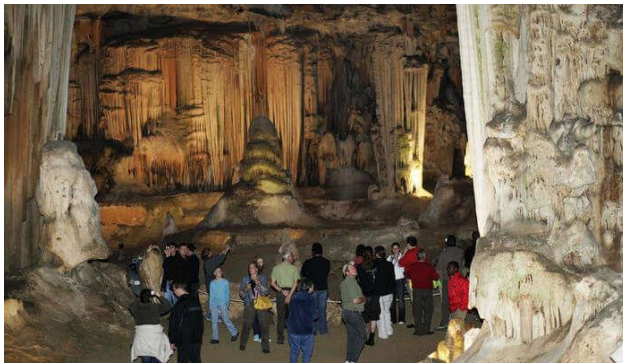




2nd Revised BUSINESS INCENTIVE POLICY

Greater Oudtshoorn the Hart of the Klein Karoo

Economic Growth & Regeneration Strategy



DATE: 24th OCTOBER 2023

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Prosperity for all

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1. INTRODUCTION

Oudtshoorn Municipality is embarking on a process of establishing a long term strategic vision to guide municipal and community decisions in achieving economic growth and regeneration of previous disadvantaged areas in all wards. The town stands at a threshold of economic growth and challenges in equal measures. In order to deal with these challenges a farsighted investment plan needs to be developed to path the way forward in order to achieve meaningful impact. The development of a business incentive policy falls within the strategic objectives as outlined in Vision 2030 document.

1.1 The Goal

The town's economic future lies in building on current initiatives in Learning & Teaching, Agriculture, Tourism, business, industrial and residential development. With an existing concentration of firms on the above key economic sectors, a longer-term strategy must be developed to build on the towns current strengths. Building the economy we need to focus on the following areas:

- Create and maximize opportunities to produce and sell products and services for existing and new businesses
- Maintain and increase leadership positions in training, agriculture and tourism
- Achieve economic prosperity in all wards and specifically the previous disadvantaged areas by implementing a regeneration strategy per ward.
- Enhance SMME development and black economic empowerment

1.2 Incentive policy preamble

This incentive policy represents Oudtshoorn Municipality's intent with respect to the offering and management of incentives as an additional tool for attracting and securing sensible and sustainable investments in certain geographical areas and the Greater Oudtshoorn Municipal area in general. Investment incentives are means offered to investors to encourage them to invest within a particular area.

The key feature of this policy is to provide a pre-approved incentive list and associated administrative procedures relating to the application for and uptake of these incentives.

The aim is to speed-up the investors' negotiation process and as such increase Oudtshoorn competitiveness within the investment market.

This policy recognises that the investment situation is subject to continuous change and hence the policy will have to be revisited as per future requirement.

This policy focuses on supporting new investments on the basis of their potential future contribution to economic growth within the municipal area. This policy should not be utilised as loophole or precedent for cash poor developers to circumvent standard Municipal charges such as Capital Contributions and Service Charges.

1.3 Legislative and Policy Framework

The development of this policy is guided by the following legislation as amended and policy prescripts:

- The Constitution of Republic of South Africa (Act No. 108 of 1996).
- The Public Finance Management Act (PFMA, 1999).
- Municipal Finance Management Act (MFMA, 2003).
- Property Rates Act (Act No. 6 of 2004).
- The Municipal Systems Act (Systems Act, 2000).
- National Development Plan 2011.
- Oudtshoorn Municipality Tariff Policy.
- Oudtshoorn Municipality Rates Policy.
- Oudtshoorn LED and Tourism strategic plan 2008
- Oudtshoorn Vision 2030 develop in 2013
- Oudtshoorn Municipality Annual Tariff List (as published).
- Oudtshoorn Municipality Integrated Development Plan (IDP) 2011 – 2016
- Oudtshoorn Municipality ordinances and by-laws.

1.4 Purpose, intent and objective of incentive policy

It is the purpose, intent and objective of this policy to:

Attract lucrative additional sustainable industrial, commercial, service related and residential investments into Oudtshoorn thus generating employment opportunities and providing backward and forward linkages among industries within the region;

- Provide the necessary principles, processes, approval procedure, roles and responsibilities to enable a professional, consistent and transparent incentive management dispensation;
- Specify the qualification criteria that investors would have to comply with in order to be considered for incentives;
- Facilitate the transformation of specific geographical areas within the municipal area into highly developed commercial, tourist, investment and financial centres of the region.

2. PRINCIPLES UNDERLYING THE POLICY

2.1 Affordability

The introduction of an incentive should not create a cost to the municipality and the income forgone should not have a severe effect on the revenue stream of the Municipality.

2.2 Transparency and Uniformity

The granting of an investment incentive will be done according to a set of predetermined criteria and information on the actual granted incentive will be open for public knowledge.

2.3 Targeted geographical areas and specific criteria

The investment incentive will specifically target certain areas but will also be open if certain criteria are met to all businesses. The aim is to attract and/or push specific investment into areas where it fits with the long term spatial planning for the Municipal area.

2.4 Simplicity and continuity

The structure and administration of the investment incentive has to be easily understandable and should not require a complex administration so as to minimise staff and financial impacts. This will ensure quick turnaround times for applications.

2.5 Investment context

At present, no single Directorate can negotiate or facilitate incentive packages that could entice or influence the decision to the benefit of the town. In order to attract and streamline investor support, it has become imperative to have a municipal policy to ensure that this pre-application incentive process can be managed in a professional

and constructive manner expeditiously within an incentive approval procedure and policy.

It is important to also consider newly identified growth nodes and corridors with the view to incentivise and thus speed up the move towards a transformed, inclusive spatial economy.

3 TYPES OF INCENTIVES

There are different types of incentives that may be offered from time to time. The incentives are divided into two main categories namely, administrative related, and rates and service charges related. These types of incentives will be available in different combinations across the different incentive categories and areas.

