transfer attorneys and will be liable for payment of the transfer fees and all other costs associated with the transfer of the property to the attorney. The registration of the property has to be finalised within 12 months of signing of this agreement.

12. **DOMICILIUM**

The parties choose the addresses as above as their respective *domicilium citandi et executandi*.

13. **SPECIAL CONDITIONS**

The property may only be utilized for business purposes.

14. **PRE-EMPTIVE RIGHT**

If the transferee or its successor in title pretends to sell this plot or part thereof, they are bound to offer this plot or any part thereof in writing to the transferor which has a pre-emptive right to buy this plot or part thereof from the transferee against the same purchase price as the transferee originally paid.

This offer is valid for 3 (Three) months and if the transferor acts according to tis pre-emptive right, the owner of the plot must transfer the plot to the transferor in due course and all costs regarding the transfer is payable by the owner.

In the case of the transferor not exercising its pre-emptive right, the plot can be sold to any other party on condition that the buyer adhere to all the conditions of sale as above.

15. **LOST DEED OF SALE**

It is specifically recorded that the parties entered into an Agreement of Sale in August 1996, which original has been misplaced or destroyed. The terms of this Agreement is in line with the original agreement entered into, a copy of which is attached hereto.

P.M. (Signature)
KIM

(Signature)

(Signature)

THUS, DONE AND SIGNED AT STELLENBOSCH ON THE 6TH DAY OF September 2023.



AS WITNESSES:

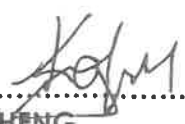
1. 
.....
2. 
.....


.....
GARALDINE LEZETTE METTLER
STELLENBOSCH MUNICIPALITY

THUS, DONE AND SIGNED AT FRANSCHHOEK ON THE DAY OF 2023.

AS WITNESSES:

1.  
.....
2.


.....
KI MONAHENG

AGREEMENT OF SALE

Memorandum of agreement entered into by and between

STELLENBOSCH MUNICIPALITY

Herein represented by the CHIEF EXECUTIVE/TOWN CLERK duly authorised thereto

(Hereinafter referred to as the SELLER)

and

KI MONAHENG

(Hereinafter referred to as the PURCHASER)

NOW THEREFORE the parties hereto agree as follow:

1. The SELLER hereby sells to the PURCHASER who hereby purchases the following property i.e.:

ERF 756, KAYA MANDI, STELLENBOSCH,
situated within the Municipality and Division of STELLENBOSCH

MEASURING : ± 627 m² (SIX HUNDRED TWENTY SEVEN)

2. The purchase price is the sum of R 15 988,50 (FIFTEEN THOUSAND NINE HUNDRED EIGHTY EIGHT RAND FIFTY CENTS) plus VAT of R 2 238,39 (TWO THOUSAND TWO HUNDRED THIRTY EIGHT RAND THIRTY NINE CENTS) which will be payable by the PURCHASER to the SELLER as follows:

- (a) 10 % deposit on the day of signature of the agreement;
- (b) the balance against registration of transfer; or
- (c) the balance over a period of five years in sixty equal motnhly pauement of R 2 998,08 which includes interest at the standard rate.



K.I.M



3. The PROPERTY is sold subject to and entitled to the special conditions mentioned or referred to in the existing Title Deed of the PROPERTY. The PROPERTY is also sold according to the existing Diagram attached hereto and the SELLER shall not be responsible for any deficiency which may appear on resurvey of the ground and renounces any excess. It is hereby agreed that no representations or warranties, verbal or written, have been made by or on behalf of the SELLER other than is stated in this agreement.

4. OCCUPATION

The SELLER shall give and the PURCHASER shall take possession and vacant occupation of the PROPERTY hereby sold on the date of signature of this agreement on which date all risk concerning the PROPERTY shall pass to the PURCHASER.

5. RATES AND TAXES

The PURCHASER shall be liable for payment of all rates, taxes and service charges as levied by the local authorities in terms of the Municipal Ordinance, 1974 concerned in respect of the PROPERTY as from date of sale as if the PROPERTY is already registered in his name.



6. BEACONS AND BOUNDARIES

The SELLER shall not be obliged to point out the beacons and boundaries of the PROPERTY to the PURCHASER and should any beacons and boundaries be pointed out it will be done for the account of the PURCHASER.

