

# SPECIAL COUNCIL MEETING

OPEN



**KOUGA**

local municipality

Good Governance Through Service Excellence

DATE: 27 February 2025

TIME: 10:00

Virtual

<p><b>KOUGA MUNICIPALITY (EC108)</b></p> <p><b><u>NOTICE CONVENING A MEETING</u></b></p> <p><b>NOTICE IS HEREBY GIVEN</b> that in terms of Section 19 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000) that a Special Council Meeting will be held virtually on</p> <p><b><u>DATE:</u> 27 February 2025</b></p> <p><b><u>TIME:</u> 10:00</b></p>  <p><b><u>B.WILLIAMS</u> SPEAKER</b></p>	<p><b>UMASIPALA I-KOUGA (EC108)</b></p> <p><b><u>ISAZISO NGENTLANGANISO</u></b></p> <p><b>ISAZISO</b> sikhutshiwe ukuba ngokweCandelo-19 uMthetho weNkqubo zikaMasipala, (uMthetho 32 ka-2000), ukuba kubanjwe intlanganiso ekhethekileyo yesigqeba Ye khansile</p> <p><b><u>UMHLA:</u> 27 eyoMdumba 2025</b></p> <p><b><u>IXESHA:</u> 10:00</b></p>  <p><b><u>B.WILLIAMS</u> USOMLOMO</b></p>	<p><b>MUNISIPALITEIT KOUGA (OK108)</b></p> <p><b><u>KENNISGEWING VAN VERGADERING</u></b></p> <p><b>KENNIS GESKIED HIERMEE</b> dat ingevolge Artikel 19 van die Wet op Munisipale Stelsels, 2000 (Wet No.32 of 2000), dat 'n virtuele raadsvergadering gehou sal word op</p> <p><b><u>DATUM:</u> 27 Februarie 2025</b></p> <p><b><u>TYD:</u> 10:00</b></p>  <p><b><u>B.WILLIAMS</u> SPEAKER</b></p>
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*Councillors are required to comply with the Standing Rules and Orders of Council and all its Committees By-law as promulgated in the Provincial Gazette on 22 October 2018 No.4134 and applicable to this meeting of Council. Any person who willfully contravenes any provision of these rules shall be guilty of an offence and which contravention shall be dealt with in accordance with the disciplinary procedures for Councillors.*

## **A G E N D A**

1. **NOTICE OF MEETING**
2. **OPENING AND WELCOME**
3. **ABSENT WITH LEAVE**
4. **ABSENT WITHOUT LEAVE**
5. **PRESENTATIONS**
6. **ACKNOWLEDGEMENTS, CONDOLENCES & CONGRATULATIONS**
7. **STATEMENTS OR COMMUNICATIONS BY THE SPEAKER**
8. **STATEMENTS OR COMMUNICATIONS BY THE EXECUTIVE MAYOR**
9. **DISCLOSURE OF INTEREST**

10. **STATUTORY MATTERS**

11. **MATTERS DEALT WITH IN TERMS OF DELEGATED AUTHORITY BY THE EXECUTIVE MAYOR**

*(The reports by the Executive Mayor, in terms of the provisions of Section 63 of the Local Government Municipal Systems Act, 32 of 2000, on matters dealt with by the Executive Mayor in terms of delegated authority as detailed in the Minutes to be noted).*

12. **REPORTS BY THE EXECUTIVE MAYOR**

12.1 **REPORTS BY THE PORTFOLIO CHAIRPERSON: FINANCE AND ECONOMIC DEVELOPMENT**

**25/02/FED4** Sponsorship Proposal: 2025 WSL Corona J-Bay Open and J-Bay Surf Festival

Pages: 6 - 13

12.2 **REPORTS BY THE PORTFOLIO CHAIRPERSON: ELECTRO-MECHANICAL SERVICES**

**25/02/EMS13** Report: Permission for Eskom to Electrify Projects in the Gamtoos Area, Patensie 278, Weston 196, Loerie & Hankey 990 In the 2026/27 Financial Year

Pages: 15 - 18

12.3 **REPORTS BY THE PORTFOLIO CHAIRPERSON: PLANNING AND DEVELOPMENT**

**25/02/PD9** Request for Council's Approval to Demolish the Building on Unregistered Erf 3291, Humansdorp (Kouga Cultural Centre)

Pages: 20 - 27

12.4 **REPORTS BY THE PORTFOLIO CHAIRPERSON: CIVIL AND WATER SERVICES**

**25/02/CWS16** Jeffreys Bay: The Fountains Industrial Park: Development Charges

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13. **CLOSURE**

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**Distribution list:**

Executive Mayor  
Executive Deputy Mayor  
Speaker  
All Councillors  
Municipal Manager  
All Directors  
Relevant Managers  
Committee Services

# REPORTS BY THE EXECUTIVE MAYOR



REPORTS BY THE  
PORTFOLIO  
CHAIRPERSON:  
FINANCE AND  
ECONOMIC  
DEVELOPMENT



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**SPONSORSHIP PROPOSAL: 2025 WSL CORONA J-BAY OPEN AND J-BAY SURF FESTIVAL**

**1. Introduction**

This item seeks Council approval for a sponsorship proposal from the organisers of the 2025 WSL Corona J-Bay Open and J-Bay Surf Festival, scheduled to take place from 11th July to 20th July 2025 in Jeffreys Bay.

**2. Background**

Jeffreys Bay, renowned worldwide for its exceptional waves, particularly the iconic Supertubes, has a rich surfing history. The region has gained international prominence as the host of the prestigious WSL Corona J-Bay Open, a cornerstone on the World Surf League Championship Tour. This annual event attracts top professional surfers from across the globe, showcasing world-class surfing talent and contributing significantly to the local economy and international tourism.

Beyond the professional surfing arena, Jeffreys Bay has also emerged as a renowned destination for live music. The J-Bay Music Festival, a growing success in recent years, has become a significant cultural event, attracted a diverse audience and showcased local and international musical talent.

**3. Discussion**

The festival will feature the prestigious global surfing event as the main event. Stop number 9 on the World Surf League tour will see the world's best men and women compete.

The Park Off Music Festival will showcase a diverse lineup of South African artists across various genres, Park Off 2024 attracted an average of 1,200 attendees per night over six nights. This successful event demonstrates the strong appeal and anticipated popularity of the music component of the J-Bay Surf Festival

- Diverse Events: In addition to the WSL event, the J-Bay Surf Festival encompasses a variety of exciting standalone events, including:
  - J-Bay Jiu Jitsu
  - Fishing Skins
  - Funduro
  - Mountain Biking
  - Oakley X-Over – Surf & Golf Tournament
  - Festival Market
  - Fundraiser and Athlete Signing

### 3.1 Partnership Opportunity

The recommendation is to support this event for the next 3 consecutive years from 2025 – 2027. The sponsorship proposal requests a total of R1,900,000 in Year 1. An annual increase of 5% over the following two years is recommended. This increase is slightly above the current South African inflation rate of 4.7%, accounting for potential cost escalations.

- Corona J-Bay Open: R1,700,000 in Year 1, with a 5% annual increase for the following two years.
- J-Bay Surf Festival: R200,000 in Year 1, with a 5% annual increase for the following two years.

### 3.2 Benefits and Rights

In exchange for the sponsorship contribution, the municipality would receive the following benefits:

- Named Sponsor recognition
- Exclusive use of a festival stand
- Front-page branding in the official Event Guide
- One advertisement within the Event Guide
- On-site branding opportunities
- Inclusion in event webcast marketing
- Acknowledgement during beach commentary and announcements
- Media release distribution
- Support for local craft stores
- VIP event ticket

### 3.3 Conclusion

J-Bay Surf Festival offers a unique opportunity to enhance Jeffreys Bay's image and stimulate economic growth during the off-season. By partnering with this prestigious event, the Kouga Municipality will not only support world-class surfing but also contribute to the social and economic well-being of the region during a traditionally slower period for tourism.


The festival's diverse offerings, including the renowned Corona J-Bay Open, the vibrant J-Bay Surf Festival, and a range of exciting standalone events, will attract a significant influx of visitors, creating jobs, boosting local businesses, and strengthening community bonds. This investment will position Jeffreys Bay as a premier destination for surfing, music, and adventure, leaving a lasting positive impact on the Kouga Municipality, particularly during the traditionally quieter months.

Please refer to Annexure A and B for reference:

Attached **Annexure A**: 2025 J-Bay Surf Festival Sponsorship Proposal  
Attached **Annexure B**: Budget Verifications



#### 4. Financial Implications

<b>Completed by BTO -</b>	
Project Description	WSL Music Festival Winterfest
Ukey no.	20240710994936 20240710994866
Budgeted Amount	R1,700,000.00 R200,000.00
BTO Signature	
DATE	06-01-2025
Amount spent and committed to date	R0.00
Amount Available	
Comment	

#### 5. Applicable Legislation

Funds transferred to external organizations or bodies must comply with section 67 of the MFMA, Act 56 of 2003:

**Funds transferred to organizations and bodies outside government 67:**

(1) Before transferring funds of the municipality to an organization outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organization or body-

(1) has the capacity and has agreed-

(i) to comply with any agreement with the municipality;

(ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;

(iii) to report at least monthly to the accounting officer on actual expenditure against such transfer; and

(iv) to submit its audited financial statements for its financial year to the accounting officer promptly;



(b) implements effective, efficient, and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and

(c) has in respect of previous similar transfers, complied with all the requirements of this section.

(2) If there has been a failure by an organization or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection

(1)(c) make a further transfer to that organization or body provided that-

(a) subsection (1)(a) and (b) is complied with, and

(b) the relevant provincial treasury has approved the transfer.

(3) The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).

## 6. **Legal Implications**

Should the funding application proposed herein be approved by Council, the Accounting Officer will be authorized to enter into an appropriate funding agreement to give effect to such Council Resolution.

It should be noted, as this is an organisation that previously benefited, that compliance to the terms and conditions to the previous funding agreement has been complied with.