3.1 Administrative related

This type of incentive relates to discounts or rebates on fees required during the development approval process such as building plan approval costs. There are also some non-monetary benefits that could be classified here such as prioritised treatment of application processes.

3.2 Rates and charges related

A business can apply for discounts on taxes and service charges, which are aimed at lowering start-up costs. This can for example be achieved via discounts for service payments or phased payments/discount of capital contributions.

4 PRIMARY REBATES & INCENTIVES:

4.1 Category 1: Classification of Business Investments

Properties used for businesses purposes may be considered for a rebate on assessment rates by the appointed committee upon an application submitted by the developer or his/her representative whereby it is clearly demonstrated what the economic, social and financial benefit to the municipality will be over the long term. The rebate may only be considered for new business development in the municipal area. This excludes existing business where change of ownership occurred or where a current business is expanded.

Industries	Type 1 Minimum Investment	Type 2 Minimum Investment	Type 3 Minimum Investment	Type 4 Minimum Investment	Type 5 Minimum Investment
Industrial & Manufacturing	R2m	R5m	R10m	R20m	R30m

Storage & Logistics	R3m	R5m	R10m	R20m	R30m
Adventure/ Sport & Experience Tourism	R1m	R3m	R5m	R10m	R20m
Hotels, Resorts, Accommodation	R5m	R10m	R30m	R50m	R120m
Medical	R5m	R10m	R20m	R30m	R50m
Waste, recycling, re-use	R1m	R3m	R5m	R10m	R20m
Renewable Energy	R10m	R20m	R50m	R100m	R250m

Airport and related Investment	R5m	R10m	R25m	R50m	R100m
CBD & Precinct Development	R5m	R10m	R30m	R50m	R100m
SMME's	R200 000	R1m	R5m	R10m	R20m
Agriculture and farming	R1m	R5m	R15m	R30m	R60m
Education & Training	R5m	R15m	R50m	R100m	R200m
Arts & Culture	R1m	R5m	R10m	R20m	R50m

Retail & Wholesale	R1m	R10m	R50m	R100m	R250m
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4.2 Category 1: Incentives and rebates (Business Investments)

Rebates year 1

Year 1	Type 1	Type 2	Type 3	Type 4	Type 5
Capital Contribution	3%	5%	10%	20%	30%
Electricity connection	5%	10%	15%	20%	25%

Water connection	5%	10%	15%	20%	25%
Sewerage connection	5%	10%	15%	20%	25%
Electricity basic charge	2%	3%	3,5%	5%	6%
Water basic charge	3%	4%	5%	6%	8%
Refuse charge	3%	4%	5%	6%	8%
Building plans	15%	20%	35%	50%	65%
Water consumption	2%	3%	5%	7%	10%

Rebates year 2

Year 2	Type 1	Type 2	Type 3	Type 4	Type 5
Sewerage charge	3%	6%	10%	15%	20%
Electricity basic charge	2%	3%	3,5%	5%	6%
Water basic charge	2%	3%	4%	5%	6%
Refuse charge	2%	3%	4%	5%	7%
Water consumption	1%	2%	3%	5%	8%

Rebates year 3

Year 2	Type 1	Type 2	Type 3	Type 4	Type 5
Sewerage charge	1%	4%	6%	10%	15%
Electricity basic charge	1%	1,5%	2,5%	3%	5%
Water basic charge	1%	2%	3%	4%	5%
Refuse charge	1%	2%	3%	4%	5%
Water consumption	0,5%	1%	2%	3%	5%

4.2 Category 2: Classification Brownfield/Greenfield Residential Developments

- Properties intended for Brownfield/Greenfield residential development, including blocks of flats or sectional title residential developments may be considered for a rebate on assessment rates by the appointed committee upon an application submitted by the developer or his/her representative whereby it is clearly demonstrated what the economic, social and financial benefit to the Municipality will be over the long term.
- Developer will have the option to do once off payment for the full development or as per submitted per building plan. Relevant rebates will be applicable as per the date of the application process.

Residential Development				
Type 1	Type 2	Type 3	Type 4	Type 5
R 10 mil	R20 mil	R45 mil	R90 mil	R180 mil

Category 2: Incentives and Rebates (Residential Development)

Rebates Year 1

Year 1-3	Type 1	Type 2	Type 3	Type 4	Type 5
Infrastructure Cost	5 %	10 %	25 %	50 %	80 %
Building Non- Fees	5 %	10 %	25 %	50 %	80 %
Town Planning Application fees	5 %	10 %	25 %	50 %	80 %

Rebates Year 2

Year 4- 5	Type 1	Type 2	Type 3	Type 4	Type 5
Infrastructure Cost	2.5 %	5 %	15 %	40 %	65 %
Building Non- Fees	2.5 %	5 %	15 %	40 %	65 %
Town Planning Application fees	2.5 %	5 %	15 %	40 %	65 %

Rebates Year 3

Year 6	Type 1	Type 2	Type 3	Type 4	Type 5
Infrastructure Cost	0 %	2.5 %	5 %	15 %	40 %

Building Non- Fees	0 %	2.5 %	5 %	15 %	40 %
Town Planning Application fees	0 %	2.5 %	5 %	15 %	40 %

Rebates Year 4

Year 7	Type 1	Type 2	Type 3	Type 4	Type 5
Infrastructure Cost	0 %	0 %	2.5 %	5 %	15 %
Building Non- Fees	0 %	0 %	2.5 %	5 %	15 %
Town Planning Application fees	0 %	0 %	2.5 %	5 %	15 %

Rebates Year 5

Year 8	Type 1	Type 2	Type 3	Type 4	Type 5
Infrastructure Cost	0 %	0 %	0 %	2.5 %	5 %
Building Non- Fees	0 %	0 %	0 %	2.5 %	5 %
Town Planning Application fees	0 %	0 %	0 %	2.5 %	5 %

5. SECONDARY REBATES & INCENTIVES

In addition to the primary rebates & incentives mentioned in point 4 the municipality also provide the following rebates and incentives related municipal rates and taxes.

