

**AGENDA of the  
Portfolio Committee : Investment & Infrastructure  
7 September 2022  
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

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**4.  
A PORTION OF REMAINDER ERF 243 HERMANUS SITUATED IN SWARTDAM  
ROAD (ROAD RESERVE): RENEWAL OF LEASE TO BLUEBIRD TRIO (PTY) LTD  
T/A NISSAN HERMANUS**

**7/2/3/1**

**A Le Roux**

**Manager: Property Administration**

**2 August 2022**

**(028) 316 5623**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Bluebird Trio (Pty) Ltd t/a Nissan Hermanus, hereafter referred to as "Nissan", in respect of municipal property, being a portion of Remainder Erf 243 Hermanus ( $\pm 105\text{m}^2$  in extent), situated in Swartdam Road (road remainder), hereafter referred to as "the Property", for a period of 3 (THREE) years for the purpose of displaying and parking of vehicles for sale. The locality map is attached hereto as "Annexure A".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Investment and Infrastructure  
Property Administration

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

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

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

**Background/ Discussion**

Nissan has been using the Property, which is across from their business, since 2013 for the parking and displaying of vehicles for sale and have applied for a further lease agreement of 3 (THREE) years.

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The Administration of Immovable Property Policy defines a long-term lease as a lease for a period longer than 3 (THREE) years. Although Nissan applied for a renewal period of 3 (THREE) years, the process for a long-term lease needs to be followed as the total lease period will exceed the 3 (THREE) years. The further lease agreement can thus not be dealt with as a short-term lease considering the previous lease period. In terms of the said policy the Municipality may grant a long-term lease if the Accounting Officer has approved the lease in principle, a public participation process is followed, and Executive Mayor's (as delegated authority) approval is gained in terms of the above policy.

The last lease agreement, which was for a period of 3 (THREE) years, expired on 30 May 2022 and Nissan applied for the renewal in time and the renewal process was also commenced with by the Property Administration Department in time. Unfortunately, due to a holdup on Nissan's side the application process could not be finalised before the expiration of the previous agreement. The Property Administration Department struggled to reach the person responsible for dealing with the application and also waited long periods for outstanding documentation. As Nissan is still in occupation of the Property the lease amount is still levied monthly on their municipal account and paid by Nissan. Should the renewal of the lease agreement be approved the renewal date will be backdated to commence the day after expiry of the previous agreement.

Nissan's municipal account is paid up to date.

### **Evaluation**

A. Administration of Immoveable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

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

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

**Paragraph 17: “Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:**

- 17.1 a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 18 below; or**
- 17.2 a direct lease”.**

**Paragraph 18: “A competitive process must at all times be followed in circumstances where:**

- 18.1 the lease is for a long term with an income value in excess of R10 million;**
- 18.2 the lease is for a formal business premises with a market related rental;**
- 18.3 more than one party, in discretion of the municipality, is interested in the lease of the subject property; and/or**
- 18.4 by discretion of the municipality, a competitive process will best serve the interests of the community”.**

As the site is opposite Nissan and the adjoining property is the Mount Pleasant Sport field the Property will not be of any practical use to anyone else. The site is not classified as a business site and no trading is allowed on the Property. It is therefore recommended that it be leased directly to Nissan without following a competitive process.

Although the proposed lease is for a long-term period the rental that will be received will not be in excess of R10 million. The rental is set at a tariff for the lease of municipal property for the display of vehicles. As the lease will be backdated the agreement will commence at a monthly rental amount of R6.09/m<sup>2</sup> (SIX RAND AND NINE CENTS PER SQUARE METRE) (VAT excluded) which amounts to R639.45 (SIX HUNDRED AND THIRTY-NINE RAND AND FORTY-FIVE CENTS) (VAT excluded) per month. As from 1 July 2022 the rental is R6.35/m<sup>2</sup> (SIX RAND AND THIRTY-FIVE CENTS PER SQUARE METRE) (VAT excluded) per month. The lease area is ±105m<sup>2</sup> in extent which equals to a total rental of R666.75 (SIX HUNDRED AND SIXTY-SIX RAND AND SEVENTY-FIVE CENTS) (VAT excluded) per month for the 2022/2023 financial year, which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

**Paragraph 20.1: “The Municipality may grant a long term lease of municipal immovable property with an income value of less than**

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***R10 million only after:***

- a) The Accounting Officer has approved the lease in principle;***
- b) In the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and***
- c) The Executive Mayor, as delegated authority, has approved that the right may be granted."***

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

Nissan applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 20 April 2022 for a period of 3 (THREE) years, subject to a public participation process being followed and further subject to the approval by the Executive Mayor as delegated authority of the long-term lease.