7. NEGLIGENCE OF PURCHASER

In the event of the PURCHASER neglecting or failing to comply with any condition on due date or to fulfil any other condition of this agreement, the SELLER shall be entitled to:

7.1 cancel this agreement and in the event of such cancellation the SELLER shall be entitled to the immediate possession and vacant occupation of the PROPERTY and to eject the PURCHASER and everyone who occupies the PROPERTY either through or on behalf of the PURCHASER;

7.2 the PURCHASER shall be forfeited to the SELLER (as liquidated damages) 20 % of the purchase price;

B K.I.M. [Handwritten signatures]

7.3 in the alternative the SELLER shall be entitled to the purchase price/balance of the purchase price in terms of this agreement without prejudice to the SELLER'S right to claim damages against the PURCHASER;

7.4 the PURCHASER shall pay outstanding rates and taxes;

7.5 the PURCHASER shall pay transfer duty in terms of the loan; and

7.6 the PURCHASER shall be entitled to pay any outstanding lawyers fees.

8. VOETSTOOTS

The PROPERTY is bought and sold "voetstoots"

The SELLER shall not be liable for any defects therein, whether patent or latent.

9. TRANSFER

Transfer of the PROPERTY shall be given by the SELLER when the full purchase price has been paid or guaranteed and the SELLER shall be entitled to determine which and to whom guarantees shall be furnished.

The amount of transfer duty payable according to this agreement to the Receiver of Revenue, which amount is payable within 6 (SIX) months after date of acquisition as described in the Transfer Duty Act no 40 of 1949 as amended, which amount the PURCHASER shall pay or make available to the attorneys of the SELLER within the said period of 6 (SIX) months, and should any duty remain unpaid after expiry of the said period, the PURCHASER will be liable for payment of penalty interest on the said transfer duty as provided in the said Transfer Duty Act.

10. COSTS AND FEES

The PURCHASER shall be liable for and shall on demand pay to the SELLER'S Attorneys the fees for all consultations and attendances in respect of this Deed of Sale, the fees for drawing this Deed of Sale, the fees for drawing and registration of all documents required for registration of transfer as prescribed in terms of Regulation 85 of the Deeds Registry Act No 47 of 1937, all fees of office as are required by the Deeds Office for registration of any deed required in terms of this agreement, transfer duty, stamp duty, if any, and all bank charges necessarily incurred by the SELLER'S Attorneys in given effect to this agreement.

R K.I.M
[Handwritten signatures]

An administrative levy of R50,00 is payable to the SELLER for the handling and reproduction of this agreement.

11. DOMICILIUM

The parties hereby choose the undermentioned addresses as their domicilia citandi et executandi for all purposes of this agreement:

SELLER

Municipal Offices, Plein Street, Stellenbosch

PURCHASER

B958 Masithandane Street, Kaya Mandi, Stellenbosch

12. SPECIAL CONDITIONS

The PROPERTY may only be utilized for business purposes.

13. PRE-EMPTIVE RIGHT

If the transferee or its successor in title pretends to sell this plot of part thereof, they are bound to offer this plot or any part thereof in writing to the transferor which has a *pre-emptive right to buy this plot or part thereof from the transferee against the same purchase price as the transferee originally paid.*


This offer is valid for 3 (THREE) months and if the transferor acts according to its pre-emptive right, the owner of the plot must transfer the plot to the transferor in due course and all costs regarding the transfer is payable by the owner.

In the case of the transferor not exercising its pre-emptive right, the plot can be sold to any other party on condition that the buyer adhere to all the conditions of sale as above.

K.J.M

THUS DONE AND SIGNED at STELLENBOSCH this 16 day of AUGUST 1996 in the presence of the undersigned witnesses.

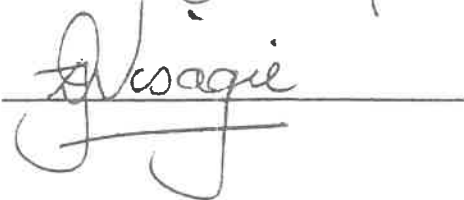
AS WITNESSES:


1. 
2. 


SELLER

THUS DONE AND SIGNED at STELLENBOSCH this 15 day of August 1996 in the presence of the undersigned witnesses.

AS WITNESSES:

1. 
2. 


