

7.

CONTRACT SC1966/2019: CLEANING OF STORMWATER AND SEWERAGE PIPELINES ON AN "AS AND WHEN" REQUIRED BASIS

8/4

T Steenberg
13 June 2022

Deputy Director: Operational Services

(028) 313 8982

1. Executive Summary

The purpose of this report is to provide the necessary information and motivation on the proposed amendment of Contract SC1966/2019: Cleaning of Stormwater And Sewerage Pipelines On An "As And When" Required Basis for a period ending 30 June 2022, in terms of the enabling provisions of section 116(3) (a) & (b) of the Local Government: Municipal Finance Management Act, Act No. 56 of 2003 (MFMA), to enable Council to make an informed decision whether to consent to the amendment of the contract.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Community Services
Department: Operational Services

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act, 2003(Act 56 of 2003)
Overstrand Municipality Supply Chain Management Policy, as amended
Overstrand Municipality Contract Management Policy, as amended
MFMA Circular No. 73 issued by National Treasury

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

The abovementioned 3 years term contract was awarded to Juno Corp (Pty) Ltd. On 23 July 2019 and will end on 30 June 2022. The contract is utilised to render high pressure vacuum and sucking services and form an integral part

on essential maintenance on the stormwater and sewer infrastructure in the Overstrand.

A new contract for the maintenance of the stormwater and sewer networks must be in place by 1 July 2022 in order to ensure that this essential service is not disrupted, which in turn could lead to health and safety risks to the municipality. Unfortunately, all new tender advertisements have been stopped by the Overstrand Municipality and many other government institutions following a recent Circular received from National Treasury, indicating that there is uncertainty about the legality of the PPPFA Regulations due to a ruling of the Constitutional Court, therefore a Section 116 process as described below, was followed.

Section 116(3) of the MFMA provides as follows:

“116(3) A contract or agreement procured through the supply chain management policy of a municipality or municipal entity may be amended by the parties, but only after-

- (a) the reasons for the proposed amendment have been tabled in the council of the municipality; and*
- (b) the local community -*
 - (i) has been given reasonable notice of the intention to amend the contract or agreement; and*
 - (ii) has been invited to submit representations to the municipality or municipal entity.”*

Section 116(3) process

Date of Advertising: 14 April 2022
 Method of Advertising: Die Burger, Cape Times,
 Overstrand Municipality Website
 Closing Date for Comment: 13 May 2022
 No comments were received from the public at the closing date.

Discussion

The specifications for the new tender, SC1966/2019, was 100% completed for submission to the BSC by end of February 2022. The Circular dated 25 February from National Treasury as well as subsequent communication from the Supply Chain management Department advised that no new tenders to be advertised after 16 February 2022.

This will be the first amendment to Contract SC 1966/2019. The contract is rates based for the services described above, and therefore no fixed contract amount exists that has to be amended, but only the contract period has to be extended, to ensure continuity during the period where new tenders cannot be advertised or awarded.

The motivation for the proposed amendment is as follows:

1. The service rendered through the current contract is regarded as essential in the delivery of basic services to the Overstrand Community. The continuation of services by the current service providers will ensure continuity until a new contract can be awarded.
2. The amendment of the contract will have no adverse financial implications for the municipality, as there are fixed rates which are escalated by 6 % annually.

Conclusion

It is therefore recommended that Contract SC 1966/2019 be amended in terms of section 116(3) of the MFMA, by extending the contract for a 1-year period with start date 1 July 2022 and end date 30 June 2023

7. Financial Implications

Source of Funding : Operational

Unique Key	: 20210629092236, 20210629092159, 20210629092122
Cost Accounts	: 13750201650000,13760201470000, 13780201470000
Item Description	: Maintenance of Unspecified Assets
Budget Provision 2022/23	: R 2 480 000
Balance Available	: R 2 480 000

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Contract manager: Hermanus, Mr. C. Roets - (028) 313 8951

It is confirmed that Contracts SC 1966/2019 is still active and the proposed extension of the contract is supported.

The contractor indicated that they are willing to extend the contract for a contract period ending 30 June 2023. Compliance to section 116(3) of the MFMA has been duly adhered to.

The successful amendment to the contract is subject to the successful completion of the SCM process.