The Executive Mayor's approval is hereby sought, and the proposed lease was advertised in The Village News on 29 July 2022 for a 30 (THIRTY) day comment/objection period. No objections have been received.

***Paragraph 26: "In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases and encroachments, the approved amount will be used for purposes of determining the rental amount".***

The tariff for the lease of municipal property for the display of vehicles, is applicable. The lease will commence with a rental of R6.09/m<sup>2</sup> (SIX RAND AND NINE CENTS PER SQUARE METRE) (VAT excluded) which amounts to R639.45 (SIX HUNDRED AND THIRTY-NINE RAND AND FORTY-FIVE CENTS) (VAT excluded) per month. As from 1 July 2022 the rental will be R6.35/m<sup>2</sup> (SIX RAND AND THIRTY-FIVE CENTS PER SQUARE METRE) (VAT excluded) per month. The lease area is ±105m<sup>2</sup> in extent which equals to a total rental of R666.75 (SIX HUNDRED AND SIXTY-SIX RAND AND SEVENTY-FIVE CENTS) (VAT excluded) per month for the 2022/2023 financial year.

The agreement will stipulate that the rental amount will escalate annually in accordance with the tariff as approved in the Annual Budget.

***Paragraph 36: "All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where***

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***necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.***

Nissan will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

**Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”**

The Property will be inspected by the Property Administration Department at least once a year.

**It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 – 50 of the said policy will be included in the lease agreement.**

**B. Advertisement/Notification**

An advertisement for the lease of the Property to Nissan was published in The Village News on 29 July 2022 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

**Conclusion**

With reference to the above discussion, it is recommended that the lease of the Property to Nissan be approved for a further period of 3 (THREE) years from 1 June 2022 at a rental amount of R639.45 (SIX HUNDRED AND THIRTY-NINE RAND AND FORTY-FIVE CENTS) (VAT excluded) per month and with a rental amount of R666.75 (SIX HUNDRED AND SIXTY SIX RAND AND SEVENTY FIVE CENTS) (Vat excluded) per month for the 2022/2023 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R639.45 (SIX HUNDRED AND THIRTY-NINE RAND AND FORTY-FIVE CENTS) (VAT excluded) per month for June 2022 and a rental of R666.75 (SIX HUNDRED AND SIXTY SIX RAND AND SEVENTY FIVE CENTS) (Vat excluded) per month from 1 July 2022 where after the rental amount will escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council. All expenses pertaining to the proposed lease will be borne by Nissan.

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**8. Staff Implications**

None

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

**Town Planner: Mr. H Boshoff– (028) 313 8112**

*“Since it is regard as an extension of an existing agreement this Department has no objection/comment to offer.”*

**Senior Manager: Expenditure & Assets– Mr. J Vorster – (028) 313 8046**

*“As this a revenue generation proposal, with no intention of selling the asset, there is no objection against the application.”*

**10. Annexures**

Annexure A1 & 2: Locality Plan

**RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Remainder Erf 243 Hermanus ( $\pm 105\text{m}^2$  in extent), to Bluebird Trio (Pty) Ltd t/a Nissan Hermanus, for the purpose of displaying and parking of vehicles for sale for a period of 3 (THREE) years at a rental amount of R639.45 (SIX HUNDRED AND THIRTY-NINE RAND AND FORTY-FIVE CENTS) (VAT excluded) per month from 1 June 2022 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**; and
2. that the rental amount mentioned in 1 above escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the first escalation to be on 1 July 2022.

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>15 OCTOBER 2022</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>25 OCTOBER 2022</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**7/2/3/1**

**A Le Roux**

**Manager: Property Administration**

**2 August 2022**

**(028) 316 5623**

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE PORTFOLIO COMMITTEE ON 7 SEPTEMBER 2022, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>15 OCTOBER 2022</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>25 OCTOBER 2022</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>