PURCHASER

APPENDIX 2



DMVINC.
ATTORNEYS CONVEYANCERS NOTARIES
DU PLESSIS . MYBURG . VERBEEK

Office 301, 3rd Floor
Eikestad Mall
43 Andringa Street
Stellenbosch, 7600

T: 021 808 1818
C: 082 564 8923
E: louise@dmvinc.co.za
www.dmvinc.co.za

PRETORIA BRANCH
T: 012 991 4400
C: 076 904 3169
F: 012 991 3001

CAPE TOWN BRANCH
ATT: Louise Verbeek
T: 021 808 1818
C: 082 564 8923

Our Ref: AD5190
Date: 12 December 2023
E-mail: louise@dmvinc.co.za

To: **STELLENBOSCH MUNICIPALITY**

By Email: Yolande.vandenBerg@stellenbosch.gov.za

Dear Madam

IN RE: TRANSFER OF ERF 756 KAYA MANDI FROM STELLENBOSCH MUNICIPALITY TO KI MONAHENG

1. We refer to the above matter.
2. We confirm that the above property was allocated and sold to Mr KI Monaheng in terms of a sale agreement signed on 16 August 1996.
3. The full purchase price has been paid to the Stellenbosch Municipality but the transfer of the property was never finalised. Our office is now attending to the transfer of the property to Mr Monaheng. The property will simultaneously also be transferred to a third party, Mr Baleni, as the property has in the mean time been sold by Mr Monaheng.
4. The parties have requested that you renounce or waive the pre-emptive right as referred to in clause 13 of the initial sale agreement. A copy of the sale agreement is attached hereto for your ease of reference.
5. Kindly consider the request for renunciation.
6. You are welcome to contact our offices should you have any queries or require further information.

Yours faithfully,

Per: L VERBEEK
DU PLESSIS MYBURG VERBEEK INC.
(Unsigned electronic version)

7.3.4	APPLICATION: OUTDOOR DINING LEASE: ERF 1238 (CNR CHURCH AND ADRINGA STREET), STELLENBOSCH: STELLENBOSCH WINE BAR
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Collaborator No:	761558
IDP KPA Ref No:	Good Governance
Meeting Date:	17 January 2024

1. SUBJECT: APPLICATION: OUTDOOR DINING LEASE: ERF 1238 (CNR CHURCH AND ADRINGA STREET), STELLENBOSCH: STELLENBOSCH WINE BAR

2. PURPOSE

To consider an application from Stellenbosch Reserve (Pty) Ltd t/a Stellenbosch Wine Bar, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of the sidewalk for outdoor dining purposes (Erf 1238).

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has the delegated authority to enter into lease agreements under three (3) years.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Stellenbosch Wine Bar trading on erf 1238, Stellenbosch. The current area being used is not in line with the provisions / requirements of the Outdoor Dining Policy. There isn't sufficient walkway left for the public as it does not provide a 1.5m area for pedestrian use. Under 6.2.1 are photographs of the current area being used by the establishment. The photos were taken by the department. The applicant does not have a lease agreement or previous encroachment agreement with the municipality and is therefore currently not paying any rent for use of the area. We served the applicant with several letters requesting that they apply for the outdoor dining lease to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in and currently using is 28m². They have filed a diagram with the application indicating the area and furniture placement. The above information is also evident from the photographs.

5. RECOMMENDATIONS FOR CONSIDERATION

- (a) that the land as indicated on Fig 1 and 2, measuring approximately 28m² in extent, be identified as land not needed to provide the minimum level of basic municipal services during the period that the rights are awarded;
- (b) that the in-principle approval be considered for an initial period of 3 years with the option of a renewal subject to the following conditions:

5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.

5.2.2 A 1.5m unobstructed walk area be left open for pedestrian use, preferably adjacent to the street. In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.

5.2.3 The demarcation of the area to be used be done in agreement with council. Preferably a natural demarcation such as plants, where possible. If a natural demarcation is not possible an agreement to be reached with council on a line to be used and in the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.

5.2.4 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council.

5.2.5 All umbrellas to be used has to be at least 2.2m high and cannot have any signage on them.

5.2.6 Any awnings will require pre-approval from council.

5.2.7 Council is indemnified against all possible 3rd party claims.

5.2.8 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.

5.2.9 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required. The lease agreement may also be terminated if the lessee does not adhere to the provisions of the lease.

- (c) that the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Application for lease

An application was received from Stellenbosch Wine Bar to enter into a lease agreement with Stellenbosch Municipality in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes. A copy of the application is attached as **APPENDIX 1**. A diagram of the intended area and placement of furniture is attached hereto as **APPENDIX 2**. The extent of the proposed leased area is approximately 28m².

6.2 DISCUSSION

6.2.1. Locality and context

Erf 1238, Stellenbosch is located at the cnr of Church and Adringa Streets, Stellenbosch, as shown on Fig 1.and Fig 2, below as well as photographs of how area is currently used under Figure 3.

In their application there is no indication of the area to be left open for pedestrians however it is clear from the photographs that the current area is not in line with the 1.5m requested in terms of the requirements set by National guidelines for non motorised transport.



Fig 1. Location and context



Fig 2 .Extent of area





Fig 3. Current area used for outdoor dining

6.2.2 Legal requirements

6.2.2.1 Municipal Asset Transfer Regulations

In terms of Section 36 of the Municipal Asset Transfer Regulation, when considering an application for an approval of a right to use municipal property, the following needs to be taken 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 improvements or enhancements to the asset, will result in a significant financial benefit to the municipality;
- c) the (possible) risks and rewards associated with the use in relation to the municipality's interests;
- d) Any comments received from the local community, and
- e) compliance with the legislative regime applicable to the proposed granting of the right.