5.1 Business, commercial and industrial properties

- 5.1.1 Properties used for businesses purposes may be considered for a rebate on assessment rates by the Chief Financial Officer upon an application submitted by the developer or his/her representative whereby it is clearly demonstrated what the economic, social and financial benefit to the municipality will be over the long term. The rebate may only be considered for new business development in the municipal area or where the nature of the business is unique or new to the municipality.
- 5.1.2 Business development where the capital investment is between R20 – R250 Million excluding the cost of acquisition of land may be considered for a rebate. This excludes existing business where change of ownership occurred or where a current business is expanded. The rebate will be applied on a reducing sliding scale as follows:

- (a) 60% rebate on assessment rates for the 1st year after completion of the development;
- (b) 40% rebate on assessment rates for the 2nd year after completion of the development;
- (c) 25% rebate on assessment rates for the 3rd year after completion of the development.
- (d) 15% rebate on assessment rates for the 4th year after completion of the development

5.1.3 The rebate will only be afforded subject to the remainder of the assessment rates as well as services accounts are being paid in full by 30 June of each financial.

5.1.4 Business development where the capital investment which exceeds R250 Million excluding the cost of acquisition of land may be considered for a rebate. This excludes existing business where change of ownership occurred or where a current business is expanded. The rebate will be applied on a reducing sliding scale as follows:

- (a) 80% rebate on assessment rates for the first year after completion of the development;
- (b) 75% rebate on assessment rates for the second year after completion of the development;
- (c) 75% rebate on assessment rates for the third year after completion of the development.
- (d) 50% rebate on assessment rates for the fourth year after completion of the development.
- (e) 30% rebate on assessment rates for the fifth year after completion of the development.
- (f) 20% rebate on assessment rates for the six year after completion of the development

5.1.5 The rebate will only be afforded subject to the remainder of the assessment rates as well as services accounts are being paid in full by 30 June of each financial.

5.2 Additional support for SMME's

In addition to the above the municipality makes provision for the following the following support and incentives for SMME's specifically in the second economy falling outside the scope of the tables above.

- a) Facilitate through government agencies such as SEDA to develop business plans that wish to expand
- b) Assist in establishing SMME network through the municipal procurement process
- c) Lobby assistance with training needs related to running of business

- d) 10% reduction in cost of approval of building plans
- e) Reduction of 2% of Water charges for the 1st year of operation

6 INCENTIVE MANAGEMENT PRINCIPLES

It is acknowledged that the investment environment is dynamic and the considerations and governance is therefore essentially in a “continuous” state of flux. The following principles are the main drivers for the relevant procedures:

6.1 Service-orientated approach

The incentive scheme is dependent on a service-orientated marketing approach. The first impression that new investors get from Oudtshoorn Municipality is largely based on the service they receive when requesting information. A service-orientated approach is mandatory to attract investments. It is furthermore important to have an approved procedure within which negotiations can proceed in a short time to ensure a proper response time to investors. It is proposed that different incentive schemes and criteria be applicable depending on the type of organisation and the geographical area. Approvals should be completed within 14 days of receiving all the applicable documentation. The incentives will be applicable to all developments no matter the geographical location but its advisable that the policy be marketed towards businesses in desirable development areas.

7 DESIRABLE DEVELOPMENT AREAS

7.1 Central Business District (Area 1)

This incentive scheme is applicable to new investments in Central Business District. Oudtshoorn Municipality has identified the Central Business District as the geographical area in which development should be incentivised. This area has specifically been identified as vital to tourism particularly with the Oudtshoorn Museum as the central point for tourism. The boundaries are from Pick n Pay to Adderley Street with Voortrekker Road and St. Saviour Street the other boundary. Most of the CBD is already developed and businesses located in the CBD would most likely be in established buildings where building plans and capital contributions are not applicable. The business/organisation will also in most instances be the tenant and not the property owner so any incentive offered should benefit the tenant. The incentives will

be limited to new investments in Oudtshoorn. The following specific businesses/organisations will qualify for incentives in the CBD:

