

**AGENDA of the  
Portfolio Committee: Investment, Infrastructure and Planning  
8 November 2023  
(Also the agenda for the Mayoral Committee Meeting: 15 November 2023)**

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20.

**A PORTION OF PORTION 18 OF THE FARM RIVERSIDE NO 644, SITUATED IN STANFORD, KNOWN AS “DIE KOP”: RENEWAL OF LEASE TO HERMANUS RAINBOW TRUST**

**A Le Roux  
12 October 2023**

**Manager: Property Administration**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Hermanus Rainbow Trust (hereinafter referred to as “Rainbow Trust”) in respect of a portion of Portion 18 of the Farm Riverside no 644 ( $\pm 573\text{m}^2$  in extent), known as “Die Kop”, Stanford (hereinafter referred to as “the Property”), for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of operating the Parenting ‘Worx’ programme (incorporating family preservation, parenting classes as well as early childhood development), a feeding scheme, training and skills development and a school aftercare facility. The locality map is attached hereto as “Annexure A”.

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

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

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

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

**Background/Discussion**

Rainbow Trust has been using the Property since 1 July 2008. A lease agreement was entered into for a period of 9 (NINE) years and 11 (ELEVEN)

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months, which expired on 1 June 2018. The purpose of the said lease was for the exclusive use of taking care of babies and toddlers. At that stage it was known as the Stanford Day Care Centre.

The services provided by Rainbow Trust on the Property expanded and the latest lease agreement was for a period of 3 (THREE) years which commenced on 1 November 2020 and expired on 31 October 2023. The purpose of this agreement was for operating the Parenting 'Worx' programme (incorporating family preservation, parenting classes as well as early childhood development), a feeding scheme, training and skills development and a school aftercare facility. Rainbow Trust applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months.

Rainbow Trust applied for the renewal in time and the renewal process was also commenced with by the Property Administration Department in time. Unfortunately, due to an investigation that had to be done to confirm the exact use of the Property, the renewal process could not be proceeded with until the investigation was completed.

The municipal account of Rainbow Trust is paid up to date.

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

### **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**

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***and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.***

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

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

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

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

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

Although the proposed lease is for a long-term period, the rental to be received will not be more than R10 million. The current rental is set at a tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations, being R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month, which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

The Property is zoned Agricultural Zone 1 and not cannot be classified as a business site and the leasing of the Property to Rainbow Trust is in the interest of the community. Due to the nature of the lease and benefit to the community and especially the children of the area, it can be leased directly to Rainbow Trust without following a competitive process.

**Paragraph 20.1: “The Municipality may grant a long term lease of municipal immovable property with an income value of less than R10 million only after:**

- a) The Accounting Officer has approved the lease in principle;**

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- 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."***

Rainbow Trust applied for the renewal of the lease agreement for a period of 9 (NINE) years and 11 (ELEVEN) months which was approved in principle by the Municipal Manager on 19 September 2023, subject to a consent use application being submitted, the 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 Gans Berg News on 13 October 2023 for a 30 (THIRTY) day comment/objection period. No objections were 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 registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations will be levied, being the amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month. 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 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."***

Rainbow Trust will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case are the advertisement cost and consent use application process.

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

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

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

**B. Advertisement/Notification**

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

**Conclusion**

With reference to the above discussion, it is recommended that the lease of the Property to Rainbow Trust be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 November 2023 at a rental amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month for the 2023/20234 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) 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 Rainbow Trust.

**8. Staff Implications**

None

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

**Town Planner - Mr P Roux**

*“The property is zoned as Agricultural Zone 1: Agriculture and can only be used for agricultural activities unless otherwise applied/approved for. To my knowledge the buildings indicated in this proposal does not have rights for a*

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*place of instruction. Should the use be simply to educate people in agricultural practices then I have no objection towards it, if the use is for educational purposes in general then a consent use application must be submitted.”*

A condition for the submission and approval of a consent use application is included in the lease agreement.

**Principal Technician: Operational Services- Gansbaai - Mr. W Germishuys**

*“With regards to the application for the lease renewal of a portion of portion 18 of Farm 644 Stanford, the Department Operational Services has no objections to the application, subject to the following condition:*

*That the existing water connection to- and sewer conservancy tank on Portion 18 of Farm 644 shall be used to service Portion 18 of Farm 644.”*

**Manager: Social Development - Mr G Smit**

*“The social development department does not support the request. Hermanus Rainbow Trust has been leasing the property for a long time, and they are not using the property optimally.*

*The building is used occasionally and not on a day-to-day basis. Maintenance of the building has also been neglected. The property was originally leased to Rainbow Trust for a day care. However, this idea was abandoned along the way. The adjacent ECD, Funimfundu, has expressed the need to expand the existing ECD due to the high demand. Funimfundu is fully registered. They have submitted a number of requests to lease the Portion occupied by Rainbow Trust, indicated a willingness to fund upgrades to the facility and to accommodate some of Rainbow's programmes. The provision of ECD facilities is a municipal priority and there is a significant need for ECD's in the Overstrand. ECD also plays a significant role in the reduction of poverty and inequality.”*

The Manager: Property Administration, Ms Anja Le Roux had a meeting with Rainbow Trust to discuss the operation of the facility and it can be confirmed that the Property is being used 4-5 days per week for the purposes stipulated in the lease agreement.

**Senior Manager: Expenditure & Assets - Mr. J Vorster**

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

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**10. Annexures**

Annexure A1 & 2: Locality Plan

**RECOMMENDATION:**

1. that the renewal of the lease of municipal property, being a portion of Portion 18 of the Farm Riverside no 644 ( $\pm 573\text{m}^2$  in extent), known as “Die Kop”, Stanford, to Hermanus Rainbow Trust for the purpose of operating the Parenting ‘Worx’ programme (incorporating family preservation, parenting classes as well as early childhood development), a feeding scheme, training and skills development and a school aftercare facility at the rental amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 November 2023 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
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 2024; and
3. that the approval in 1 above be subject to Hermanus Rainbow Trust applying for and receiving approval for the consent use on the property.

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>6 DECEMBER 2023</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>13 DECEMBER 2023</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**A Le Roux  
12 October 2023**

**Manager: Property Administration**

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE PORTFOLIO COMMITTEE ON 8 NOVEMBER 2023, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

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<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>6 DECEMBER 2023</b>
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