10. Annexures

- Annexure A: Addendum to the contract (Intent to amend)
- Annexure B: Published Public notice as on 14 April 2022
- Annexure C: BAC minutes of 19 July 2019
- Annexure D: Schedule of Unit Rates

RECOMMENDATION TO THE COUNCIL:

1. that **cognisance be taken** of the reasons for the proposed amendment of **Contract SC1966/2019: CONTRACT SC1966/2019: CLEANING OF STORMWATER AND SEWERAGE PIPELINES ON AN "AS AND WHEN" REQUIRED BASIS**, in terms of the enabling provisions of Section 116(3) (a) & (b) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the amendment be consented to; and
2. that **cognisance be taken** that no recommendations or representations were received from the local community by closing date, 13 May 2022.

RESPONSIBLE OFFICIAL :	T STEENBERG
TARGET DATE FOR IMPLEMENTATION :	01 JULY 2022
TARGET DATE TO INFORM APPLICANT:	N/A
TARGET DATE TO INFORM OBJECTOR :	N/A

Enquiries: Theo Steenberg
Date: 04 April 2022

KANTOOR VAN DIE ADJUNK DIREKTEUR: OPERASIONELE DIENSTE
OFFICE OF THE DEPUTY DIRECTOR: OPERATIONAL SERVICES

ADDENDUM- INTENT TO AMEND A CONTRACT

The parties agree to the following intention to amend the existing contract SC1966/2019 with Juno Corp (Pty) Ltd for the Cleaning of Stormwater And Sewerage Pipelines On An "As And When" Required Basis for a period ending 30 June 2022, which were signed between them on 23 July 2019 and record this was done freely and willingly, without any coercion whatsoever from any one party:

The parties agree to the amendment of the contract end date, regarding the abovementioned agreement to the 30 June 2023 on the same terms and conditions.


The supplier acknowledges that they do have the capacity to fulfil the obligation, as set out in the terms and conditions.

The parties agree that the amendment of the contract is subject to the completion of a Supply Chain Management process, including completing a process as prescribed by section 116(3) of the Municipal Finance Management OR Circular 62 from National Treasury.

The parties further agree to commit to this amendment of contract after the date of completion of the prescribed Supply Chain Management process.

Thus done and signed at Hermanus this 04 day of April 2022 in the presence of the undersigned witnesses

WITNESSES:

1. 

2. _____

For and behalf of with Juno Corp (Pty) Ltd

NAME: Laureed van Schoor


DESIGNATION: Contract Manager

Thus done and signed at Hermanus this 4TH day of APRIL 2022 in the presence of the undersigned witnesses

WITNESSES:

1. Esperandis

2. W. de V.


For and on behalf of Overstrand Municipality:
Roderick Wiltams
Director, Community Services



NOTICE/KENNISGEWING/ISAZISO

NOTICE IN TERMS OF SECTION 116(3) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 56 OF 2003) FOR THE PROPOSED AMENDMENT OF THE EXISTING AGREEMENT WITH JUNO CORP (PTY) LTD FOR CLEANING OF STORMWATER AND SEWERAGE PIPELINES ON AN "AS AND WHEN" REQUIRED BASIS FOR A PERIOD ENDING 30 JUNE 2022

Notice is hereby given in terms of Section 116 (3) (a) and (b) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) that it is the intention of the Overstrand Municipality to amend the existing contract with Juno Corp (Pty) Ltd. The proposed amendment of the contract is to provide for the extension of the agreement for a period ending **30 June 2023**.

Notice is hereby further given in terms of Section 21 and 21A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that the local community and affected parties are invited to submit comments or representations on the proposed amendment of the agreement. Such comments or representations must be submitted by not later than **Friday, 13 May 2022 at 12:00**.

Comments or representations must be submitted in a sealed envelope clearly endorsed "**SC1966/2019: COMMENTS ON NOTICE OF AMENDMENT OF EXISTING AGREEMENT WITH JUNO CORP (PTY) LTD**" and be deposited in tender box no. 7.

All submissions must be addressed to:

The Municipal Manager
Tender box no 7
Overstrand Municipality
Magnolia Avenue
Hermanus
7200

Persons who are physical disabled or who cannot read or write but wish to participate in the process, may come during office hours to the Municipal Offices, Magnolia Avenue, Hermanus where a staff member will assist that person to transcribe that person's comments or representations.