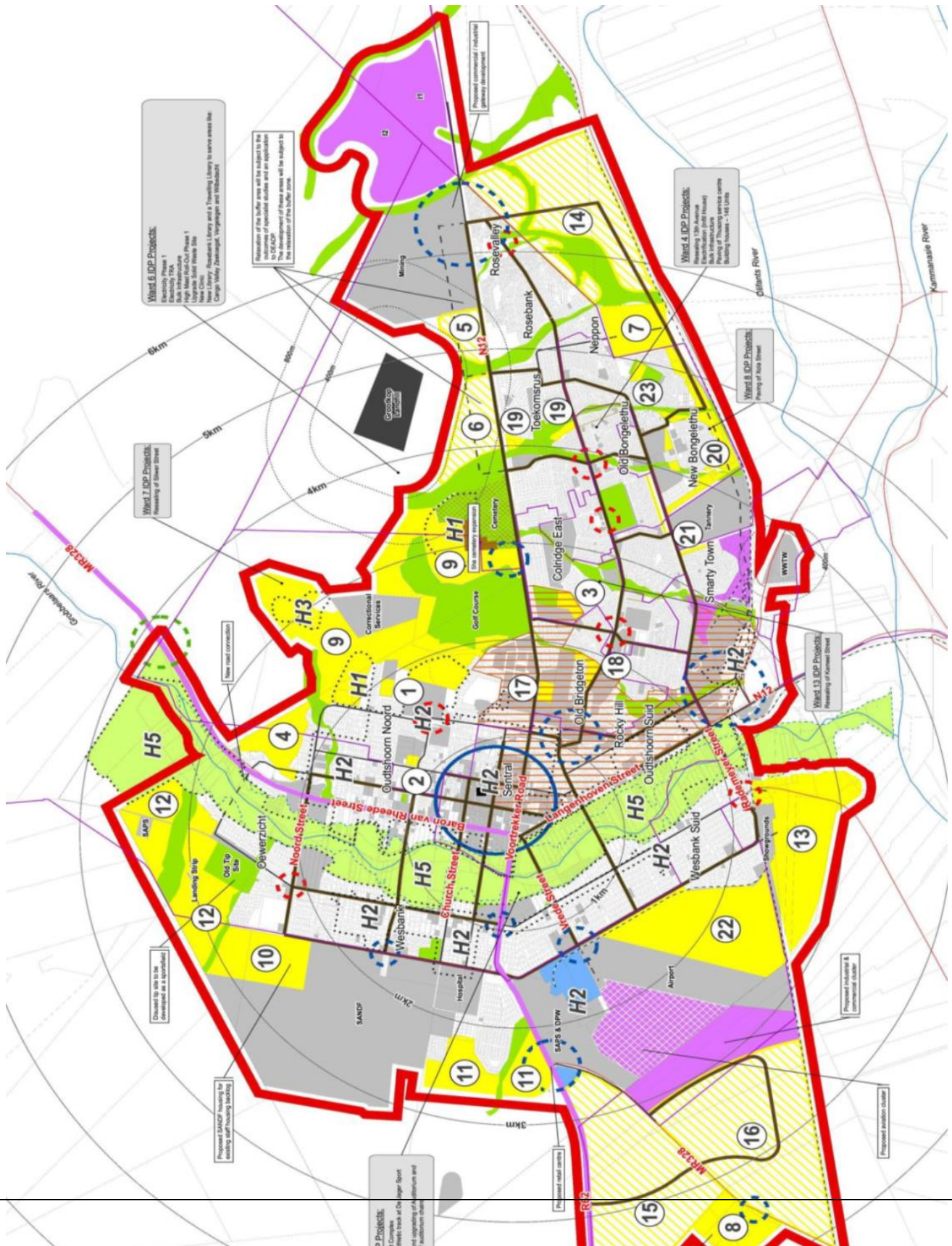
- Professional consulting firms such as medical practices, accounting firms, legal firms, architects etc.
- Coffee shops and restaurants
- Fresh produce markets
- Book stores
- Travel agents
- Delicatessens
- Pet shops
- Antiques and designer furniture shops
- Art and craft shops
- Art galleries
- Photography shops
- Banks
- Florists
- Pharmacists
- Information Technology
- Retail shops

7.2 Airport Precinct (Area 2)

With the new emphasis on innovative economic development, we see the upgrading of the airport as a possible stimulator for sustainable economic growth. We are further of the view that a well-developed and functional airport is catalytic to economic growth and infrastructural development. It is a universal phenomenon that functional airport sites attract investments. Functional airports are becoming gateways for business, tourism and cargo development. A well-planned and managed airport such as the opportunity exists with the Oudtshoorn Airport can become an icon for the whole region. As an enabler for economic growth we are geared towards improving the business environment, which, in turn, will result in sustainable investment flows over time into the town, and to mobilize national capital. As a business collective we believe in improving our competitiveness with the emphasis on exploring new avenues of economic development instead of just focusing mainly on static primary production hence the gradual airport development project for enduring success. The airport precinct therefore is a vital future investment catalyst for airport related industries. Any related businesses to airport activities within the precinct will be considered for rebates.

7.3 Dysselsdorp and De Rust Industrial & CBD (Area 3)

Most economic activities relating to the residents take place outside of Dysselsdorp. Most economically active persons are employed elsewhere in the region in towns or on surrounding farms. Dysselsdorp are located in the heart of Ostrich country, and are close to tourist attractions such as Route 62, Meiringspoort, and the Cango Caves. However, very little direct benefit flow from these attractions into the Dysselsdorp. There is only a handful of formal businesses in the town. Shopping is very limited, and most residents do shopping in Oudtshoorn when possible. There are a few grocery shops, including some smaller grocers, and butchery at Hazenjacht. Banking is rudimentary with ABSA and FNB ATM's in the local shopping Centre.



8 DESIRABLE DEVELOPMENTS

8.1 The incentive is applicable to Desirable Developments in Oudtshoorn. Furthermore, the following developments have been identified as desirable in Oudtshoorn and every effort must be made to make incentives as attractive as possible in order to attract such businesses:

- Conference Centre
- Teachers Education and Skills Centres
- Arts & Cultural Centre

8.2 Oudtshoorn would like to attract a Conference Centre as this creates jobs and there is no suitable Centre in Oudtshoorn. There is also a need for a Teachers Education and Skills Centres as this creates jobs and brings feet to Oudtshoorn. Oudtshoorn close location to a regional airport, scenic beauty, sunny climate and ample accommodation make it an ideal location for a Conference Centre.

8.3 Furthermore, an Arts & Cultural Centre would also be a great asset to Oudtshoorn especially in terms of KKNK and tourism development.

The following criteria are proposed for each of these developments:

- Create at least ten permanent direct job opportunities excluding manager on payroll within two years of establishment
- Can be located anywhere in the municipal area of Oudtshoorn in line with planning policies of Council and the spatial development framework.
- The availability of bulk services will have to be taken into consideration when considering and approving incentives.

9. INCENTIVE MANAGEMENT PROCEDURES

9.1 Maintenance of this incentive policy

- The incentive policy shall be reviewed at least annually if required and coincide with the budget approval cycle.

- The Council can approve changes to the policy from time to time bearing in mind that tariffs cannot be adjusted or amended during a financial year.
- Council will approve incentives on tariffs on an annual basis.
- Updated approved incentive qualifier conditions shall be maintained on the municipal website.