6.2.2.2 Stellenbosch By-Law on Roads and Streets

In terms of section 4 of the Stellenbosch By-Law on Roads and Streets, no person may, **without prior written permission of the Municipality**, cause an encroachment on a street, sidewalk or road reserve forming part thereof.

6.2.2.3 Property Management policy

Section 9 2.2 deals with deviations from the competitive process, and reads as follows:

The Municipal Council **may dispense with the competitive processes** established in this policy, and may enter into a Private Treaty Agreement through any convenient process, which may include direct negotiations, including in response to an unsolicited application, but only in the following circumstances, and only after having advertised Council's intention so to act. Should any objections be received as a consequence of such a notice, such objections first be considered before a final decision is taken to dispense with the competitive process established in this policy. However, should any objections, be received from potential, competitive bidders, then a public competitive process must be followed. The advertisement referred to above should also be served on adjoining land owners, where the Municipal Manager is of the opinion that such transaction may have a detrimental effect on such adjoining land owner(s):

(h)where encroachment applications are received from adjoining owners, including applications for outdoor dining permits, subject to approved tariff structure;

6.2.2.4 Outdoor Dining Policy

6.2.2.4.1 Policy Objective

To regulate the use of sidewalks or road reserves for the purpose of outdoor dining and trading, and the temporary use of Public Places for commercial ventures and displays.

6.2.2.4.2 Suitable Locations

Outdoor cafes, restaurants and traders may apply for encroachment where local conditions are favourable for their operation, including areas of Council e.g. road reserves, sidewalks, Public Open Spaces. All applications in locations of a high pedestrian usage, e.g. a retail center, will be required to take pedestrian needs into consideration.

6.2.2.4.3 Assessment Criteria

The most important local conditions to be considered when an application for encroachment of the road reserve area is received will be those issues pertaining to pedestrian (including pedestrians who are using wheelchairs, baby prams or are visually impaired) and vehicular circulation, convenience and safety of patrons and the general public, existing streetscape elements and residential amenity.

The ground surface must be sufficiently level to support a proper layout and safe use.

6.2.2.4.4 Layout

The style, layout and orientation of furniture should be chosen according to the extent and shape of the available space of the encroachment area.

The size of an outdoor cafe or placement of any object on the sidewalk will depend on the width of the sidewalk

6.2.2.4.5 Defined Area

The applicant will be required to define the area with appropriate markers. (ie a single galvanized steel nail inserted in between the pavers, or a paint spot no larger than 5cm in diameter placed at the corners of the defined area in a semi- permanent paint) to the satisfaction of Council.

6.2.2.4.6 Leased Conditions

The applicant must comply with the conditions set out in the lease agreement and this policy. The lease will be for a period of not more than 5 years with an option to renew. These conditions would also generally require that the local environmental factors be reviewed annually and adjustments to the lease agreement may be required.

If the lease agreement that is entered into is seen as not providing long term rights there is no need to advertise the proposed agreement for public input/comments or objections. Should the municipality receive any complaints the lease agreement may be terminated due to the objections.

6.3 Financial Implications

In terms of the current, approved tariff structure for outdoor dining lease agreements a monthly fee of R 4200.00 (incl. of VAT) is applicable and an escalation of 6% is recommended.

6.4 Legal Implications

The legal implications are discussed under 6.2.2 above. As the proposed term of the lease agreement is three (3) years and when the value of the lease and property is taken into account the asset transfer regulations are not applicable as it is not seen as long-term rights on council property that are being given.

6.5 Staff Implications

No additional staff implications.

6.6 Previous / Relevant Council Resolutions

SPECIAL COUNCIL MEETING: 2022-06-22: ITEM 9.2.5 RESOLVED (nem con)

- (a) That council takes note of the intended communication to the public;
- (b) That council takes note that all restaurants and businesses will be given notice to apply/re-apply for a lease to use council property for outdoor dining purposes; and
- (c) That the approval of the leases of three (3) years and less be delegated to the Municipal Manager for approval.

6.7 Risk Implications

The application does not comply with Council's criteria.

6.8 Comments from Senior Management

The item has not been circulated for comment yet.