Dean O'Neill
Municipal Manager

KENNISGEWING INGEVOLGE ARTIKEL 116(3) VAN DIE WET OP PLAASLIKE REGERING: MUNISIPALE FINANSIËLE BESTUUR, 2003 (WET 56 VAN 2003) VIR DIE VOORGESTELDE WYSIGING VAN DIE BESTAANDE OOREENKOMS MET JUNO CORP (EDMS) BPK VIR DIE SKOONMAAK VAN STORMWATER EN RIOOL PYPPLYNE SOOS BENODIG VIR 'N PERIODE WAT EINDIG OP 30 JUNIE 2022.

Kennis geskied hiermee ingevolge artikel 116(3) (a) en (b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet 56 van 2003) dat die Munisipaliteit Overstrand van voormemens is om die bestaande ooreenkoms met Juno Corp (Edms) Bpk te wysig. Die voorgestelde wysiging van die ooreenkoms is om voorsiening te maak vir die uitbreiding van die ooreenkoms vir 'n periode wat eindig op **30 Junie 2023**.

Kennis geskied verder ingevolge artikel 21 en 21A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), dat die plaaslike gemeenskap en geaffekteerde partye genooi word om kommentaar of vertoë oor die voorgestelde wysiging van die ooreenkoms aan die Munisipaliteit te lewer. Hierdie kommentaar of vertoë moet teen nie later nie as **Vrydag, 13 Mei 2022 om 12:00** ingedien word.

Alle kommentare of vertoë moet ingedien word in 'n verseëide kovert, duidelik gemerk "**SC1966/2019: KOMMENTAAR OP KENNISGEWING VAN WYSIGING VAN BESTAANDE OOREENKOMS MET JUNO CORP (EDMS) BPK**" en geplaas word in Tenderbus nr. 7.

Alle voorleggings moet geadresseer word aan:

Die Munisipale Bestuurder
Tenderbus nr. 7
Munisipaliteit Overstrand
Magnoliaaan
Hermanus
7200

Persones wat liggaamlik gestremd is of nie kan lees of skryf nie, maar aan die proses wil deelneem, kan gedurende kantooreure na die Munisipale Kantore, Magnoliaaan, Hermanus kom, waar 'n personeelid hulle sal help om die kommentaar of vertoë neer te skryf.

Dean O'Neill
Munisipale Bestuurder

ISAZISO SECANDELO-116(3) LOMTHETHO ILOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO.56 WANGO-2003 OKUBA UJONGE UKWANDISA ISIVUMELWANO NO MNIKI NKONZO U-COMMUNICATIONS SOLUTIONS (PTY) LTD, SENKONZO EZIDIBENE NE-UPGRADE, MAINTENANCE AND SUPPORT OF OVERSTRAND MUNICIPALITY'S RADIO FREQUENCY NETWORK.

UMasipala weNgingqi yase-Overstrand, wazisa ukuba unqwenela ukwandisa isivumelwano no- mniki nkonzo we-Communications Solutions (Pty) Ltd, oko kusenziwa ngokwemimiselo yamaCandelo-116(3) (a) no (b) womthetho iLocal Government: Municipal Finance Management Act, No.56 wango-2003. Lomnqwano ubekwayo ngowokuba kwandiswe isivumelwano esikhoyo ukuze kuqhubekeke inkonzo, uyotsho nge **30 Silimela 2024**.

Isaziso siphinda sinikwe ngokwecandelo lama-21 kunye nelama-21A loRhulumente waseKhaya: uMthetho weeNkqubo zikaMasipala, 2000 (uMthetho 32 ka-2000) Ukuba uluntu lwasekhulaleni kunye namaqela achaphazelekayo ayamenywa ukuba angenise izimvo okanye izimvo malunga nolungiso olucetywayo lwesivumelwano. Izimvo okanye ezo zimvo kufuneka zingeniswe ungalulanga ul-wesithathu umhla we-**17 Matshi 2021 ngentsimbi ye-12: 00**.

Izimvo ezibhalwayo Zibhalwe ngokucacileyo kwimvulophu etywiniweyo kwabhalwa "**SC1675A/2016: IZIMVO ZESAZISO UKWANDISA ISIVUMELWANO NO- MNIKI NKONZO U-COMMUNICATIONS SOLUTIONS (PTY) LTD**" mayifakwe kwi Bhokisi yeZiniki-maxabiso no. 7.