9.2 Investments evaluation

- A single point of contact e.g. an investors' service desk is a pre-requisite for success. This desk will be based in the Department Planning & Development
- Applications for incentives must be lodged in the planning phase of a development and well before construction commences. This serves to ensure contact with the investor at an early stage of a development and will aid officials in ensuring sufficient time to assess the desirability and feasibility of proposed developments.
- The approval procedure needs to be accompanied with clear indication as to the location of the development.
- It must also be specified that organisations/businesses and developments which have not followed correct procedures and processes in terms of building plan approvals and land use processes etc. will not qualify for any incentives.
- Investments shall firstly be screened against the set criteria to evaluate whether minimum participation criteria are met (geographical and other criteria) by the responsible official in the Directorate
- If minimum criteria are not met, applicants will be informed of non-compliance and discussions may be entered into around adjustments to scope which could ensure further consideration.
- Negotiations shall proceed within the incentive approval procedure if the qualification criteria (minimum and geographical, if applicable) are met.
- Only the officially approved policy shall be used to establish the economic contribution of an investment.
- An evaluation report shall be completed together with a draft incentive contract/agreement by the responsible official.
-

9.3 Approval procedure

- An ad-hoc committee on incentives consisting of the:
 - Coordinator & secretariat: Manager Local Economic Development
 - Executive Mayor
 - Chief Financial Officer,
 - Director: Technical Services,
 - Director/ Senior Manager : Strategic Services/ Planning & development,
 - Manager Planning & Development Planning or Town Planner
 - Portfolio Chairperson Finance,
 - Portfolio Chairperson Strategic Services
 - Portfolio Chairperson Technical Services
- The committee will only consider application outside the minimum qualifying criteria and is recommended by the respective official. Factors which must be considered include:
 1. The investment qualifies for incentive management.
 2. The economic contribution of the investment is positive.
 3. The economic contribution is sustainable.
 4. The criteria of the policy are complied with.
-
- The Municipal Manager will consider and approve all applications in line with the incentive policy
- The final incentive contract, signed by the Municipal Manager, shall become the legal binding agreement between Oudtshoorn Municipality and the investor.
- The Oudtshoorn Municipality incentive approvals shall be in accordance with the applicable delegated authorities determined from time to time.
- Approvals should be completed within 30 days of receiving all the applicable documentation.
- The following conditions require approval from the ad-hoc Committee and Council:
 - Large-scale projects, outside of the policy framework and criteria, which will require special assistance or is of special importance to the development of the economy.
 - Any recommendations or contracting outside the policy criteria on geographical location

- Where recommended or requested incentives are outside of the parameters set in this policy
- Annual or ad hoc changes to the incentive policy
- Annual approval of incentives
- The responsible official shall maintain a documented audit trail of adherence to the approval procedure, and shall report to Council on each new investment incentive approved/ not approved on a quarterly basis.

9.4 Implementation of approvals

- The respective Directorates shall implement the contracted incentives.
- The contract conditions shall be monitored for adherence by the Department Planning & Development sub directorate Economic Development.
- Adjustments to the incentives shall be initiated for implementation or re-negotiations where contract conditions are not met by the investor.
- Conditions for the approval of incentives must be negotiated with the investor and be included in the attached incentive agreement. This must include the use of local labour, local contractor development as well as training programs specifically for youth, disabled, women and previously disadvantaged individuals.

9.5 Incentives may only be allocated within this approved policy.

The ad-hoc committee needs to have a clear set of guidelines in terms of this policy to eliminate discretionary decision-making. In the event that criteria for incentives are not met, the ad-hoc committee may refer the matter to Council if they are of the opinion that the development could be advantageous to Oudtshoorn.

The policy gives mandated authority to responsible officials according to pre-determined conditions for authorising incentive negotiations and recommendations. This is necessary to speed-up the negotiation and approval process to ensure the best chance of obtaining lucrative investments for Oudtshoorn.

The incentives, which will apply, will be approved annually in Council's tariff policy.

9.6 Implication

- The delegation to the Municipal Manager needs to be clear and pre-approved by Council

- The normal Oudtshoorn Municipality approval processes shall be applicable once an investment does not conform to the requirements stipulated in this policy

10. ROLES & RESPONSIBILITIES

This policy gives the broad roles and responsibilities for each Directorate/Section. Each of these shall develop and maintain its own internal procedures as necessary to support this policy.

The Directorates/Sections have the following main roles and responsibilities:

10.1 Finance

10.1.1 To assist with investors' negotiation processes where appropriate.

10.1.2 To assist in development, structure and cost of appropriate incentives.

10.2 Local Economic Development

10.2.1 Secretariat role for major negotiations led by ad-hoc team.

10.2.2 Marketing of this policy.

10.2.3 Solicit CBD investment as well as desirable development.

10.3 Planning and Development / Strategic Services

10.3.1 Develop and maintain healthy relationships with investors (service orientation).

10.3.2 To implement and maintain this policy.

10.3.3 To facilitate all commercial incentive programme negotiations within the approval procedure.

10.3.4 To facilitate special incentive negotiations outside the approval procedure.

10.3.5 To assist with negotiation process where appropriate.

10.3.6 To assist with discounts on Capital Contributions (in consultation with Technical Services and Financial Services) and building plans as outlined.

10.3.7 To do quarterly and annual reporting on incentive policy and investors' performance

10.3.8 To evaluate continuously the added value of this incentive policy

10.3.9 To monitor and manage investor compliance with the agreement in conjunction with LED unit.

11. COMMENCEMENT

This policy shall be implemented effectively from 1st December 2023 date of approval of Council. Council Resolution number: . As per council resolution tariff rebates will be effective from date of approval. .

Signed Municipal Manager:

Date signed:.....

Signed Executive Mayor:.....