ANNEXURES: 1. Application

2. Diagram

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	<i>Director: Corporate Services</i>
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088073
E-MAIL ADDRESS	Annalene.debeer@stellenbosch.gov.za
REPORT DATE	2024-01-11

ANNEXURE 1



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

APPLICATION FOR LEASE OF MUNICIPAL LAND APPLICATION FORM

A: APPLICANT'S DETAILS

Name : Stellenbosch Wine Bar (Stellenbosch Reserve (Pty) Ltd)

Physical address: Car Church & Andringa Street
Stellenbosch

Postal code: 7600

Mailing address: Rust en Vrede Wine Estate
PO Box 473
Stellenbosch

Postal code: 7599

E-mail address: warren@the Stellenbosch collection.com

Telephone: —

Cell phone: 082 35 18000

B: PROPERTY DETAILS OF APPLICANT

Erf/farm number :

Suburb:

Town:

C: PROPERTY DETAILS OF LEASE AREA

Erf/farm number : Car Church / Anding street

Suburb: Stellenbosch

Town: Stellenbosch

Area of encroachment: 27.85 m².....m²

* To be supplemented with a sketch-plan with dimension in m²

D: TYPE OF APPLICATION:

Please mark the appropriate block

- For commercial purposes, other than for parking
- For commercial parking purposes,
- For residential parking purposes
- For non-commercial purposes (such as garden purposes, gates, ect)
- For projecting structures onto street reserves
- For projecting structures onto other council-owned land
- Other: please provide description:

Brief description of application: Application for use of side walk to allow outside dining, whilst still allowing sufficient space for pedestrians to walk without being on street.

Motivation: Outside dining is a central part of the Stellenbosch tourist scene and creates a unique atmosphere for people to enjoy our beautiful town. The inside space of our wine bar is also very limited, and without the extra seating the business would not be viable. Your careful consideration would be greatly appreciated

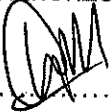
.....

E: LIST OF ATTACHEMENTS AND SUPPORTING DOCUMENTS

Please mark the appropriate box

- Special Power of Attorney, where Applicant is not the owner
- Diagram of proposed area of the lease area
- Letters of consent (affected neighbours) *Rank on all sides*
- Application fee (non-refundable)

I hereby certify that the information supplied in this application form is correct and that I am properly authorized to make this application.

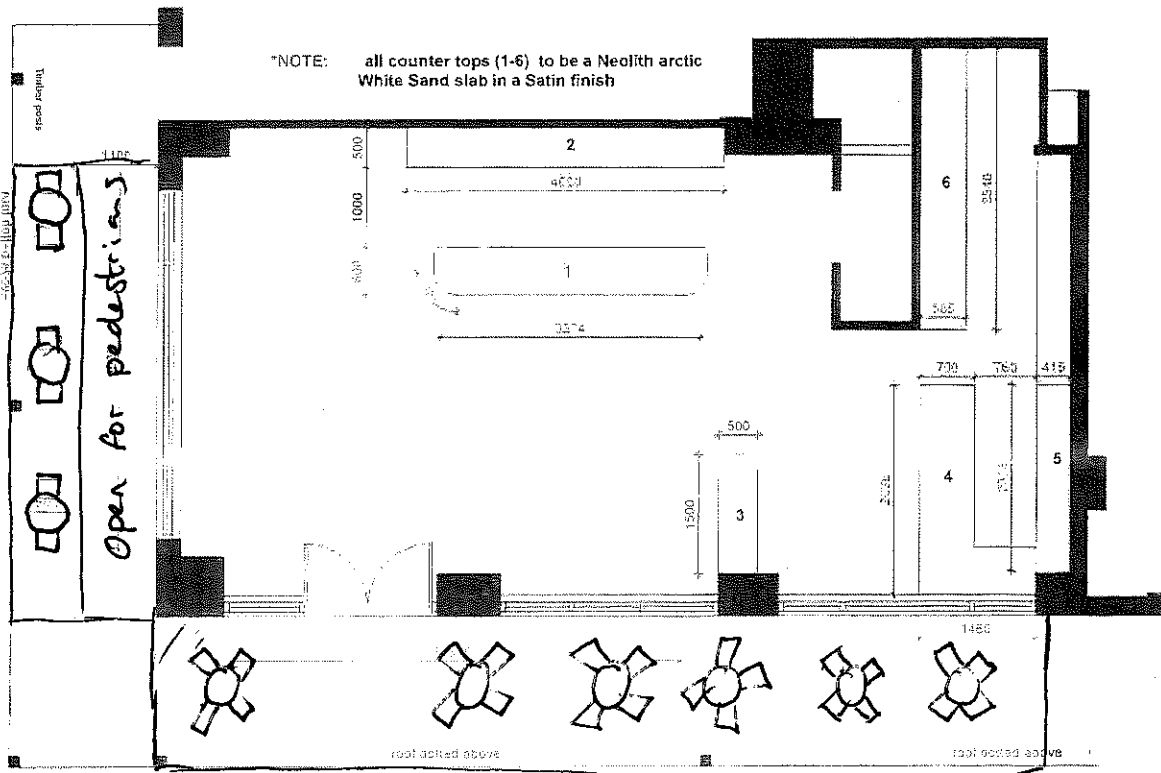
Applicant's signature: 