## 7. **Other Implications**

None

## 8. **Comments by Directorates:**

### 8.1 **Chief Financial Officer:**

Recommendations supported

### 8.2 **Director: Planning & Development**

Noted

### 8.3 **Director: Civil & Water Services**

Noted.

### 8.4 **Director: Electro-Mechanical Services**

Noted.

8.5 **Director: Community Services**

Noted.

8.6 **Deputy Municipal Manager**

Noted.

8.7 **Municipal Manager**

Noted

9. **Delegated Authority**

Council

10. **Recommendations**

10.1 That Council approves funding allocation of R 1,700,000-00 (One Million and Seven Hundred Thousand Rand) only, VAT-inclusive for the WSL J-Bay Open for the 2024/25 financial year with a 5% increase for the 2025/26 financial year and the 2026/27 financial year respectively.

10.2 That Council approves funding allocation of R 200,000-00 (Two Hundred Thousand Rand) only, VAT-inclusive for the 2024/2025 FY for the J-Bay Surf Festival for the 2024/25 financial year with a 5% increase for the 2025/26 financial year and the 2026/27 financial year respectively.

10.3 That Council authorizes the Accounting Officer to conclude a Sponsorship Agreement with the World Surf League, in accordance with the funding allocated in recommendations 10.1 and 10.2 above.

Item prepared by the Acting Manager EDT:

*A Jonck*

Item approved by the: Chief Financial Officer:

*L FT*

Item endorsed by the Municipal Manager:

*du Plessis*

Item noted by Portfolio Chairperson:

*L Kroe*

# Annexure A: 2025 WSL Corona Open and J-Bay Surf Festival Sponsorship Proposal



## EVENT OVERVIEW

South Africa's largest winter music festival, the J-Bay Surf Festival, scheduled to run from the 11th July - 20th July 2025. The iconic town of Jeffreys Bay, home to the world's best wave, attracts tens of thousands of visitors each year.

Riding on the success of 2022, 2023, and 2024, the event has grown exponentially and is now regarded as the biggest South African festival.

Welcoming back the WSL Jbay Open of Surfing, where the world's best men and women battle it out for ultimate win on the 2025 calendar.

Running alongside this amazing event, the J-Bay Surf Festival which encompasses a variety of stand-alone events such as "Park off music festival, J-Bay Jiu Jitsu, Oakley X-Over, the fan park, food stalls, arts and local crafts market.

## PARK OFF 2024

A spectacular music festival featuring a diverse lineup of South African artists from various genres. 6 Nights, 1200 people a night.

- Good Luck, Dean Fuel, Ron & Ri\*



**JBAY SURF FESTIVAL**  
PRESENTS

**PARK OFF 2023** OFFICIAL PARTY OF THE CORONA JBAY OPEN

**13 JULY**  
DESMOND AND STEVIE SAWYER  
THE TOTOS  
RONALD ROWLEY & RIMIX

**14 JULY**  
TIMO ODV x abbeynurock  
AIDIN CAVE x TRIST

**15 JULY**  
GOODLUCK x DEAN FUEL  
JAKE WHITE DISCO  
RONALD ROWLEY & RIMIX

**16 JULY**  
JEREMY LOOPS  
M & Z  
RONALD ROWLEY & RIMIX

SUPERTUBES PARK, DA GAMA RD, JEFFREYS BAY

## MEET THE TEAM

**ARI KRAAK**  
EVENT DIRECTOR

**VANCE BOETER**  
OPERATIONS MANAGER

**BRIGITTE TRUSWELL**  
ADMIN MANAGER

**MARC**  
SAFETY OFFICER

**CHRIS**  
SAFETY OFFICER

**MICHAELA**  
PARK MANAGER

**DONOVAN ZOETMULDER**  
CONSTRUCTION MANAGER

**GRAHAM**  
SAFETY OFFICER

## CORONA JBAY OPEN

Returning to the 2025 WSL calendar is the world famous Jeffreys Bay Open. Stop number 9 on the tour will see the world's best men and women compete for the most prestigious win of the year at the world famous Super Tubes Jbay.

4 days of surfing held over a day waiting period

Attendees 45000



## JIU JITSU TOURNAMENT

The Jbay Jits-The jiu jitsu competition will be on site in the super tubes park, 1000 athletes 5 days and the countries best grappling it out for the biggest prize pool yet. Being the fastest growing sport in the world, this event will be even bigger this year.

Riding on the success of last years event, we again host a One-day mountain biking & trail running event at Mentors Country Estate.

Entries 600



**SOUTH AFRICAN OPEN AT JBAY SURF FESTIVAL**  
15/16 JULY 2023  
MENTORS COUNTRY ESTATE

## FISHING SKINS

Beach-front fishing contest in Jbay, where anglers of all ages can reel in the big catch of the day. Tackle demos, Lucky draw prizes and freebies

Last Years Entries 400



## FUNDURO

Get ready to rev your engines and unleash your inner adrenaline junkie at the Funduro Race! This thrilling off-road adventure promises heart-pounding action, rugged terrain, and epic challenges at every turn. Whether you're a seasoned rider or a newcomer looking for a taste of adventure, the Funduro Race guarantees an unforgettable experience.

Estimated Entries 200



## MOUNTAIN BIKING

One-day mountain biking & trail running event at Mentors

Country Estate Entries 600



## FUNDRAISER AND ATHLETE SIGNING PLUS Q&A

Whether you're a seasoned pro or a beach-side enthusiast, this is an event you won't want to miss! The fundraiser auction and athlete Q&A is one of the festival highlights





## FESTIVAL MARKET

Prepare to be dazzled by a stunning array of 25 unique activation stands, offering everything from delectable food to trendy clothing and must-have apparel. Whether you're craving a gourmet snack, searching for the perfect beachwear, or simply soaking up the vibrant atmosphere, there's something for everyone at this one-of-a-kind market.

With an estimated attendance of over 50,000 people throughout the event period, the Supertubes Park Market promises to be a bustling hub of activity and excitement. From surf enthusiasts to foodies, fashionistas to families, visitors from near and far will flock to this iconic destination to experience the best that the surf lifestyle has to offer.



## EVENT GUIDE

A stunning high quality 42 page magazine, 10 000 copies distributed from Mossel Bay to East London. Featuring content from local and international writers and photographers.



## OAKLEY X OVER 2024

12 iconic athletes will compete in a surf and golf tournament where the winner will be crowned the X Over Champion!

### Competing athletes:

- Siya Kolisi (rugby)
- Damon Williams (rugby)
- John Smit (rugby)
- Ntuthuko Mchunu (rugby)
- Bath James (rugby)
- Jean De Villiers (rugby)
- Hanyani Shimange (rugby)
- Schalk Burger (rugby)
- Justin Marshall (rugby ex All Black)
- David Miller (cricket)
- Simon Harmer (cricket)
- Dale Steyn (cricket)
- Fat Du Plessis (cricket)
- Surprise Maphumalo (Surf) Location:

Lower Point Date: 19<sup>th</sup> June



## BENEFITS

### Increased Brand Exposure

Sponsoring a sports event allows your brand to gain widespread visibility. Your logo and name will be associated with the event, reaching a diverse and engaged audience both at the event and through media coverage.

### Targeted Marketing

Sports events often attract a specific demographic, making it an ideal opportunity to connect with your target audience. You can tailor your marketing efforts to reach potential customers who have a genuine interest in your products or services.

### Enhanced Brand Image

Supporting sports events can enhance your brand's image by showcasing your commitment to the community and shared values. It can create a positive perception of your brand, fostering goodwill and loyalty among customers and potential clients.

SOCIAL MEDIA EXPOSURE | DAILY PRESS RELEASES | INTERNATIONAL & LOCAL EXPOSURE

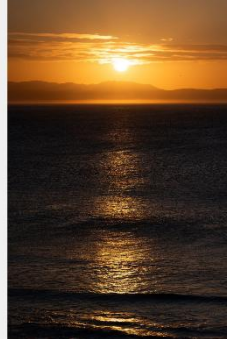
## SPONSORSHIP

In order to maintain the success of the event and the ongoing growth we hereby request R2,1M

The funds would be allocated accordingly

- R1.8m - Corona Jbay Open
- R300k - Jbay Surf Festival

- \*Named Sponsor
- \*1x Festival stand
- \*Event guide branding (Front page)
- \*1x Advert in event guide
- \*On site Branding
- \*Webcast marketing
- \*Beach Commentary announcements and thank you's
- \*Media releases
- \*Local craft stores
- \*Event VIP tickets



## EVENT ZONE

J-BAY CLASSIC - SITE MAP 2024



Annexure B: Budget Verification

KOUGA MUNICIPALITY  
2025-01-06  
BUDGET & TREASURY

VS-F03RS - Cost allocation

Local Authority: KOUGA, KOUGA MUNICIPALITY  
 Financial Year: 2024  
 Unique internal key: 2024071094936, Cost allocation: 10170200790000

Opening Balance, Actual Balance, Shadow Balance, Balance Total, Provisional Costs, Amended Budget, Available

VAT Indicator (V02) [N], (V03) [N]  
 Locked onto, Asset ID, Job-costing type, Unallocated Job Budget

Function: 301  
 Planning and Development, Economic, N.T. Item: 4200, NT Cashflow Item, Contracted Services, UKey Closed? [N], Associated Cost Code Closed? [N]

Vote/Subvote: PLANNING AND DEVELOPMENT:ECONOMIC DEVELOPMENT

Item: Business and Advisory:Project Management  
 Function: Core Function:Finance  
 Project: WSL Music Festival  
 Fund: Property Rates:Levies  
 Region: Ward:Ward 3  
 Costing: Default  
 Own: ECONOMIC DEVELOPMENT

Expenditure:Contracted Services:Consultants and Professional Services:Business and Advisory:Project Management  
 IE003002001012000000000000000000000000  
 Function:Finance and Administration:Core Function:Finance  
 F>005001004000000000000000000000000000  
 Operational:Typical Work:Streams:Functions and Events:Special Events and Functions  
 PO00301700500000000000000000000000001198  
 Fund:Operational Revenue:General Revenue:Taxes:Property Rates:Levies  
 FD001001001009001002000000000000000000  
 Regional:Regional Identifier:Local Government by Province:Eastern Cape:District Municipalities:DC10 Sarah  
 FX002003001002001004009002003000000000  
 Costing:Default  
 CO0030000000000000000000000000000000  
 OV000006000101