Date signed:

**IMPLEMENTATION OF COUNCIL RESOLUTIONS
DIRECTORATE STRATEGIC SERVICES
SPECIAL COUNCIL MEETING – THURSDAY, 07 OCTOBER 2021**

SUBJECT	RESOLUTION
<p>Item: Approval of Updated Version of Business Incentives Policy</p>	<p style="text-align: center;">RES. NO: 63.08/10/21</p> <p><u>UNANIMOUSLY RESOLVED</u></p> <ol style="list-style-type: none"> 1. Council takes note of the report as tabled. 2. Council approved the updated version business incentive package for economic investment. policy as a stimulus 3. Council rescinded Council resolution 63.32/04/21. 4. That the policy be advertised on Council website. 5. That the tariff to be implemented in the next tariff cycle 2022/23 in order to make provision for the due tariff structure hereto. <p>PROPOSED: COUNCILLOR GH JUTHE SECONDED: COUNCILLOR G GERTSE</p> <p style="text-align: right; color: blue;">Execution Manager: LED</p>

EXAMPLE INCENTIVE AGREEMENT

1 PARTIES

- 1.1 The Parties to this agreement are –
 - 1.1.1 The Greater Oudtshoorn Municipality;
 - 1.1.2
- 1.2 The Parties agree as set out below.

2 INTERPRETATION

- 2.1 In this agreement, unless inconsistent with or otherwise indicated by the context –
 - 2.1.1 "**the/this Agreement**" means the agreement as set out in this document together with the appendices;
 - 2.1.2 "**the Approvals**" means the Municipal Approval, and any other statutory approval that may directly or indirectly relate to the rezoning, subdivision, development or use of ;
 - 2.1.3 "**business day**" means a day which is not a Saturday, Sunday or South African public holiday;
 - 2.1.4 "**Capital Contributions**" means the tariffs payable in respect of Town Planning application fees of the Municipality, which tariffs are the standard tariffs for the Oudtshoorn Municipal area or the tariffs applicable to a specific ring-fenced area, as the case may be;
 - 2.1.5 "**the Developer**" means
 - 2.1.6 "**the Development**" means the proposed residential development on the Property which comprises and in respect of which the Approvals were granted by the Municipality;
 - 2.1.7 "**the Municipality**" means when referred thereto as –
 - 2.1.7.1 an entity, The Greater Oudtshoorn Municipality as a municipality described in Section 2 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000), including a duly authorized official of Oudtshoorn Municipality; and
 - 2.1.7.2 a geographical area, the area of jurisdiction of Oudtshoorn Municipality as determined in terms of the Local

Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

- 2.1.8 **"Municipal Services"** has the meaning assigned to it in Section 1 of the Local Government: Municipal Systems Act, 32 of 2000;
 - 2.1.9 **"the Municipal Approval"** means the Municipality's approval of the Development in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), attached to this agreement as Annexure "A";
 - 2.1.10 **"the Systems Act"** means the Local Government: Municipal Systems Act 32 of 2000;
 - 2.1.11 **"the Property Rates Act"** means the Local Government: Municipal Property Rates Act 6 of 2004;
 - 2.1.12 **"the Parties"** means the parties to this Agreement;
 - 2.1.13 **"the Property"** means Erf....., in the Municipality and Division of Oudtshoorn, in extent..... hectares and held by the Developer under Deed of Transfer No.....;
 - 2.1.14 **"rate"** means a municipal rate on property envisaged in Section 229(1) (a) of the Constitution and "rates" will have a corresponding meaning;
 - 2.1.16 **"the ROD"** means the environmental authorisation issued by the competent environmental authority;
 - 2.1.17 **"the Sale Agreement"** means the Sale Agreement entered into between the Municipality and the Developer by virtue of which the Municipality sold and transferred the Property to the Developer;
 - 2.1.18 **"the Signature Date"** means the date of signature of this Agreement by the last party signing;
 - 2.1.19 **"Statutory Approval/s"** means any statutory approval given by the Municipality or any organ of state with jurisdiction, which directly or indirectly has a bearing on the Development or land use of the Property;
 - 2.1.20 **"Unskilled labour"** in relation to the Developer's obligations in terms of this agreement, means work that requires practically no training or experience for its adequate or competent performance;
 - 2.1.21 **"VAT"** means Value-Added Tax in terms of the VAT Act;
 - 2.1.22 **"the VAT Act"** means the Value-Added Tax Act, 1991, as amended;
 - 2.1.23 **"year/s"** means a period of 365 calendar days;
 - 2.1.24 any reference to the singular includes the plural and *vice versa*;
 - 2.1.25 any reference to natural persons includes legal persons and *vice versa*;
 - 2.1.26 any reference to gender includes the other genders.
- 2.2 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

- 2.3 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 2.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.
- 2.5 If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day, which is not a business day, in which case the day shall be the next succeeding business day.
- 2.6 This Agreement shall be governed by, construed and interpreted in accordance with the law of the Republic of South Africa.

3 INTRODUCTION

- 3.1 The Municipality has granted the Municipal Approval to the Developer which approvals are contained in Schedule 1 hereto;
- 3.2 The Municipal Approval are incorporated into this Agreement by reference thereto and forms an integral part to this Agreement.
- 3.3 The Developer applied to the Municipality to be granted financial incentive benefits in terms of the Municipality's approved Business Incentives Scheme.
- 3.5 The application for the said financial incentive benefits of the Developer was approved by the Council on the 22 September 2023 subject thereto that the conditions of the approval be accepted by the Developer and be recorded in a written agreement between the Municipality and the Developer.

4 PREVIOUS APPROVALS AND AGREEMENTS

The Municipal Approval and Statutory Approvals form an integral part of this Agreement and are incorporated into this Agreement by reference thereto.

