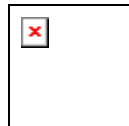


EXPLOSIVES MAGAZINES, CRABBÉ: LEASE

**Lodged au Greffe on 4th July 2000
by the Home Affairs Committee**



STATES OF JERSEY

STATES GREFFE

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PROPOSITION

THE STATES are asked to decide whether they are of opinion -

- (a) to approve the lease to Orica Europe Limited of premises at Crabbé, St. Mary, as shown on the attached plan drawing no. 653/1 comprising two existing explosives stores, inclusive of the West Compound totalling approximately 3,120 square feet with a Magazine of approximately 264 square feet gross external area and East Compound totalling approximately 6,588 square feet with a Magazine of approximately 180 square feet gross external area for a period of nine years at a commencing annual rental of £8,500, subject to three yearly rent reviews in line with the percentage increase of the Jersey Retail Price Index with the option to renew the lease for a further nine years and with all other terms as set out in the report of the Committee dated 15th June 2000;
- (b) to approve the lease to Orica Europe Limited of premises at Crabbé, St. Mary, as shown on the attached plan drawing no. 653/1 comprising two explosives stores, inclusive of Magazine Compound No.1, with a total area of 1,052 square feet, a bunded area of approximately 735 square feet and a Magazine of approximately 175 square feet gross external area, Magazine Compound No. 2, with a total area of 1,025 square feet, a bunded area of approximately 735 square feet and a Magazine of approximately 175 square feet gross external area, with the lease to commence upon completion of the construction of the Magazine Compounds and to be for a period of nine years at a rental equated to the capital cost of construction amortised over a period of nine years without review, with the option to renew the lease for a further nine years, and with all other terms as set out in the Committee report dated 15th June 2000;
- (c) to authorise the Attorney General and the Greffier of the States to pass the necessary contracts on behalf of the public; and
- (d) to authorise the Treasurer of the States to receive the rent and capital repayment as they become due.

HOME AFFAIRS COMMITTEE

- Notes:
- 1. The Finance and Economics Committee's comments are to follow.
 - 2. The Planning and Environment Committee supports this proposition.

REPORT

Under the licences issued by the Defence Committee, explosives have been stored in the existing Magazines at Crabbé since 1960 for use primarily in the quarrying industry and also for other engineering contracts undertaken by the States.

When the facility was first developed, there was very little activity on the neighbouring shooting ranges and the Inspector of Explosives, who inspected the facility, agreed its suitability for the storage of 15 tonnes of explosives. Since that time, the number and use of the ranges has increased considerably and, in 1996, the Sport, Leisure and Recreation Committee also requested advice on whether the close proximity of the explosives Magazines would affect the leasing of Crabbé Farmhouse.

The States of Jersey Property Underwriters consequently asked for the United Kingdom Health and Safety Executive to review the explosives storage arrangements at Crabbé. The conclusion of this inspection was that the tonnage of the explosives stored in the Magazines should be reduced to 4.5 tonnes pending the outcome of further investigations. These revised limits came into force in May 1997.

The Defence Committee acknowledged that this reduction in the storage capacity would impact upon the cost of importing explosives and that, in order to provide the local construction industry with a sufficient safety margin, the storage capacity should be increased to 11 tonnes.

To achieve this level, and to ensure that the outside safety distances to the various ranges, Crabbé Farm and the coastal path are maintained, it is necessary to construct two additional Magazines in the positions shown on the attached map, each of which would be capable of holding 8,000 lb of explosives.

The Finance and Economics Committee, at its meeting on 25th November 1997, agreed to provide the finance for the new Magazines, but only on the condition that the cost of the construction of the Magazines was repaid annually by the use over a nine-year period. Negotiations have subsequently been pursued with the user, Orica Europe Limited, and plans for the extension of the Magazine storage area at Crabbé have been developed in accordance with the advice received from the United Kingdom Health and Safety Executive.

The Home Affairs Committee currently leases the two existing explosives Magazines for the purpose of storing explosives to Orica Europe Limited (formerly Nobel's Explosives Company Limited). The lease is for a term of nine years from 25th December 1991, at a commencing annual rental of £6,250, subject to annual rent reviews in line with the percentage increase in the Jersey Retail Price Index. The current annual rental is £8,458.34 and the lessee is responsible for all repairs and maintenance.

The Department of Property Services entered into negotiations with Orica Europe Limited firstly to renew the current agreement concerning the existing two Magazines and, secondly, to enter into a new agreement for the construction, leasing and financing of the two new Magazines required to increase the storage capacity to the agreed levels and the following heads of terms have been agreed.

A. Renewal of existing lease

1. Lessor - States of Jersey Home Affairs Committee for and on behalf of the Public of the Island of Jersey.
2. Lessee - ORICA Europe Limited
3. Demised premises - All those premises situated at Crabbé. St. Mary comprising two explosive stores, inclusive of the West compound totalling approximately 3,120 square feet with a Magazine of approximately 264 square feet gross external area and the East compound totalling approximately 6,588 square feet with a Magazine of approximately 180 square feet gross external area, as identified on the attached plan.
4. Lease terms - The annulment of the present lease on the date of passing contract and the granting of

a new nine-year agreement commencing on the same date as the new agreement commences for the new Magazines, with the option to renew the lease for a further nine years.