KOUGA MUNICIPALITY  
2025-01-06  
BUDGET & TREASURY

VS-F03RS - Cost allocation

Local Authority: KOUGA, KOUGA MUNICIPALITY  
 Financial Year: 2024  
 Unique internal key: 2024071094986, Cost allocation: 10173200270000

Opening Balance, Actual Balance, Shadow Balance, Balance Total, Provisional Costs, Amended Budget, Available

VAT Indicator (V02) [N], (V03) [N]  
 Locked onto, Asset ID, Job-costing type, Unallocated Job Budget

Function: 301  
 Planning and Development, Economic, N.T. Item: 4200, NT Cashflow Item, Contracted Services, UKey Closed? [N], Associated Cost Code Closed? [N]

Vote/Subvote: PLANNING AND DEVELOPMENT:TOURISM

Item: Business and Advisory:Project Management  
 Function: Core Function:Finance  
 Project: Winterfest  
 Fund: Property Rates:Levies  
 Region: Ward:Ward 3  
 Costing: Default  
 Own: TOURISM

Expenditure:Contracted Services:Outsourced Services:Business and Advisory:Project Management  
 IE003001005008000000000000000000000000  
 Function:Finance and Administration:Core Function:Finance  
 F>005001004000000000000000000000000000  
 Operational:Typical Work:Streams:Functions and Events:Special Events and Functions  
 PO0030170050000000000000000000000000933  
 Fund:Operational Revenue:General Revenue:Taxes:Property Rates:Levies  
 FD001001001009001002000000000000000000  
 Regional:Regional Identifier:Local Government by Province:Eastern Cape:District Municipalities:DC10 Sarah  
 FX002003001002001004009002003000000000  
 Costing:Default  
 CO0030000000000000000000000000000000  
 OV000006000401

REPORTS BY THE  
PORTFOLIO  
CHAIRPERSON:  
ELECTRO-MECHANICAL  
SERVICES



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**REPORT: PERMISSION FOR Eskom TO ELECTRIFY PROJECTS IN THE GAMTOOS AREA, PATENSIE 278, WESTON 196, LOERIE & HANKEY 990 IN THE 2026/2027 FINANCIAL YEAR**

**1. Introduction**

The purpose of this item is to request Council's approval for Eskom to proceed with electrifying a section of Patensie 278, the remainder of Hankey 990, and Weston as well as Loerie. These areas fall within Eskom's jurisdiction for electricity distribution.

**2. Background**

Eskom is currently gathering information for future planning of electrification projects within its service areas. These projects must be submitted to the Department Minerals and Energy (DMRE) for review before the end of March 2025. Therefore, Eskom requires a Council decision to include Kouga as one of the beneficiaries of the INEP funding program from the DMRE. This will enable Eskom to proceed with the electrical network pre-engineering designs for upcoming housing projects in the near future.

**3. Discussion**

Eskom committed to commence with limited scope with the first 100 units in the 2026/2027 financial year plan where we have available projects that comply with the INEP requirements. However, Eskom has outlined certain conditions for Kouga before the project can proceed.

The conditions are as follows:

- A formal council resolution must be provided, granting Eskom permission to begin the project.
- The council must indemnify Eskom against any future costs associated with relocating the infrastructure from its current site to the new location.

The Human Settlement Department is currently in the process of formalizing the areas in Gamtoos as highlighted below. It is anticipated that formal layouts for the respective areas will be approved during the 2026/2027 Financial year. Therefore, the implementation may be done to place all these sites on the Eskom radar for formalized electrification.

The report further seeks to obtain a Council resolution for Eskom to electrify the following projects which are currently in planning stage:

- Patensie 278
- Remainder of Hankey 990
- Weston 196



- Lorie

#### 4. **Financial Implications**

<b>Completed by BTO -</b>	Not Applicable
Project Description	
Ukey no.	
Budgeted Amount	
Amount spent and committed to date	
Amount Available	
Comment	

#### 5. **Applicable Legislation**

Electricity Regulations Act 4 of 2006, as amended by the Electricity Regulations Amendment Act, 38 of 2024.  
NERSA

#### 6. **Legal Implications**

Should the Council approve the recommendations below, the Kouga Municipality will be included in the intended electrification projects to be rolled out by Eskom. It must be borne in mind that in order to benefit, the municipality must be in compliance with the INEP funding requirements. Council must further note the indemnification required by Eskom.

#### 7. **Other Implications**

The cost to provide access roads to the identified structures for Eskom teams to roll out the project.

#### 8. **Comments by Directorates:**

##### 8.1 **Chief Financial Officer:**

Report noted.

##### 8.2 **Director: Planning & Development**

Recommendation is supported.

##### 8.3 **Director: Civil & Water Services**

Item noted.

#### 8.4 **Director: Electro-Mechanical Services**

That Council should be aware that formalization of the electricity network does not mean that the area must consist of the construction of a permanent house, it could be a case similar to in Hankey (Silvertown), where the housing development is yet to commence.

The challenge with the latter is that, in this particular instance, the layout that was provided to Eskom did not include the rest of the bulk services. Eskom went ahead with the construction of the electrical infrastructure, currently this electrical infrastructure is obstructing access to construct the rest of the bulk infrastructure. Eskom has requested that Kouga pay R 2.9 million to relocate the infrastructure.

It is recommended that the new layout includes all the other services in order not to face such challenges in future.

Should the connections be made and temporary structures benefit, it will be the responsibility of the homeowner to pay for the relocation of the electrical connection should the formal house be constructed.

#### 8.5 **Director: Community Services**

Noted

#### 8.6 **Deputy Municipal Manager**

Noted.

#### 8.7 **Municipal Manager**

Recommendation supported.

#### 9. **Delegated Authority**

Council

#### 10. **Recommendations**

10.1 That Council approves the electrification of Patensie 278, Weston 196, Loerie, and the remainder of Hankey 990 project (690 Units), by Eskom.

10.2 That Council notes the conditions to be imposed by Eskom in respect of the intended electrification projects.

Item prepared and approved by the: Director: EMS



Item noted by the: Director: P&D



Item endorsed by the Municipal Manager:



Item noted by Portfolio Chairperson:



Item noted by Portfolio Chairperson:



# REPORTS BY THE PORTFOLIO CHAIRPERSON: PLANNING AND DEVELOPMENT



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**REQUEST FOR COUNCIL'S APPROVAL TO DEMOLISH THE BUILDING ON UNREGISTERED ERF 3291, HUMANSDORP (KOUGA CULTURAL CENTRE)**

1. **Introduction**

The purpose of this item is to obtain Council's approval to demolish the Kouga Cultural Centre building on a portion of unregistered Erf 3291, Humansdorp.

2. **Background**

The Kouga Cultural Centre was constructed around 2002 for the promotion and development of tourism and cultural activities. The property has been vacant since November 2020 and has deteriorated significantly over the past few years.

3. **Discussion**


The Land & Property Administration Division performed an assessment of the property in 2020. A follow up inspection was conducted in November 2024. The inspection revealed that the building is extremely vandalized and unoccupied. It was further noted that there are existing services, which include electrical wiring, on the premises. There are cracks on the internal and exterior walls and the building has become a hazard and a danger, and it is strongly suggested that any use of the premises should be prevented. A detailed report is attached and marked as **Annexure "A"**.

The building is reportedly used by criminal elements in its existing condition. It is the submission that the structure will require a substantial budget to renovate to a in line with the building and safety standards, if at all possible. It is currently a bad reflection on the municipality, given its location at the intersection and entrance to Humansdorp. Demolishing the structure will present an opportunity for a new vision for the site and acceptable entrance to the town.

The intention is to demolish the structure to slab level and to secure the site. It should also be noted that Council already budgeted for the demolition of the building.

In 2023, Council granted an in-principle approval to advertise the property with intention to dispose (23/06/PDT16). Subsequently, to obtain valuation and call for proposals to evaluate the most suitable use. This will be an important milestone to upgrade and improve the character of the immediate area.

#### 4. Financial Implications

<b>Completed by BTO -</b>	
Project Description	Demolishing of the Kouga Cultural Centre and Removal of Building Material
Ukey no.	20240131064515
Budgeted Amount	R1,000,000.00
Amount spent and committed to date	 <p style="text-align: center;"> <b>KOUGA MUNICIPALITY</b>          2025-02-17  <b>BUDGET &amp; TREASURY</b> </p>
Amount Available	R1,000,000.00
Comment	

#### 5. Applicable Legislation

National Building Regulations and Building Standards Act 103 of 1977 (as amended).

Municipal Asset Transfer Regulation, August 2008.

#### 6. Legal Implications

Should the Council approve the recommendations, the Accounting Officer shall be authorized to proceed with the demolition of the dilapidated structure, and in compliance to the National Building regulations and Building Standards Act No. 103 of 1997.

#### 7. Other Implications

None.

#### 8. Comments by Directorates:

##### 8.1 Chief Financial Officer:

Report noted

##### 8.2 Director: Planning & Development

Recommendation supported.

##### 8.3 Director: Civil & Water Services

Item noted.

##### 8.4 Director: Electro-Mechanical Services

Noted

8.5 **Director: Community Services**

Noted

8.6 **Deputy Municipal Manager**

Noted.

8.7 **Municipal Manager**

Recommendation supported.

9. **Delegated Authority**

Council

10. **Recommendations**

10.1 That Council notes the Assessment Report on the condition of the Cultural Centre building.

10.2 That Council confirms that the building is not required for the provision of basic municipal services.

10.3 That Council grants approval for the demolishing of the building on unregistered Erf 3291, Humansdorp, also known as the Kouga Cultural Centre.