5 INCENTIVE BENEFITS

Discount on Rates

- 5.1 The Municipality hereby grants to the Developer, and for a periodyears from date of signature hereof, a discount on the municipal fees as per table below:

Qualifying Criteria

- 5.9 The Parties hereby record that the decision of the Municipality to approve the application of the Developer for the financial incentive benefits recorded in this Agreement are granted subject to the following terms and conditions:
- 5.9.1 That the Developer commence with the Development within **months** from date of signature hereof. For purposes of this subparagraph, the word "commence" means:
- 5.9.2 The Developer shall be obliged to employ local Oudtshoorn residents through the assistance of a liaison officer of the Municipality for all the unskilled labour work of the development. Employment of all semi – skilled and professional workers must first be sourced from the Oudtshoorn community, and only if none is available or suitable, may external workers be used.
- 5.9.3 The Developer shall be obliged, as part of the compliance audit referred to in clause 5.9.6, to submit a summary of local labour and job opportunities created as a result of the Development;.....
- 5.9.4 The Developer shall within **months** be obliged to establish and sustain a training program for local residents of Oudtshoorn to be trained and suitably equipped to perform the duties which may be required at the development.
- 5.9.5 The developer will identify contractor and sub-contracting opportunities for local SMME's to provide services during the construction and completion process of the development.
- 5.9.6 Developer will identify specific local initiatives to support as part of its social responsibility towards the towns community.
- 5.9.7 Developer will identify specific opportunities for the construction and completion of the development for youth, women, disabled and previously disadvantaged community.
- 5.9.8 The Developer shall be obliged to annually, for a period of 5 years, on the anniversary of this Agreement, submit to the Municipality an independent audit report, at the cost of the Developer, in respect of the compliance by the Developer with the terms and conditions of the Municipal Approval, Statutory Approvals, the Sale Agreement, the ROD and the terms and conditions of this Agreement. Should the Municipality at any time establish, on reasonable grounds, that the Developer is in material breach of any of the terms and conditions of the aforementioned approvals or agreements, the Municipality shall be entitled to revoke its approval of the incentive benefits granted in terms of this Agreement by giving written notice to the Developer;
- 5.9.9 Subject to the following conditions imposed by the **Senior Manager: Planning and Development** of the Municipality, which conditions read as follows:

- 5.9.9.1 All civil services-internal, link and relocation of or upgrades to existing ??? are to be designed by a registered consulting engineer in accordance with “the Guidelines for Human Settlement Planning and Design” and Council specifications. All drawings and plans are to be submitted to the Department: Civil Engineering Services (in hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out under the supervision of the consulting engineer who is to provide the **Department: Civil Engineering Services** with a certificate on completion and asbuilt plans in electronic format. All costs will be for the Developer;
- 5.9.9.2 Any and all costs directly related to the development remain the Developer’s responsibility;
- 5.9.9.3 The Developer must submit a Traffic Impact Assessment (TIA) to the Oudtshoorn Municipality for approval. The scope of the TIA, taking into consideration the study area, accesses, parking, public transport facilities and non-motorized transport, must be approved by the Department: Planning and Development and the Infrastructure Department prior to commencement of the study. All recommendations contained in this TIA and as approved by the Department: Planning and Development, must be implemented at the Developer’s cost. All the TIA approved recommendations must be indicated on the approved site development plans, civil engineering services plans and building plans.

6 LEGISLATION

Notwithstanding any other provisions of this Agreement, the Developer shall comply with all acts, regulations and measures having the force of law irrespective of whether or not reference is made to any such legislation in this Agreement.

7 BREACH

7.1 Should the Developer breach any of the terms of this Agreement (for purposes of which the Municipal Approval and the ROD shall be deemed to form part of this Agreement) and fail to remedy such breach within the period notified by the Municipality, which notice shall only be issued after discussions with the Developer, the Municipality shall, subject to any other rights it may have in terms of this Agreement or otherwise, be entitled –

- 7.1.1 to allow a third party to carry out all or any of the Developer's neglected duties, in event whereof the Developer shall within 3 (three) days of written demand pay to the Municipality the costs incurred by the Municipality pursuant to the provisions of this clause 7.1.1; or
- 7.1.2 to enforce specific performance;
- 7.1.3 to cancel the agreement and claim damages for breach of contract.

8 DISPUTE RESOLUTION

- 8.1 Should any dispute arise regarding the calculation of any amount payable or owing by the Developer or the association in terms of this Agreement, the matter shall be referred to an auditor or such other person as the Parties may agree to, failing which the matter shall be referred to an auditor determined by the South African Association of Chartered Accountants for determination, who shall act as an expert and not as an arbitrator and whose determination, in the absence of manifest error, shall be final and binding upon the parties.
- 8.2 The costs of the expert shall be borne by the parties in equal measure;
- 8.3 The provisions of clauses 8.1 and 8.2 shall apply *mutatis mutandis* in respect of any dispute of a technical nature regarding compliance by the Developer with the specifications and the requirements in respect of any of the services to be installed, supplied or maintained by the Developer in terms of this Agreement: Provided that the expert shall be a person nominated by the President of the South African Institution of Civil Engineering or its successor.
- 8.4 Should any dispute (other than a dispute in respect of which urgent relief may be obtained from a court of competent jurisdiction or a matter in respect of which this Agreement contains another dispute resolution mechanism (with reference in particular to clauses 8.1 to 8.3)) arise between the parties in the widest sense in connection with –
- 8.4.1 the formation or existence of;
 - 8.4.2 the carrying into effect of;
 - 8.4.3 the interpretation or application of the provisions of;
 - 8.4.4 the Parties' respective rights and obligations in terms of or arising out of;
 - 8.4.5 the validity, enforceability, rectification, termination or cancellation, whether in whole or in part of;
 - 8.4.6 any documents furnished by the Parties pursuant to the provisions of this Agreement or which relates in any way to any matter affecting the interests of the Parties in terms of this Agreement, that dispute shall, unless resolved between the Parties or through mediation by an agreed third party, be referred to and be determined by arbitration in terms of this clause, provided that a party to the dispute has demanded the arbitration by written notice to the other of them.
- 8.5 The arbitration shall be held –
- 8.5.1 at Oudtshoorn;
 - 8.5.2 with only the representatives and legal representatives of the Parties to the dispute present thereat;