Date: *15 Dec 2023*

Full name: *Warren Grant-Welder*

ANNEXURE 2

PRODUCED BY AN AUTODESK STUDENT VERSION



PRODUCED BY AN AUTODESK STUDENT VERSION

PRODUCED BY AN AUTODESK STUDENT VERSION

7.3.5	OUTDOOR DINING: PROPOSED LEASE AGREEMENT: ERF 15713 (13 RYNEVELD STREET), STELLENBOSCH: BOOTLEGGER
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Collaborator No:	761559
IDP KPA Ref No:	Good Governance
Meeting Date:	17 January 2024

1. SUBJECT: OUTDOOR DINING: PROPOSED LEASE AGREEMENT: ERF 15713 (13 RYNEVELD STREET), STELLENBOSCH: BOOTLEGGER

2. PURPOSE

To consider an application from Bootlegger, to enter into a Lease Agreement with Stellenbosch Municipality, in terms whereof they would be able to use a portion of Council-owned property (Erf 15713) for outdoor dining purposes.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated Authority to consider applications for Lease Agreements, up to a contract value not exceeding R5M and not exceeding a period of 10 years.

The Municipal Manager has the delegated authority to enter into lease agreements under three (3) years.

4. EXECUTIVE SUMMARY

An application to use a portion of the street reserve for Outdoor Dining purposes has been received from the owner of Bootlegger trading from erf 15713, Stellenbosch. The current area being used is in line with the provisions / requirements of the Outdoor Dining Policy. There is sufficient walkway left for the public in that the seating does provide a 1.5m area for sidewalk users. Under 6.2.1 are photographs of the current area being used by the establishment. The photos were taken by the property management department. The applicant does not have a lease agreement or previous encroachment agreement with the municipality and is therefore currently not paying any rent for use of the area. We served the applicant with several letters requesting that they apply for the outdoor dining lease to ensure compliance.

They have not specified a requested time for the lease and the area they are interested in and currently using is 14m². They have failed to file a diagram with the application indicating the area, furniture to be used and how the area of 1.5m will be left open for pedestrian use. The above information is however evident from the photographs. The pedestrian area is next to the shopfront. That is in line with the two restaurants adjacent namely "The Wine glass" and "Beyerskloof".

5. RECOMMENDATIONS FOR CONSIDERATION

(a) that the land as indicated on Fig 1 and 2, (erf 15713) measuring approximately 14m² in extent, be identified as land not needed to provide the minimum basic municipal services during the period that the rights are awarded;

(b) that the in-principle approval be considered for an initial period of 3 years with the option of a renewal subject to the following conditions:

5.2.1 That no permanent structure or deck be erected without the prior written consent of council, including approved building plans and approval from the Heritage Advisory Committee.

5.2.2 A 1.5m unobstructed walkway be left open for pedestrian use, preferably adjacent to the street. In the event that the 1.5m is not adjacent to the street a further 0.8m to be left open adjacent to the street in order for cars to open their doors.

5.2.3 The demarcation of the area to be used be done in agreement with council. Preferably a natural demarcation such as plants, where possible. If a natural demarcation is not possible an agreement to be reached with council on a line to be used and in the event that the outdoor dining spills over the demarcated area the furniture will be confiscated.

5.2.4 No advertising signs to be placed on the sidewalk or displayed against the building without the prior approval of council.

5.2.5 All umbrellas to be used has to be at least 2.2m high and cannot have any signage on them.

5.2.6 Any awnings will require pre-approval from council.

5.2.7 Council is indemnified against all possible 3rd party claims.

5.2.8 The municipality or other public service providers must not be prohibited from maintaining, repairing, upgrading and / or installing new public services within the leased area. For planned maintenance and repairs, upgrades or new installations, the applicant will be provided with a 5-day written notice to remove all furniture for the municipality and any other public service provider to gain access. For emergency work the applicant will be required to remove everything immediately for the municipality or other public service providers to gain access.

5.2.9 The municipality reserves the right to end the lease agreement when the need arises, i.e. when the leased area is required for municipal or other public services purposes or when the applicant refuses the municipality or other public service providers access if required.

(c) that the rental amount be determined by the Municipal Manager in terms of the approved tariffs and an escalation of CPI per annum applies.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Application for lease

An application was received from Bootlegger to enter into a lease agreement with Stellenbosch Municipality in terms whereof they would be able to use a portion of Council-owned property for outdoor dining purposes. A copy of the application is attached as **APPENDIX 1**. The extent of the proposed leased area is approximately 14m².