Item prepared by the: Manager: Land & Property Administration



Item approved by the: Director Planning & Development



Item endorsed by the Municipal Manager:











Item noted by Portfolio Chairperson:










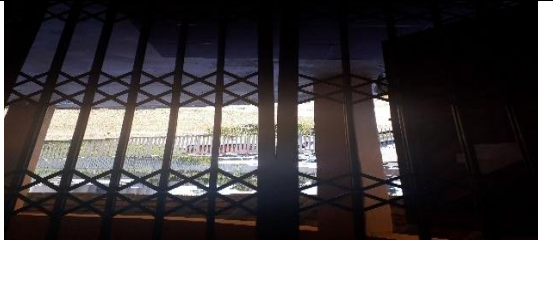


## Annexure "A"

**ASSESSMENT REPORT**

<b>Exterior</b>	<b>Remarks</b>	<b>Photo</b>
Walls	Common minor cracks were observed in the foundation walls. This implies that some structural movement of the building has occurred. Cracks of this type should be watched for any sign of additional movement.	
Windows	Windows were completely damaged, and in some instances, frames were removed. An important factor is that the window exteriors should be well-maintained to avoid rotting or water infiltration, housebreak -in and theft.	
Gates	There are two entrances and both gates are not locked to secure premises. This is a high-risk area for unauthorized access, and it should be prioritized.	
Garden	The area is not maintained.	
Fence	The concrete palisade fence is in good condition. Only a few broken posts must be replaced. This is a high safety risk area for unauthorized access and repairs should be prioritized.	
<b>Interior</b>	<b>Remarks</b>	<b>Photo</b>
Plumbing	Generally, all plumbing is in a very poor condition and major repairs need to be made to restore the items. We notice evidence of active leaks that must be repaired as well	
Drains	Generally, all drainage lids have been removed and must be replaced. This is a high safety risk area.	
Doors	Doors have been damaged and removed from frames. Major repairs are needed to restore the items.	

Roof Structure	The roof is badly damaged and therefore a new roof will be required. We did see evidence of active leaks (moist on the wall). Repairs to the roof should be prioritized.	
Parking Area	The parking area is gravel and is in a poor condition.	
Plaster	Plasters are falling off the walls and cracks indicate that repairs must be done.	
Frames	Generally, most of the windows and door frames have been removed. These have to be replaced as it presents a risk for house break-in and theft	
Flooring	The tiles are broken and there are cracks in the floor. The floor will need to be repaired.	
Roof/ceiling	The ceiling is damaged and will need to be repaired.	
Cupboards	Build in cupboards has been removed from walls.	

Electrical Infrastructure	<p>All electrical wiring has been removed, the main switchboard has also been damaged and removed from the walls.</p> <p>All electrical repairs should be considered as important safety items as they present the risk of fire or shock. These items should receive high priority for action</p>	
Burglar Bars	<p>Generally, the burglar bars are in poor condition and need to be replaced. These also present a risk for break-in and theft.</p>	

**Please note this is a visual inspection therefore:**

- Structural components concealed behind finished surfaces could not be inspected.
- Engineering or architectural services such as calculation of structural capacities, adequacy, or integrity was not part of our inspection.

**Overall Condition assessment ratings:**

The overall state of the building is bad, substantial sections and components have deteriorated badly, suffered structural damage or require renovations. There is a risk of imminent failure. The state of repair has a substantial impact on surrounding elements or creates a potential health or safety risk.

The building was even further destroyed in a fire that broke out in 2021/2022 after which a request was made for the demolishing of the building:





## **Conclusion**

The latest assessment was conducted in November 2024. During the inspection, it was noted that there are people using the dilapidated structure as a place of habitation. This poses a big risk to the Municipality. Most of the built-in furniture was removed.

The following assets that were on the inventory list could be verified:

- Fire Extinguisher (11937)
- Trellidor Gate (06799)
- Built-in Table (04421)

The following assets could not be verified.

- office table (11976)
- display cabinet ((11908)
- Cupboard Built In (04424)
- Cupboard Built In (04430)

There were a few broken chairs lying around without barcodes as well as a lawnmower.

REPORTS BY THE  
PORTFOLIO  
CHAIRPERSON: CIVIL &  
WATER SERVICES






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**JEFFREYS BAY: THE FOUNTAINS INDUSTRIAL PARK: DEVELOPMENT CHARGES**

**1. Introduction**

The purpose of this item is to request Council's consideration of the Developer's request to amend the time of payment of the Development Charges (DCs). Refer to the Developer's request and motivation attached as Annexure A.

**2. Background**

The initial application for this development was submitted around November 2023. During the last ±14 months following the submission, several meetings were held and dozens of emails exchanged between the applicant and the Directorate for Civil & Water Services. Amongst others, the standards for engineering services, departmental approvals, calculation of equivalent erven (ee) and Development Charges as well as the Engineering Services Agreement (ESA) were finalised. Refer to Annexure B for a copy of the ESA.

**3. Discussion**

As per the Developers Request, the Developer proposes to pay the DCs before the Services Clearance Certificates are issued by the relevant Engineering Directorate. See paragraph 3.11.5 as per the Engineering Service Agreement (as attached).

According to paragraph 3.11.6 such a proposal is subject to the approval of Council.

Refer to extracts from the ESA between KLM and the Developer as applicable to the time of payment of the DC's.

*"3.11.4 Notwithstanding anything to the contrary contained in the agreement, it is determined that no erf (erven) in the proposed Development shall be transferred, and neither shall a Services Clearance Certificate in respect thereof be issued before payment of the said DCs have been paid in full.*

*3.11.5 The Development Charges calculated shall become due and payable before the relevant Engineering Directorate shall certify that the work has been completed according to the relevant plans and has satisfied himself as to the correctness of the Consulting Engineer's Completion Certificate before issuing a Services Clearance Certificate.*

*3.11.6 The Parties agree that the payment provision in 3.11.5 above shall at all times be subject to the approval by the Kouga Municipal Council, failing which the augmentation fee shall become due on payable as at the last date of signature of this agreement."*



#### 4. **Financial Implications:**

<b>Completed by BTO -</b>	
Project Description	
Ukey no.	
Budgeted Amount	
Amount spent and committed to date	
Amount Available	
Comment	

Accepting the delayed payment will extend the period to receive the total DC amount, with associated loss of interest. The delayed payments would, however, be charged at the tariffs applicable within the year of final development (issuing of Clearance Certificates), increasing the total value of the DCs.

#### 5. **Applicable Legislation**

Municipal Finance Management Act 56 of 2003  
 The Municipal Fiscal Powers and Functions Amendment Act 04 of 2024  
 (Government Gazette No. 50798)  
 Augmentation Policy as approved by Council

#### 6. **Legal Implications**

The approved Augmentation Policy provides that augmentation calculated and agreed to shall be paid by the developer on date of signature of the Engineering Services Agreement. Should the developer wish to deviate from the said Policy provision, the municipal Council must approve the proposed deviation from the Policy. Should the Council approve the recommendations with the intended deposit payment, the ESA herein will have to be amended accordingly, in order to contractually bind the developer.

#### 7. **Other Implications**

Insisting on upfront full payments of DCs will make KLM a less attractive investment destination for developers. Approval of delayed payments will attract development as it improves the cashflow requirements and risk associated with upfront payments.

#### 8. **Comments by Directorates:**

##### 8.1 **Chief Financial Officer:**

The "other implications" above are noted. However, the contrary needs to be considered by Council as well.

The intention of Development Charges is to provide bulk services for developments. To enable the Municipality to construct bulk services, capital is required upfront. If development charges are not received up front, it will require Council to pay for the bulk services and receive the re-imbusement later in piecemeal. Receiving funds in piecemeal, based on the development plan, will not enable Council to provide the bulk services required for the development due to the limited resources available.

For the Municipality to remain investor friendly, I would propose that Council agree on a principle that at least 50% of the development charges be paid upfront and the remaining 50% be paid before the Services Clearance Certificates are issued. This will ensure that both the Developer and the Municipality benefit in the process.

## 8.2 **Director: Planning & Development**

Noted

## 8.3 **Director: Civil & Water Services**

The importance of allowing development in a controlled and designated manner for KLM can never be underestimated. As much as any development is welcomed, so too, capacity for such and any development has to be considered. The calculation of all Development Charges remains a crucial aspect of ensuring KLM capacities in terms of bulk services. Where any deviation from the DC Policy, on request by Developers, is requested, such has to appear before Council for consideration.

## 8.4 **Director: Electro-Mechanical Services**

Development charges are essential due to the increased demand and the need to enhance upstream capacity. This demand forms a value chain, necessitating upgrades not only to the substations supporting the development but also to the central network they connect to. This central network impacts the residents of the town and affects the notified maximum demand (NMD) managed by Eskom, which is costly to upgrade. Unfortunately to upgrade the network it cannot be done partially.

We also require higher-than-normal ERU charges as we approach the capacity limits for a specific town's NMD. Currently, in St. Francis Bay, we are already exceeding our NMD, with numerous developments seeking connection to the network. Therefore, a higher charge is recommended.

## 8.5 **Director: Community Services**

Noted.

## 8.6 **Deputy Municipal Manager**

Noted.

## 8.7 **Municipal Manager**

Recommendation supported.

## 9. **Delegated Authority**

Council

## 10. **Recommendations**

- 10.1 That Council consider approval of the intended deviation from the Augmentation Policy in that the calculated and agreed DC (augmentation) fees be paid by the developer by effecting a deposit payment equal to 30 % of the total DCs as an upfront payment, and the remainder of the calculated and agreed DCs be due and payable before the issuing a Services Clearance Certificate by the Kouga Municipality.
- 10.2 That the ESA be amended to incorporate the above resolution by Council.
- 10.3 That the Development Charges be ring-fenced and secured and explicitly earmarked to each relevant directorate for the upgrade of attending to bulk infrastructure as intended by the DC policy.