- 8.5.3 otherwise in terms of the Arbitration Act, No 42 of 1965, it being the intention that the arbitration shall be held and completed within 21 (twenty one) days after it was demanded.
- 8.6 The arbitrator shall be, if the matter in dispute is principally -
 - 8.6.1 a legal matter, an independent practicing advocate or attorney of at least 10 (ten) years' standing;
 - 8.6.2 an accounting matter, an independent practicing chartered accountant of at least 10 (ten) years' standing;
 - 8.6.3 any other matter, any independent person, agreed upon between the Parties to the dispute.
- 8.7 Should the Parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within 7 (seven) days after the arbitration was demanded, the matter shall be deemed to be a legal matter;
- 8.8 Should the Parties fail to agree on an arbitrator within 7 (seven) days after the expiry of the period referred to in clause 8.7, the arbitrator shall be appointed at the request of any party from the relevant legal panel of the Oudtshoorn Municipality;
- 8.9 The decision of the arbitrator shall be final and binding on the Parties to the dispute and may be made an order of any competent court at the instance of any of the Parties to the dispute;
- 8.10 The provisions of this clause –
 - 8.10.1 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no party shall be entitled to withdraw there from or claim at any such proceedings that it is not bound by such provisions;
 - 8.10.2 are severable from the rest of this Agreement and shall remain in effect despite the termination of or invalidity for any reason of this Agreement.
- 8.11 Notwithstanding that any dispute has been referred to arbitration or is the subject matter of any legal action or application, the Parties shall otherwise continue carrying out the terms of this Agreement.

9 IMPLEMENTATION AND CO-OPERATION

- 9.1 Each of the Parties hereby undertakes to –
 - 9.1.1 do, and to procure the doing by other persons, and to refrain and procure that other persons will refrain from doing, all such acts; and
 - 9.1.2 pass, and to procure the passing of all such resolutions, to the extent that the same may lie within such party's power and may be required to give effect to the import or intent of this Agreement, or any contract concluded pursuant to the provisions of this Agreement.

9.2 In the implementation of this Agreement, the Parties undertake to observe the utmost good faith and they warrant in their dealings with each other that they shall neither do anything nor refrain from doing anything, which might prejudice or detract from the rights, assets or interest of any other(s) of them.

10 JURISDICTION

The Parties hereby consent to the jurisdiction of the Magistrate's Court in respect of any matter arising out of this Agreement, including the cancellation thereof, or at the option of the Municipality, the jurisdiction of the Eastern Circuit Local Division of the High Court or the Cape Provincial Division of the High Court.

11 APPROVALS

11.1 No approval which the Municipality may grant in terms of or for the execution of this Agreement shall render the Municipality liable in any manner whatsoever.

11.2 The Municipality shall be entitled to make any approval required to be given by it subject to such terms and conditions as the Municipality may regard as reasonably necessary.

12 INDEMNITY

12.1 The Developer hereby indemnifies the Municipality against all claims that may be instituted against the Municipality or amounts that may be claimed from the Municipality arising out of or in connection with any act, default or failure of the Developer as well as against all costs to settle or oppose such claims or amounts demanded from the Municipality on the scale as between an attorney and his own client;

12.3 Any municipal services damaged during the development will be repaired at the Developer's cost and to the satisfaction of the Municipality.

13 NOTICES AND DOMICILIA

13.1 The Parties choose as their *domicilia citandi et executandi* their respective addresses set out in this clause for all purposes arising out of or in connection with this Agreement at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties;

13.2 For purposes of this Agreement the Parties' respective addresses shall be –

13.2.1 the Municipality at its Registered Office: 69 Voortrekker Road
Oudtshoorn 6625

Email: mm@oudtmun.gov.za

13.2.2 The Developer at

—,

Registered Physical Address:

Email:

____;

- 13.3 Any notice given in terms of this Agreement shall be in writing and shall –
- 13.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
 - 13.3.2 if transmitted to by facsimile be deemed to have been received by the addressee on the first business day following the date of dispatch;
 - 13.3.3 if sent by registered mail be deemed to have been received by the addressee on the 5th business day following the date of dispatch, unless the contrary is proved.
- 13.4 Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from the other Parties including by way of e-mail transmission shall be adequate written notice or communication to such party.

14 WHOLE AGREEMENT

- 14.1 This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof and no agreements, representations or warranties between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.
- 14.2 For the avoidance of doubt it is agreed that this Agreement does not replace the Municipal Approval, or any other consent, approval or authorisation obtained or to be obtained by the Developer in respect of the Development. This Agreement shall be read with the ROD, the Municipal Approval, and the other approvals or authorizations and to the extent that this Agreement contains provisions in addition to or more onerous than the Municipal Approval, the Tender Approval, the ROD or the other approvals and authorizations, such further or more onerous provisions, as the case may be, shall nevertheless be complied with by the Developer.
- 14.3 Should the provisions of this Agreement be in conflict with the provisions of the ROD or the Municipal Approval, Tender Approval or any other approval or authorisation, the Municipal Approval, Tender Approval or ROD or other approval or authorisation shall, subject to clause 14.2, prevail.

15 NON-VARIATION

No addition to or variation, consensual cancellation or notation of this Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the Parties or their duly authorised representatives.

16 RELAXATION

No latitude, extension of time or other indulgence which may be given or allowed by the Municipality to the Developer in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right by the Municipality arising from this Agreement, and no single or partial exercise of any right by the Municipality under this Agreement, shall in any circumstances be construed to be an implied consent or election by the Municipality or operate as a waiver or a novation of or otherwise affect any of the Municipality's rights in terms of or arising from this Agreement or stop or preclude the Municipality from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

17 SEVERABILITY

If any provision of this Agreement is found to be unlawful, unenforceable or invalid, it shall be deemed to be severable from the remaining provisions of this Agreement and to the extent that the same is unlawful, unenforceable or invalid, be deemed to be *pro non scripto*.

SIGNED AT OUDTSHOORN ON 2023.

On behalf of the Developer

Name and Surname:

Designation:

SIGNED AT OUDTSHOORN ON 2023.

On behalf of the Oudtshoorn Municipality

**MR. WF HENDRICKS
MUNICIPAL MANAGER**