6.2 DISCUSSION

6.2.1. Locality and context

Erf 15713, Stellenbosch is located at 13 Ryneveld Street, Stellenbosch, as shown on Fig 1. and Fig 2, below as well as photographs of how area is currently used under Figure 3.

In their application there is no indication of the area to be left open for pedestrians however it is clear from the photographs that the current area is in line with the 1.5m requested in terms of the requirements set by National guidelines for non motorised transport.



Fig 1. Location and context



Fig 2 .Extent of area



Fig 3. Current area used for outdoor dining

6.2.2 Legal requirements

6.2.2.1 Municipal Asset Transfer Regulations

In terms of Section 36 of the Municipal Asset Transfer Regulation, when considering an application for an approval of a right to use municipal property, the following needs to be taken 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 improvements or enhancements to the asset, will result in a significant financial benefit to the municipality;
- c) the (possible) risks and rewards associated with the use in relation to the municipality's interests;
- d) Any comments received from the local community, and
- e) compliance with the legislative regime applicable to the proposed granting of the right.

6.2.2.2 Stellenbosch By-Law on Roads and Streets

In terms of section 4 of the Stellenbosch By-Law on Roads and Streets, no person may, **without prior written permission of the Municipality**, cause an encroachment on a street, sidewalk or road reserve forming part thereof.

6.2.2.3 Property Management policy

Section 9 2.2 deals with deviations from the competitive process, and reads as follows:

The Municipal Council **may dispense with the competitive processes** established in this policy and may enter into a Private Treaty Agreement through any convenient process, which may include direct negotiations, including in response to an unsolicited application, but only in the following circumstances, and only after having advertised Council's intention so to act. Should any objections be received as a consequence of such a notice, such objections first be considered before a final decision is taken to dispense with the competitive process established in this policy. However, should any objections be received from potential, competitive bidders, then a public competitive process must be followed. The advertisement referred to above should also be served on adjoining land owners, where the Municipal Manager is of the opinion that such transaction may have a detrimental effect on such adjoining land owner(s):

- (h) where encroachment applications are received from adjoining owners, including applications for outdoor dining permits, subject to approved tariff structure.

6.2.2.4 Outdoor Dining Policy

6.2.2.4.1 Policy Objective

To regulate the use of sidewalks or road reserves for the purpose of outdoor dining and trading, and the temporary use of Public Places for commercial ventures and displays.

6.2.2.4.2 Suitable Locations

Outdoor cafes, restaurants and traders may apply for encroachment where local conditions are favorable for their operation, including areas of Council e.g. road reserves, sidewalks, Public Open Spaces. All applications in locations of a high pedestrian usage, e.g. a retail center, will be required to take pedestrian needs into consideration.

6.2.2.4.3 Assessment Criteria

The most important local conditions to be considered when an application for encroachment of the road reserve area is received will be those issues pertaining to pedestrian (including pedestrians who are using wheelchairs, baby prams or are visually impaired) and vehicular circulation, convenience and safety of patrons and the general public, existing streetscape elements and residential amenity.

The ground surface must be sufficiently level to support a proper layout and safe use.

6.2.2.4.4 Layout

The style, layout and orientation of furniture should be chosen according to the extent and shape of the available space of the encroachment area.

The size of an outdoor cafe or placement of any object on the sidewalk will depend on the width of the sidewalk.

6.2.2.4.5 Defined Area

The applicant will be required to define the area with appropriate markers. (ie a single galvanized steel nail inserted in between the pavers, or a paint spot no larger than 5cm in diameter placed at the corners of the defined area in a semi- permanent paint) to the satisfaction of Council.

6.2.2.4.6 Leased Conditions

The applicant must comply with the conditions set out in the lease agreement and this policy. The lease will be for a period of not more than 5 years with an option to renew. These conditions would also generally require that the local environmental factors be reviewed annually and adjustments to the lease agreement may be required.

If the lease agreement that is entered into is seen as not providing long-term rights there is no need to advertise the proposed agreement for public input/comments or objections. Should the municipality receive any complaints the lease agreement may be terminated due to the objections.

6.3 Financial Implications

In terms of the current, approved tariff structure for outdoor dining lease agreements a monthly fee of R 2100.00 (incl. of VAT) is applicable and an escalation of 6% is recommended.

6.4 Legal Implications

The legal implications are discussed under 6.2.2 above. As the proposed term of the lease agreement is three (3) years and when the value of the lease and property is taken into account the asset transfer regulations are not applicable as it is not seen as long-term rights on council property that are being given.

6.5 Staff Implications

No additional staff implications.