Item prepared by the: Manager Civil & Water Services



Item approved by the: Director Civil & Water Services



Item endorsed by the Municipal Manager:



Item noted by Portfolio Chairperson:



**Annexure A**

**From:** AGI du Preez <[agidupreez@absamail.co.za](mailto:agidupreez@absamail.co.za)>  
**Sent:** Tuesday, February 11, 2025 3:09 PM  
**To:** Charl du plessis <[cduplessis@kouga.gov.za](mailto:cduplessis@kouga.gov.za)>  
**Cc:** 'Waldo Van Niekerk' <[waldo@summertree.org.za](mailto:waldo@summertree.org.za)>  
**Subject:** Payment of Augmentation Fees and Buchner Propvest Resolution

Dear Mr Du Plessis

We refer to para. 3.11.6 of the Engineering Services Agreement (ESA) which states that the time of payment of Augmentation Fees, is subject to the approval of Kouga Municipality Council. As it stands, Augmentation Fees are payable on date of the signature of the ESA.

We find this condition by Council completely unpractical and holds big financial risks for the developer for the following reasons:

1. At this point in time there is no certainty that the project will go ahead until such time that the due diligence is completed.
2. We are still awaiting certain approvals from State departments like Transnet, District Road Engineer and Department of Water Affairs which is completely out of our hands.
3. Cashflow is a huge challenge, specially in the first phase of any development and it is therefore very important to time the payment of Augmentation Fees to be as close as possible to the transfer of erven.

We propose that the Augmentation Fees become payable before the relevant Engineering Directorate shall certify that the work has been completed according to the relevant plans and only then will a Services Clearance Certificate be issued.

We trust that Council will understand our situation and be in agreement with our proposal.

Regards

Dries du Preez



**ENGINEERING SERVICES AGREEMENT**

# **ENGINEERING SERVICES AGREEMENT (ESA)**

**AS CONTEMPLATED IN SECTION 118 OF THE SPLUMA BYLAW AND IN ACCORDANCE  
WITH ACT NO 04 OF 2024: THE MUNICIPAL FISCAL POWERS AND FUNCTIONS  
AMENDMENT ACT, 2024.**

**FOR**

**THE FOUNTAINS INDUSTRIAL PARK**

**ENTERED INTO BY AND BETWEEN THE:**

**KOUGA MUNICIPALITY**

(Herein represented by **CHARL DU PLESSIS** in his capacity as Municipal Manager and duly authorized thereto, herein referred to as the Local Authority

and

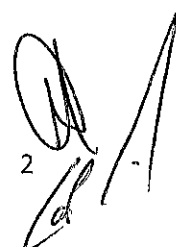
**BÜCHNER PROPERTY INVESTMENTS GARDEN ROUTE (PTY) LTD**

Registration Number: 1970/015540/07

(Herein represented by **ANDRIES GERHARDUS IGNATIUS DU PREEZ** duly authorized thereto, under Annexure A attached hereto, and herein after referred to as the Developer)

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**LIST OF ANNEXURES:**

ANNEXURE A	Company Resolution to authorize signatory
ANNEXURE B1 and B2	Sketch Plan of Proposed Development & Fountains Estate Overview & Locality Plan
ANNEXURE C	Consent from Department of Agriculture in terms of Act 70 of 1970
ANNEXURE D1 and D2	Rezoning and Subdivision Approvals
ANNEXURE E	Record of Decision of Department of Economic and Environmental Affairs and Tourism
ANNEXURE F1	Validity of the Environmental Authorizations
ANNEXURE F2	WULA requirements as per letter from DWS (Letter from EnviroSci including, awaiting approval from DWS)
ANNEXURE G, G1 and G2	Consent by the District Roads Engineer in 2008, TIA and the letter of approval from Dep of Transport (not included).
ANNEXURE H	Electrical Services Report
ANNEXURE I	Civil Engineering Services Report
Annexure J1	Addendum to the Service Agreement of the Fountains Business Park
Annexure J2	Development Charges.
ANNEXURE K	Site Development Plan and FEIPOA Constitution
ANNEXURE L1	Industrial Development Guidelines
ANNEXURE M	Services Allocation Agreement

**PREAMBLE:**

**WHEREAS** the Developer owns the Remainder of Portion 1 (The Fountains) of the Farm Estate Klein Zeekoei River Number 335 Jeffreys in the area of the Kouga Local Municipality, Division of Humansdorp (see attached Overview and Locality Plan); and

**WHEREAS** the Developer desires to develop a part of the said property for Industrial, Business and Mixed-use purposes in more or less six phases, subject to the Local Authority's approval, and this ESA only deals with Phase 1 as per the attached diagram of Metro Plan marked annexure "B1 and B2;" as approved by the Local Authority, and

**WHEREAS** the Developer /Owner has obtained the approval of the Department of Agriculture for the sub-division of agricultural land in terms of Act 70 of 1970 and several subdivisions have taken place since 2006 as proof of compliance (see consent No. 40242 attached hereto and marked annexure "C"); and

**WHEREAS** the rezoning and certain sub-divisional applications by the Developer in terms of the necessary legislation have been approved by the Council and all other administrative institutions, Laws and/or Bylaws (see a copy of the Council's resolution 09/03/WTP10 dated 21 January 2009 and SL2021-0 dated 11 August 2021 and marked annexures "D1 and D2"); and

**WHEREAS** this ESA only deals with Phase 1 consisting of industrial, business, and mixed use stands and classified as an "Open Development" in that the services network will be taken over by the Council on completion; and

**WHEREAS** the Developer/Owner has obtained the written authorization as envisaged by the provisions of Act 73 of 1989 from the Department of Environmental Affairs and Tourism (see EC08/M/141-06 marked annexure "E") as well as proof of compliance by Cape Environmental Assessment Practitioners (see Validity of the Environmental Authorizations marked annexure "E1"); and

**WHEREAS** the Developer/Owner has obtained the written authorization from the District Roads Engineer in terms of ordinance 15 of 1985 to the rezoning of a portion of the remainder portion 1 of Estate Klein Zeekoe River No 335 for Industrial use as proposed dated 26 February 2008 and marked annexure "F" as well as the Traffic Impact Assessment of June 2024 marked as annexure "F1"; and

**WHEREAS** the proposed development requires certain agreements between the Council and the Developer pertaining to the provision of water and electricity, storm water drainage, access roads, sewers and such like matters as contemplated in the bylaw.

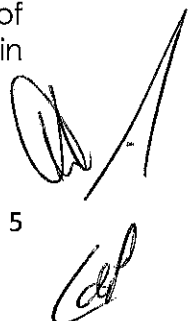
**NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:****DEFINITIONS**

- (a) The words "Local Authority" where it is used in this agreement shall mean the KOUGA MUNICIPALITY.

- (b) The term "Developer" where it is used in this agreement shall mean BÜCHNER PROPERTY INVESTMENTS GARDEN ROUTE (PTY) LTD, Registration Number: 1970/015540/07.
- (c) The "Owner" where it is used in this agreement shall mean BÜCHNER PROPERTY INVESTMENTS GARDEN ROUTE (PTY) LTD, Registration Number: 1970/015540/07.
- (d) The term "Municipality's Engineering Agent" shall refer to a Professional Engineer or Consulting Engineer appointed by the Kouga Municipality to act on its behalf in this matter.
- (e) The term "Developer's Consulting Engineer" shall refer to a Professional Engineer appointed by the Developer in terms of this agreement.
- (f) "G.P.E.S." means the Guidelines for the Provision of Engineering Services for Industrial Townships as amended from time to time and accepted as the norm for the provision of essential services.
- (g) "Internal Services" shall refer to all the services installed by the Developer inside the boundary of the Development to serve the Development.
- (h) The term "External Services" shall refer to the services of the Kouga Municipality outside or inside the boundary of the Development to which the internal services will be connected.
- (i) "The Act" shall refer to the Act No. 4 of 2024: The Municipal Fiscal Powers and Functions Amendment Act, 2024.
- (j) "Development Charges (DCs), previously referred to Augmentation Fees" shall refer to a charge levied by a municipality in line with section 9(A)(1)(a) of the Spatial Planning and Land Use Management Act, to contribute to amongst others the cost of infrastructure, land, etc.
- (k) "The Property" refers to the land parcel, as described and registered by a duly qualified land surveyor, as Remainder of Portion 1 (The Fountains) of the Farm Estate Klein Zeekoei River Number 335 Jeffreys in the area of the Kouga Local Municipality, Division of Humansdorp which is a sub-divided land parcel whereupon the proposed Development is desired to be erected, and as depicted on the Site Development Plan marked as Annexure K.

## 1. **DEVELOPMENT**

- 1.1 The Developer undertakes to develop the proposed Development in its entirety in accordance with the sub-division and development plans attached hereto as Annexures within the boundaries of the property described herein and within the period determined by applicable legislation.
- 1.2 It is however recorded that the Developer has requested that the Local Authority allow the work to be completed in separate phases consisting of thirteen stands in phase one of six phases with a total of 76 erven as set out in Annexure "B" hereto.
- 1.3 The Developer shall be obliged and undertakes to give effect to all the

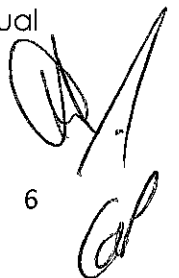


conditions upon which the sub-division and rezoning applications have been approved such as conditions laid down in terms of any ordinances, by-laws or legislation (see annexures "C, D1 and D2" attached hereto).

- 1.4 The Developer shall take full cognisance of all ecological and environmental factors contained in the Environmental Impact Assessment and to comply fully with the conditions (or amendments thereof) accompanying the authorisation of any Governmental Department (see annexure "E, F1 and F2")
- 1.5 The Developer undertakes to fulfil all its obligations and to do all things undertaken by it of whatsoever nature or extent in accordance with and to the minimum standard set out in the detailed preliminary specifications, plans, designs and documents annexed hereto marked annexures "H and I" and including, but without limiting the generality of a foregoing, to plan and construct the entire development in accordance with any legislation or bylaws of the Local Authority which may be applicable to the development.
- 1.6 Notwithstanding the employment by the Developer of other persons to fulfil its obligations, or to do anything on its behalf of whatsoever nature or extent, it shall remain the obligation of the Developer in terms hereof to ensure the full compliance by any such person with the requirements of and the minimum standards set by the detailed specifications, plans and designs annexed hereto as per acceptable standards of the local authority.
- 1.7 It is hereby recorded that there are several boreholes on Erf 10028 and that the Developer will be required to follow the DWS prescribed procedures to obtain approval before drilling additional boreholes on this erf. Individual owners of erven will not have the right or will not be allowed to drill for water unless approved by KLM in conjunction with approval by DWS.