5. Commencing rental - £8,500 a year.
6. Rent reviews - The annual rental is to be reviewed every third year in accordance with the percentage increase in the Jersey Retail Price Index.
7. Break clause - The lessee will be permitted to break the lease at the end of the third and sixth years of the lease provided six months' prior written notice is given with time being of the essence. Furthermore, the lessee shall only have the right to break the lease on the grounds that they can show that there has been a reduction of over 50 per cent in the Company's gross annual turnover from the income derived from the Explosive Magazines. For the avoidance of doubt, the annual gross turnover shall be taken to be the 1999 figure which shall be index-linked up to the relevant rate in line with the Jersey Retail Price Index from March 2000.
8. Repairing obligations - The lessee is to be responsible for keeping and putting the interior and exterior of the Magazines and the bunded areas in a good state of repair and security including all fences and gates and alarm systems and as to be further described in an inventory of lessor's fixtures and fittings, to the satisfaction of the lessor, with the lessee painting the metallic parts of the interior and exterior of the Magazine and the gates and fences etc. every three years and in the last year of the term of the lease.
9. Right of way - The lessee is to be granted a right of way over the private road belonging to the Public of the Island in order to go from the Public road to the premises now leased, and the lessee shall pay a fair proportion of the costs of maintenance and upkeep of the said private roadway, with the Magazine complex starting from the locked gate.
10. Alterations - The lessee is not permitted to carry out any alterations without the prior consent of the lessor.
11. Alienation - The lessee is not permitted to either assign, sub-let or part with possession with either the whole or part of the demised premises without the prior written consent of the lessor.
12. Parish rates and outgoing - The lessee is to be responsible for the payment of the Parochial Occupier's Rates

levied on the premises.

The lessor is to be responsible for the cost of the electricity to the alarms consumed on the demised premises. The lessee is to be responsible for the cost of all other services consumed on the demised premises including the cost of the maintenance of the Securicor Security System and paying for all call out charges for attendance by Securicor in response to the activation of the alarms.

13. Insurance - The lessee is to insure the structure with a reputable firm and provide copies of the insurance policy to the lessor.

The lessee shall at its own effort and cost effect, maintain and enforce in their name a Public Liability Policy of not less than £30,000,000 (thirty million pounds) a copy of which is to be supplied to the Committee.

14. Use - The lessee is permitted to use the demised areas for the purposes of Explosive Magazines for the sole use of personnel directly or indirectly employed by the lessee in connection with the lessee's permitted business carried out from the demised premises.

The lessor hereby covenants with the lessee that the lessor shall not do anything nor omit to do anything nor permit anything to be done or omitted to be done adjacent to the demised premises which would reduce to less than 10.75 tonnes the quantity on the licence to store explosives granted to the lessee or its agent under the Explosives (Jersey) Law 1970 as amended, or under any legislation which may replace such Law or under any other legislation in the Island of Jersey from time to time governing the storage or explosive substances.

15. Legal costs - The lessee is to be responsible for the Public's legal costs incurred in this transaction.

16. Other - All other terms are to remain on the same basis as the present agreement.

B. New Magazines

These proposed heads of terms are to be on a similar basis to the above save for the following clauses.

1. Demised area - The demised premises shall comprise -

The site for New Magazine 1, with a total area of approximately 1,052 square feet, a bunded area of approximately 735 square feet and a Magazine of approximately 175 square feet gross external area, together with the proposed new site for Magazine 2 which will comprise a total area of approximately 1,025 square feet, a bunded area of approximately 735 square feet and a Magazine of approximately 175 square feet gross external area.
2. Rental - The rental is to equate to the capital cost of constructing the two new Explosive Magazines, as set out in a schedule of specification that is to be prepared which is likely to be shown on the attached plan and as provided by the Public Services Department, with such costs to be amortised over a period of nine years at seven per cent without review.
3. Lease start date - The lease will start from the completion of the construction of the Magazines.
4. Break clause - The lessee will not have the right to break the lease at any time during the term of the lease.
5. Fixtures and fittings - The Magazines are to be the property of the lessee. The other fixtures and fittings as per the attached schedule (to be provided), are to be the property of the lessor.
6. Other - All other terms as per the terms stated in point A above.

It has been agreed that the cost of the construction of the new Magazines is to be met by the lessee by the payment of a sum equal to the annual equivalent of the capital cost of the construction of the two new Magazines over a nine year period at an interest rate of seven per cent without review.

In addition, and given the nature of the agreement, the heads of terms provide Orica Europe Limited Plc. with an undertaking that no development will be permitted within the specified safety distances that might compromise the permitted storage capacity of the new Magazines. The Planning and Environment Committee has agreed to incorporate a policy to this effect in the new Island Plan in order to ensure that this requirement is enforced.

The reaching of this agreement is seen as being beneficial to the States of Jersey to ensure the continuing supply of explosives within the Island to provide a sufficient safety margin for the local construction industry and should therefore be supported.

15th June 2000.