6.6 Previous / Relevant Council Resolutions

SPECIAL COUNCIL MEETING: 2022-06-22: ITEM 9.2.5 RESOLVED (nem con)

(d) That council takes note of the intended communication to the public;

(e) That council takes note that all restaurants and businesses will be given notice to apply/re-apply for a lease to use council property for outdoor dining purposes; and

(f) That the approval of the leases of three (3) years and less be delegated to the Municipal Manager for approval.

6.7 Risk Implications

The application does not comply with Council's criteria.

6.8 Comments from Senior Management

Not circulated for comments yet.

ANNEXURES: 1. Application**FOR FURTHER DETAILS CONTACT:**

NAME	Annalene de Beer
POSITION	Director: Corporate Services
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088073
E-MAIL ADDRESS	Annalene.debeer@stellenbosch.gov.za
REPORT DATE	2024-01-11

ANNEXURE 1



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

APPLICATION FOR LEASE OF MUNICIPAL LAND APPLICATION FORM

A: APPLICANT'S DETAILS

Name : BOOTLEGG ER STELLENBOSCH

Physical address: 13 RYNEVELD STREET
STELLENBOSCH

Postal code: 7600

Mailing address: PO BOX 6027
UNIEDAL

Postal code: 7612

E-mail address: COENE, LOTRIET@GMAIL.COM

Telephone:

Cell phone: 082 786 3096

B: PROPERTY DETAILS OF APPLICANT

Erf/farm number :

Suburb: CENTRAL

Town: STELLENBOSCH

C: PROPERTY DETAILS OF LEASE AREA APPLYING FOR

Erf/farm number :

Suburb: CENTRAL

Town: STELLENBOSCH

Area applying for ALREADY MEASURED BY MUNICIPALITY

* To be supplemented with a sketch-plan with dimension in m²

D: TYPE OF APPLICATION:

Please mark the appropriate block

For commercial purposes, other than for parking

For commercial parking purposes

For residential parking purposes

For non-commercial purposes

For projecting structures onto street reserves

For projecting structures onto other council-owned land

Other: please provide description:

Brief description of application: OUTSIDE SEATING AREA
FOR COFFEE SHOP (4 PICNIC BENCHES)

Motivation: THERE WAS ONLY A CHANGE IN OWNERSHIP,
BUT THE OUTSIDE AREA HAS BEEN THERE FOR
THE PAST ±5 YEARS.

BOTH SHOPS ON EITHER SIDES HAVE OUTSIDE SEATING AREAS AND WOODEN DECK STRUCTURES: BEYERSKLOOF & WINE GLASS.

E: LIST OF ATTACHEMENTS AND SUPPORTING DOCUMENTS

Please mark the appropriate box

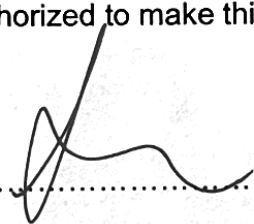
Special Power of Attorney, where Applicant is not the owner

Diagram of proposed area of the lease area

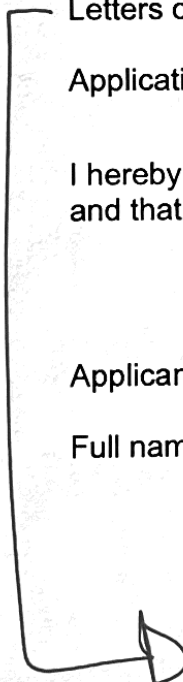
Letters of consent (affected neighbours)

Application fee (non-refundable)

I hereby certify that the information supplied in this application form is correct and that I am properly authorized to make this application.

Applicant's signature:  Date: 31 DECEMBER 2023

Full name: CORNELIUS GERHARD LOTRIET



OWNERS ON BOTH SIDES ARE ON LEAVE. WILL FORWARD IT ON AS SOON AS THEY ARE BACK.

7.4	FINANCIAL SERVICES: (PC: CLLR J FASSER)
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NONE

7.5	HUMAN SETTLEMENTS: (PC: CLLR R DU TOIT)
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NONE

7.6	INFRASTRUCTURE SERVICES : (PC : CLLR P JOHNSON)
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NONE

7.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J WILLIAMS)
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NONE

7.8	PLANNING AND LOCAL ECONOMIC DEVELOPMENT AND TOURISM :(PC: CLLR C VAN WYK)
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NONE

7.9	COMMUNITY SERVICES:(PC: CLLR X KALIPA)
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NONE

7.10	RURAL MANAGEMENT: (PC: CLLR J JOON)
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NONE

7.11	MUNICIPAL MANAGER
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7.11.1	MUNICIPAL PARTNERSHIP FOR HUMAN RIGHTS: PROGRESS REPORT BY THE MUNICIPAL MANAGER
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(Item will be distributed under separate cover)

8.	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

9.	URGENT MATTERS
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10.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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