## **2. PROPERTY OWNERS' ASSOCIATION**

- 2.1 The Developer and all Purchasers of developed stands shall be obliged to belong to the Fountains Estate Industrial Park Owners Association (FEIPOA). The constitution of the FEIPOA is attached hereto as part of the Site Developmental Plan marked annexure "K ". Establishment of an Owners' Association is compulsory and must be approved by the Municipality before first transfer. Upon formation, the Owners' Association shall become a Party to this Agreement and shall accept transfer of all duties and responsibilities outlined herein.
- 2.2 All internal services of the whole Development at the completion of each phase, shall vest in the local Municipality when such services and amenities have been completed to the satisfaction of the Local Authority and confirmed in the format of a Services Clearance Certificates.
- 2.3 The main purpose of the FEIPOA is to aesthetically control all building plans and all buildings plans must be signed off by the FEIPOA before it is submitted to the local Authority for approval.
- 2.4 The Owners' Association established to formally represent the collective mutual interests of the Development and shall be responsible for -
  - 2.4.1 convening an annual meeting with all its members;



- 2.4.2 control over the design guidelines of the buildings and units in the Development;
- 2.4.3 enforcement of conditions of approval or management plans
- 2.4.4 establishing sufficient transitional arrangements should the Owners' Association cease to function.
- 2.4.5 establishing a procedure within which a members' consent may be obtained should the Owners' Association cease to function.
- 2.4.6 implementation and enforcement of the provisions of its Constitution.

- 2.5 The Owners' Association shall, in addition to the above, be responsible for -
  - 2.5.1 financial administration and management and reporting;
  - 2.5.2 ensuring compliance with this constitution.

### 3 **EXTERNAL SERVICES**

- 3.1 The Development shall be an "open" freehold development in that the services infrastructure (external services) shall vest and become the property of the Local Authority on completion thereof to the satisfaction of the Local Authority, notwithstanding the fact that the Developer installed such services at its expense, and Developer and its successors in title shall have no further claim against the Local Authority for any expenditure so incurred by the Developer, or by any person under its instruction and/or control.
- 3.2 Electricity
  - 3.2.1 It is recorded that the Development falls within the electrical supply authority area of the Kouga Municipality. The Developer undertakes and shall be obliged at its cost to design the internal network for all phases as well as the external network in accordance with the plans, proposals and specifications contained in the Services Report of Clinkscales Maughan-Brown dated November 2023 and to be approved by the Local Authority. (see annexure "H" attached hereto).
  - 3.2.2 The Developer shall at its expense make, supply and construct for all three phases the internal and external electricity network to the satisfaction of the Local Authority, in accordance with the plans, proposals and specifications contained in the Services Report of Clinkscales Maughan-Brown (CMB) dated November 2023. (see annexures "H" attached hereto).
  - 3.2.3 Only 50% of the normal electricity allocation per stand will be applicable. The Stand Owners must generate the extra need for electricity at their own cost, if applicable. All Buyers will sign an "Services Allocation Agreement" (refer to Annexure "M") in which they accept the allocated services to a specific stand.
  - 3.2.4 The connection of electricity services shall be affected by the Directorate Electro- Mechanical Services at the expense of the Developer at the normal rate applicable at the time, and all other costs required for the connector services shall be for the Developer's or Buyer's own account.
  - 3.2.5 The DC for the provision of bulk electrical services to phase 1 shall be applicable as indicated in para. 3.11 below as for the 2024 / 2025 Municipal Financial year.

Handwritten signature and initials in the bottom right corner of the page.

- 3.2.6 According to the Addendum to the Services Agreement of the Fountains Business Park (refer to Annexure "J1") by the Consulting Engineers CMB the Developer created 728 spare Equivalent Residential Units (ERUs) during the original development in 2007. This spare capacity belongs to the Developer. and there will be a rebate affected for the spare capacity.
- 3.2.7 It is calculated that the Phase 1 development will utilise 77 ERUs. It is agreed that the available spare capacity for future developments for this Developer and Owner will therefore reduce from 728 to 651 ERUs.
- 3.2.8 The Developer shall, at no cost to the Local Authority, install the internal electrical reticulation to the Development substantially in accordance with the plans, designs and specifications set out in annexure "H".
- 3.2.9 Ownership of the internal electrical infrastructure shall after the installation has been certified as correctly designed and installed according to and in line with the Local Authority's standards, vests in the Local Authority.
- 3.3 Water
- 3.3.1 The Developer shall, at its own expense, instruct a qualified consulting engineer of its choice to investigate, plan and design the connection and drawing of water from the Local Authority bulk supply water main situated close to the proposed development. It is recommended that erf owners will be encouraged to install 10 000 (ten thousand) litres storage capacity per 250 square metres roof area. This will be a "green development" and it is therefore important to save water where possible.
- 3.3.2 The supply mentioned in 3.3.1 shall be designed substantially in accordance with the GPES and full specifications of the said water reticulation system shall be submitted to the Directorate Civil and Water Services for approval (which approval shall be given if the design of the water reticulation system substantially complies with the plans, designs and specifications set out in annexure "G") prior to the construction thereof.
- 3.3.3 The connection (including the bulk meter etc.) and all connector supply pipes and reservoir capacity shall be provided as detailed in the attached feasibility report (annexure "I") and be for the account of the Developer.
- 3.3.4 The specification of the connection of the bulk water meter with sufficient capacity for phases 1-3 shall be done in accordance with the lawful requirements and supervision of the Local Authority.
- 3.3.5 The ownership of the internal water infrastructure shall, after approval of the installation, vest in the Local Authority.
- 3.3.6 The spare storage capacity (800kl) in the Municipal reservoir situated within the Development plus the spare pump, and the extra "pipe" capacity belongs to the Developer as per the Addendum to the Services Agreement of the Fountains Business Park (see annexure "J1") and there will be an agreed rebate allowed for the spare capacity. Phase 1 will utilize 48,6kl/d which will require 97,2kl storage capacity. It is agreed that the reservoir and pipe capacity provided by the Developer, will therefore reduce to 702,8kl.

- 3.3.7 The Municipality will apply a rebate on the water DC for the spare storage and reticulation capacity provided by the Developer and not utilised by the Developer for the development of Phase 1 Fountains Business Park development during 2006.

The rebate is agreed to be calculated at 41% of the water unit costs (refer to Annexure J2). The amount of the rebate per equivalent erf (EE) is R 11 946.58.

- 3.3.8 Ownership of the internal water infrastructure shall after the installation has been certified as correctly designed and installed and tested in line with the Local Authority's standards, vest in the Local Authority.

### 3.4 Sanitation

- 3.4.1 The KLM is the legally appointed Water Services Authority of the Kouga Municipal Area.

- 3.4.2 The Developer will design and install a water borne sewerage system as per the GPES. The effluent from this system will be connected to external Municipal sewer manholes at the intersection between the access road and the R102.

- 3.4.3 In general, the flow of sewage from industrial sites is proportionately low. Individual owners will be encouraged for non-toxic "grey" water from baths, showers and basins to be collected in a separate underground storage tank for each stand and be utilized for gardens, car washes, paving washes, etc. and only water from toilets, sinks, etc. to flow into the sewer lines. This will be a "green development" and it is therefore important to save water where possible. Toxic- or poisonous wastewater must be disposed of properly and safely according to the Local Authority's regulations and will not be allowed in the sewer system.

- 3.4.4 The "DC" for the provision of bulk sewer services will be applicable as indicated in para. 3.11 below for the 2024 / 2025 Municipal Financial year.

- 3.4.5 The sewerage disposal system for the Development including all sewers, manholes, connections and gravity mains substantially in accordance with the GPES and the plans, designs and specifications set out in Annexure "I," shall be installed at no cost to the Local Authority.

- 3.4.6 Ownership of the internal sewerage infrastructure shall after the installation has been certified as correctly designed and installed in line with the Local Authority's standards, vest in the Local Authority.

### 3.5 External Roads & Stormwater

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- 3.5.1 The Developer shall provide all access roads to the Development at its own costs after obtaining approval from all relevant authorities in terms of any Laws and/or Bylaws.
- 3.5.2 The access roads shall comply substantially with the plans, designs and specifications set in the engineering report (Annexure "I").
- 3.5.2.1 The full value of the Roads & Stormwater development charges will be allowed as a rebate from the "DC" payable for phase 1 only as the Developer has provided major improvements as part of the Fountains Estate Development to the bulk road system. These improvements include the following:
- The R102/St. Francis Road intersection was upgraded to a 60m traffic circle with landscaping on the inner circle.
  - A new traffic circle (46m dia) was constructed on St. Francis Road to provide access to the Fountains Mall and a link was provided to the existing Seetuin Road.
  - The road between the above-mentioned circles had been upgraded from a single to a double carriageway.
  - A new traffic circle (45m dia) was constructed on the intersection of St. Francis Road and Tsitsikamma Road. The section of Tsitsikamma Road north-east of the mentioned circle was lengthened to connect to Dogwood Street.
  - Land was provided for the widening of the R102 from 25m to 40m.
  - Damaged traffic signs on St. Francis Road are replaced by the Developer.
  - Street Lighting was provided for St. Francis Road from the Railway bridge to the main electrical substation and along the R102 on both sides of the traffic circles. It was more than what was required.
  - The Landscaping along St. Francis Road, the circles and the section on the R102, is maintained by the Developer and the FEBPOA on an ongoing process. The same applies to the Water feature on the circle on the R102.
  - The plants on the circles and along St. Francis Road are watered on a weekly basis by the Developer's trucks and tractors.
- 3.5.4 The total value of all the above-mentioned improvements is regarded as Fully utilized and discounted for in Phase 1 only.

### 3.5.5 Stormwater

- 3.5.5.1 The Developer shall investigate and ensure that the Development will not increase the existing run-off from the Development area which may result in erosion of the downstream structures. It is thus proposed that the development guidelines for the Industrial Park include a requirement that each individually developed erf incorporate on site attenuation facilities as described in the Civil Engineering Services report, in order to limit the discharge to pre-development levels and thus protecting the receiving environment from flood peaks.

Toxic- or poisonous wastewater must be disposed of properly and safely according to applicable Local Authority regulations and will not be

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allowed in the sewer system to ensure that the storm water from the Development shall not be of a lower quality compared to the neighboring developments.

The storm water drainage system shall fully comply substantially with the plans, designs and specifications set out in the engineering report (annexure "I").

3.5.5.2 Ownership of the internal stormwater infrastructure shall after the installation has been certified as correctly designed and installed in line with the Local Authority's standards, vest in the Local Authority.

3.5.5.3 The full value of the Roads & Stormwater amount will be allowed as a rebate from the DC payable for Phase 1 only, as the Developer has provided major improvements as part of the Fountains Estate Development to the storm water drainage and detention structures. These improvements include the following:

- (a) Storm water inlets have been provided in Tsitsikamma- and Hanekam Roads to drain via the Savuti development.
- (b) The normal storm water flow from the "Sands" and adjacent residential areas, is channelled towards the Pietersgat River by an 825mm dia storm water pipe. The existing problems at the time at the Factory shops and in Pellsrus, were substantially reduced by this action.
- (c) Six new dams and detention structures were constructed downstream on the Fountains Farm as part of the Fountains Estate Storm Water Plan to prevent storm water damage in the lower Pietersgat drainage area and to cater for future Fountains Estate Developments. More dams and detention structures will be constructed when needed.
- (d) The KLM is in agreement to allow the Roads & Stormwater "DC's" as a rebate on the Augmentation fees for Phase 1 only due to the above improvements provided by the developer during the initial Fountains development.

### 3.6 Solid waste

The Developer shall not be required to provide solid waste infrastructure other than the normal on-site facilities for industrial consumers. The Developer shall pay a "DC" as indicated in para. 3.11 below for the 2024 / 2025 Municipal Financial year.

### 3.7 External Connector Services

The installations of the external connector services by the Developer shall be under the supervision of and in accordance with the GPES for the provision of Engineering Services in Industrial Townships and in accordance with the designs approved by the relevant Engineering Directorate, the costs of which shall be paid by the Developer on demand.

### 3.8 Servitude

The Developer shall at his expense obtain and survey such servitude rights on the routes the connector service contemplated above may have to follow. Any such servitudes shall be registered in favour of the Local Authority at the expense of the Developer and the Developer shall inform the Local Authority once the servitudes are registered.

### 3.9 Embargo

3.9.1 No construction work on the services infrastructure may commence before the construction drawings and designs have been approved by the Local Authority.

3.9.2 The Developer shall complete such external service connections to the satisfaction of the Local Authority and shall not be entitled to transfer any property rights within the proposed development to third parties before the completion of the said services, the payment of the full DCs, the issuing of the Services Clearance Certificates and compliance to the requirements of this agreement.

### 3.10 Streets

3.10.1 The Developer shall at no cost to the Local Authority design all streets substantially in accordance with the requirements which requirements shall set out the street designs subject to the approval by the Directorate Civil and Water.

3.10.2 The Developer shall construct streets, and erect signpost on the streets in the Development substantially in accordance with the street plans approved by the Local Authority and the costs hereof shall be for the Developer's account.

3.10.3 The Directorate Civil and Water shall, once it has received certification from the Developer's Consulting Engineer that the work has been certified as correctly designed and installed in line with the Local Authority's standards, according to the street plans and has reasonably satisfied himself as to the correctness of the Consulting Engineer's certification, certify in writing that such street or streets have been so cleared, constructed and signposted.

3.10.4 Ownership of the internal street infrastructure shall after the installation has been certified as correct according to the required designs and construction specifications, vests in the Local Authority.

3.10.5 All land within the road reserve areas (Public Open Spaces) shall be transferred into the name of the Local Authority by the Developer at its own cost before the issuing of any Services Clearance Certificates.

### 3.11 Availability Charges, Tariffs and Development Charges (DCs)

3.11.1 The Development shall be liable for rates, taxes, and consumption charges, and shall cause to be opened in the name of the Developer, a municipal account for the purposes of levying said rates, taxes, and consumption charges pertaining to the use of the services and development, subject to clause 6 below.

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- 3.11.2 Augmentation fees are applicable for municipal services made available to the Development and which is calculated in accordance with the Council approved policies and tariffs and the Developer's professional reports, duly scrutinized by the Municipality.
- 3.11.3 Once a particular Municipal Service has been provided to the Development, availability charges for water, electricity, sewer and refuse removal for each and every erf at the prevailing rates will upon transfer of such erf by the Developer to the first owner, become payable. This is to facilitate the feasibility of new projects with brand new infrastructure. Availability charges will be applicable on leased properties from the Developer. For purpose of this clause, Municipal Services shall be deemed to be provided once the Bulk Engineering Services concerned have been installed and are available to be connected to the Development.
- 3.11.4 As each individual property is to be rated separately for payment of property taxes, each individual property owner is to open and maintain a separate Municipal account.
- 3.11.5 With regard to the DCs, the parties agree that the DCs for Civil and Electrical Engineering Services as determined in accordance with the requirements of the Act, can be summarized as follows: -

**Table 1: DC Payable**

Description	Number/amount (R)
<b>Number of Units in Phase 1</b>	<b>12</b>
<b>Number of Equivalent erven (EE's)</b>	<b>48.6 EE's</b>
<b>1. Civil Rate per Equivalent Erf:</b>	
Water	R 29 138.00 (VAT incl)
Sewerage	R 30 131.00 (VAT incl)
Refuse	R 2 961.00 (VAT incl)
Roads & Stormwater	R 6 081.00 (VAT incl)
<b>Total for Civil services/EE</b>	<b>R 68 311.00 (VAT incl)</b>
<b>2. DC for Civil Services:</b>	
R 68 311.00 X 48,6 EE's	R 3 319 914.60 (VAT incl)
<b>3. Electrical Services Rate per ERU and DC payable:</b>	
R 14 942.08 X 77 ERU's	R 1 150 540.16 (VAT incl)
<b>4. Total DC s payable:</b>	<b>R 4 470 454.76 (VAT incl)</b>
<b>5. Less Rebates:</b>	
Electrical: R 14 942.08 X 77	R 1 150 540.16 (VAT incl)
Water: - R 11 946.58 x 48.6	R 580 603.79 (VAT incl)
Roads & Stormwater: R 6 081 X 48.6	R 295 536.60 (VAT incl)
<b>6. Total Rebates</b>	<b>R 2 026 680.55 (VAT incl)</b>
<b>7. TOTAL DC's Payable</b>	<b>R 2 443 774.21 (VAT incl)</b>

- 3.11.4 Notwithstanding anything to the contrary contained in the agreement, it is determined that no erf (erven) in the proposed Development shall be

transferred, and neither shall a Services Clearance Certificate in respect thereof be issued before payment of the said DCs have been paid in full.

- 3.11.5 The Development Charges calculated shall become due and payable before the relevant Engineering Directorate shall certify that the work has been completed according to the relevant plans and has satisfied himself as to the correctness of the Consulting Engineer's Completion Certificate before issuing a Services Clearance Certificate.
- 3.11.6 The Parties agree that the payment provision in 3.11.5 above shall at all times be subject to the approval by the Kouga Municipal Council, failing which the augmentation fee shall become due on payable as at the last date of signature of this agreement.

#### **4. GENERAL CONDITIONS PERTAINING CONSTRUCTION**

- 4.1 The Developer shall consult with the relevant Engineering Directorate in regard to the following:
- 4.1.1 The Local Authority's existing design and construction standards for service installations, design, material and equipment.
- 4.1.2 the proposed routes for servitudes required (read with paragraph 3.9).
- 4.1.3 consents required in terms of any applicable legislation for way leaves, surface right permits and land arrangements.
- 4.2 When making land arrangements for the work the Developer shall liaise with the relevant authority regarding the co-ordination of the location of the service including non-Engineering Services such as the services of Telkom and other such provider authorities.
- 4.3 The Developer shall make arrangements in good time for access to and occupation of privately owned property affected by the work if required.
- 4.4 The Developer proposes to complete the work in phases.
- 4.5 The Developer has satisfied, to the extent required in terms of any applicable planning legislation, to the Local Authority that deferment or phase-development will not be detrimental to the interest of:
- 4.5.1 Any Party to this Agreement.
- 4.5.2 Any third party which has acquired property in the Development.
- 4.5.3 The general public.
- 4.6 The Developer shall be responsible for: -
- 4.6.1 any necessary and reasonable costs the Local Authority may incur due to any part of the work not being located in accordance with the approved construction drawings or as per approved project requirements.

- 4.6.2 Replacement of cadastral beacons and reference marks and the re-establishment of Local Authority benchmarks disturbed by construction work.
- 4.7 The Developer hereby indemnifies and holds harmless the Local Authority against all: -
- 4.7.1 demands, claims or proceedings for damages in respect of third-party liability arising out of or in any way connected with the construction and maintenance of the work by the Developer, unless such third-party liability arises from, or is connected to, any negligent act or wilful misconduct by the Local Authority or any of its officers, employees, agents or contractors,
- 4.7.2 costs incurred by the Local Authority in examining, resisting or settling any matter referred to above.
- 4.8 The Developer must insure all construction work and activities. To the extent that the construction work has not been completed and certified as contemplated in this Agreement the Developer shall insure the cost of the work to the reasonable satisfaction of the Local Authority against all contingencies and liabilities and shall maintain such insurance until the work has been certified as satisfactorily completed and handed over to the relevant authority.
- 4.9 The Developer shall before commence work, convene an initial site co-ordination meeting of the parties involved in the work and the installation of the development services. It shall furthermore hold regular site progress meetings (minimum 1 per month) to which inter alia, the relevant Engineering Directorate shall be invited to, who shall otherwise be permitted upon reasonable notice to visit the work to observe the standard of materials and workmanship applied and particularly with regard to buried and inaccessible items incapable of being inspected at the time of taking over. (The Developer shall make available to the relevant Engineering Directorate all reasonable facilities which he may require for such purposes.)
- 4.10 Any statement by an official of the Local Authority, made verbally during or after a visit to the construction work to the effect that any aspect of the materials or workmanship is satisfactory, shall not be construed as an agreement that the Local Authority will take over that portion of the work or that the work has been approved as being satisfactorily completed. Directives given by an official in regard to the work shall be of force and effect only if confirmed by the relevant Engineering Directorate in writing and submitted to the Developer which directives shall be given in writing within 7 days from the date of such directive being requested.
- 4.11 Should there be a doubt on the part of the Developer concerning the interpretation of any aspect of the Local Authority's technical standards, the Developer shall request the relevant Engineering Directorate to provide the required interpretation in writing within 7 days from the date on which the request have been made.
- 4.12 Should the construction work be defective in the quality of materials and workmanship; the Developer shall reconstruct any such work. Any defective work, which constitutes a public hazard, shall immediately be made safe by the Developer.

- 4.13 The Developer shall locate the construction work in relation to cadastral beacons, reference marks or benchmarks in accordance with the construction drawings or agreed amendments thereto. Should the cadastral beacons or reference marks have been disturbed, the Developer shall engage and compensate a land surveyor to locate any construction work and certify that any completed construction work has been so located.
- 4.14 The Developer shall when the construction work has been completed submit a statement in writing to the effect that:
- 4.14.1 Spoil, rock and surplus material from the construction work temporarily deposited on adjoining properties has been removed.
- 4.14.2 The ground surface of land affected by the construction work has been restored as nearby as possible to its former condition.
- 4.14.3 Cadastral beacons, reference marks or benchmarks disturbed by the construction work have been replaced or re-established.
- 4.15 The Developer shall also submit an engineer's certificate to the effect that: -
- 4.15.1 The construction work has been located and completed under his supervision and in accordance with the construction drawings and specification.
- 4.15.2 The work has satisfactorily passed all specified tests and complies with the standards contemplated in this Agreement at that time.
- 4.15.3 The construction work drawings (amended to show the completed construction work i.e. "as built") have been submitted to the Local Authority.
- 4.16 The Developer shall arrange for a joint inspection of the completed construction work, the Developer, his engineer and a member of the relevant Engineering Directorate in attendance. The relevant Engineering Director or his agent shall then, subject to the satisfactory fulfilment of the obligations of the Developer in terms of his undertakings, certify that the construction work is approved as satisfactorily completed, in accordance with this Agreement. This certification will be deemed a clearance certificate which is a requirement for transfer purposes.
- 4.17 The Developer undertakes to use its best endeavours to minimise the possibility of dust and noise pollution. The Developer undertakes to comply at all times with the directions of the relevant Engineering Director or his agent in order to limit pollution and public inconvenience.

## **5. REGISTRATION OF CERTAIN CONDITIONS AGAINST THE TITLE DEEDS**

The Developer shall register the following conditions against the title deeds of the individual properties when such properties are transferred:

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- 5.1 The owner of this erf shall, without compensation, be obliged to allow electricity, telephone and television cables and/or wires, fibre cables and main and/or other water pipes and the sewage and drainage including storm water of any other erf or erven inside or outside this Development to be conveyed across this erf, if deemed necessary by the local or other statutory authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purposes of constructing, altering, removing, or inspecting any works connected with the above.
- 5.2 The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on this erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to the difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
- 5.3 This erf shall be used only for such purposes as are permitted by the Town Planning Scheme of the local authority and subject to the conditions and restrictions stipulated by the scheme.

## **6. RATES AND TAXES**

- 6.1 The parties agree that rates and taxes in respect of a financial year shall be assessed on the remainder of the Development area (specific phase or completed phases) for as long as the individual erven in the Development area have not been sold and transferred by registration in the Deeds Registry to third parties. This will not be applicable on leased property from the Developer in which case normal rates and taxes will be assessed.
- 6.2 The remainder of the Development area will be valued and rated as being agricultural land notwithstanding the zoning approval.

## **7. COSTS OF SERVICES**

- 7.1 The Developer undertakes and shall be obliged to pay to the Local Authority all reasonable costs, the Local Authority may incur and pay to its consulting engineer or surveyor.
- 7.2 The Local Authority shall from time to time inform and discuss with the Developer the necessity of work to be done by such professionals as mentioned above.
- 7.3 The Developer shall be obliged to pay the above-mentioned costs as well as any other costs for which it is liable in terms of this Agreement within 30 days of receiving an itemised invoice from the Local Authority.

## **8. NOTICES AND DOMICILIA**

The Parties choose as their *domicilia citandi et executandi* their respective addresses set out in this paragraph 8 for all purposes arising out of or in connection with this Agreement at which addresses all processes and notices

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arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties, it being agreed that all notices dispatched in the Republic of South Africa by prepaid registered post to the *domicilium* selected shall be deemed to have been received 5 (five) days from the date of posting thereof or alternatively all notices can be sent by email to the email address furnished as an additional domicilia and shall be deemed to have been received one day from the date of sending thereof:

**The Local Authority: C/o The Municipal Manager**

**33 Da Gama Road  
JEFFREYS BAY, 6330**

**E-mail: [registry@kouga.gov.za](mailto:registry@kouga.gov.za) / [jreed@kouga.gov.za](mailto:jreed@kouga.gov.za)**

**The Developer: Büchner Property Investments**

**216 Dolphin Drive  
ASTON BAY  
6332**

**E-mail: [dries@fountainsestate.co.za](mailto:dries@fountainsestate.co.za)**

**9. MISCELLANEOUS**

9.1 Entire Contract

This Agreement contains all the express provisions agreed on by the Parties with regard to the subject matter of the Agreement and supersedes and novates in its entirety any previous understandings or agreements among the Parties in respect thereof; and the Parties waive the right to rely on any alleged provisions not expressly contained in this Agreement.

9.2 No Representations

A Party may not rely on any representations (whether or not made innocently, negligently or deliberately) which allegedly induced that Party to enter into this Agreement, unless the representation is recorded in this Agreement.

9.3 Variation, Cancellation and Waiver

No contract varying, adding to, deleting from or cancelling this Agreement including this para. 9.3, and no waiver of any right under this Agreement, shall be effective unless in the form of an Addendum to the agreement and signed by the parties' authorised representatives.

It is hereby recorded that the plans, specifications and diagrams annexed hereto may require amendment. Such amendment shall not be made without the express written consent of the Local Authority, which consent shall not be unreasonably withheld.

9.4 Indulgences

The grant of any indulgence, extension of any time or relaxation of any provisions by a Party under this Agreement (or under any other agreement or document issued or executed pursuant to this Agreement) shall not constitute



a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

#### 9.5 Cession and Delegation

A party may not cede any or all of that Party's rights or delegate any or all of that Party's obligations under this Agreement, without the prior written consent of the other Party.

#### 9.6 Costs

Each Party shall bear that Party's own legal costs and disbursements of and incidental to the negotiations, preparation, settling, signing and implementation of this Agreement.

#### 9.7 Transfer Ownership

Any successors in title to the Developer of the said Development excluding Purchasers of freehold erven, shall be bound by this Agreement. The Developer shall ensure that any successor in title has access to or is aware of this agreement. It will be required that the successor acquaints himself completely with the stipulations and requirements of this agreement and the obligation rests with the successor to ensure that he understands the Local Authority's intention with the requirements by means of thorough discussions.

### 10. **ARBITRATION**

All disputes or differences between the Local Authority and the Developer herein whether arising out of the interpretation of this Agreement or any annexures hereto or documents incorporated herein by reference, or upon or after the discharge or determination hereof, and concerning any matters specified in this Agreement, or its construction or effect, or as to the rights, duties or liabilities of the Parties hereto or of either of them under or by virtue of this Agreement or otherwise or as to any other matter in any way arising out of the subject matter of this Agreement, shall be referred to a Practising Counsel to be nominated by the President from time to time of the Bar Counsel in Gqeberha, of not less than 10 years standing who, subject of the provisions of the Arbitration Act, shall decide on such matter and whose decision shall final and binding on all the Parties hereto.

### 11. **SANCTION CLAUSE**

Should the Developer fail to perform all or any of the conditions, obligations or undertakings hereof or commit any breach of this agreement of whatsoever nature and fail to remedy such omission or breach within 21 days of the posting of a letter addressed by prepaid registered post to the Developer at the *domicilium citandi et executandi* chosen by it herein, the Local Authority shall have the right to immediately order the Developer to terminate the construction work and will then also refuse to issue clearance or occupation certificates until such time as the Developer has remedied such omission or breach. The Local Authority shall moreover be entitled to claim from the Developer all damages which the Local Authority may suffer as a result of such omission or breach.

### 12. **SUSPENSIVE CONDITION**

The Parties hereto agree that the implementation of this Agreement is subject to the Developer obtaining all the legislative approvals in respect of this specific development from, but not limited to, the Department Roads and Transport, the Department of Water Affairs and Sanitation and will therefore only come into full force and effect once all the aforementioned approvals are in place.


All required legislative approvals (as referenced above) to be submitted in appropriate annexures to the Local Authority in order to regard this agreement to be in full force and effect.

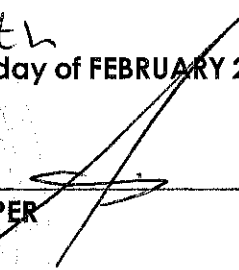
SIGNED and DATED at JEFFREYS BAY this 10<sup>th</sup> day of FEBRUARY 2025.  
AS WITNESSES:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

  
 \_\_\_\_\_  
 KOUGA MUNICIPALITY

SIGNED and DATED at Jeffreys Bay on this 10<sup>th</sup> day of FEBRUARY 2025.  
AS WITNESSES:

- 1.  \_\_\_\_\_
- 2. \_\_\_\_\_

  
 \_\_\_\_\_  
 DEVELOPER