Zonke izibhalo zithunyelwe kwi:

Umphathi kaMasipala
Bhokisi yeZiniki-maxabiso no 7
UMasipala weNgingqi yase-Overstrand
Magnolia Avenue
Hermanus
7200

Abantu abakhubazekileyo kunye nabantu abangakwaziyo ukubhala kodwa bayangqwenela ukuthatha inxaxheba kulomba, bayacelwa baye kwi ofisi zika Masipala eMagnolia Avenue,eHermanus apho khona banokufumana uncedo ngokubeka izimvo zabo.

Dean O'Neill
UManejala kaMasipala

MUNISIPALITEIT



MUNICIPALITY

ANNEXURE C
1/6

BID ADJUDICATION COMMITTEE MEETING

ATTENDANCE REGISTER & UNDERTAKING OF CONFIDENTIALITY AND IMPARTIALITY

Date: 2019-07-19

I, the undersigned, hereby declare:

- that all information, documentation and decisions regarding any matter before the committee are confidential and undertake not to make known anything in this regard
- that I will treat all providers and potential providers equitably and will not purposefully favour or prejudice anybody
- that I will make known details of any private or business interest which I, or any close family member, partner or associate may have in any proposed procurement or disposal process of, or in any award or contract and that I will immediately withdraw from participating in any manner whatsoever

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
SG. Reynolds-Nwabe	Finance	
R. Williams	Comm Serv.	
M.S. Mchucki	Tel. Serv.	
DESIREE ARRISON	Manv Serv	
Liaan Kucha	Info + Manag	
M. BARTMAN	OPERATIONAL	
C. ROETS	SCM	
Ivin Ntshoni	SCM	
Solomzi Madikane	E & SD & T	
Clint Le Roux	SCM	
Johannidre Grobler	SCM	
Roché de Jager	SCM	

cd



MEMORANDUM

KANTOOR VAN DIE DIREKTEUR: INFRASTRUKTUUR EN BEPLANNING
OFFICE OF THE DIRECTOR: INFRASTRUCTURE AND PLANNING

FROM : STEPHEN MÜLLER - *Director: Infrastructure & Planning*

TO : ALD DUDLEY COETZEE - *Executive Mayor*

DATE : 17 July 2019

RE : **APPOINTMENT OF ACTING DIRECTOR: INFRASTRUCTURE & PLANNING**

Section 56(1)(a)(ii) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended by section 3 of the Local Government: Municipal Systems Amendment Act, 2011 (Act 7 of 2011) with effect from 5 July 2011, provides as follows:

"A municipal council, after consultation with the municipal manager, must appoint-

- (i)
- (ii) *an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed."*

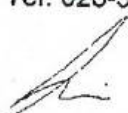
Council resolved on 1 June 2011 *inter alia* as follows:

"Item 7: DELEGATED POWERS TO EXECUTIVE MAYOR


RESOLVED (UNANIMOUSLY)

1. *that the Principles and Conditions of Delegation, pages 30-36 to item 7 which served before Council on 1 June 2011, be re-confirmed; and*
2. *that all powers not reserved by law for full council, be delegated to the executive mayor."*

The Director: Infrastructure and Planning will be out of office from 19 to 23 July 2019. It is recommended that you appoint Mr Riaan Kuchar, Senior Manager: Town Planning as Acting Director: Infrastructure and Planning in terms of your Delegated Powers referred to above.
Contact details: Tel: 028-313 8087 / Cell: 0829284191 / E-mail: rkuchar@overstrand.gov.za

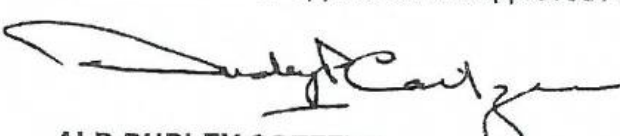

SU Müller
DIRECTOR: INFRASTRUCTURE & PLANNING

Recommendation approved / ~~not approved~~ / ~~approved with the following amendments.~~


C GROENEWALD
MUNICIPAL MANAGER

18 / 7 / 2019

Recommendation approved / ~~not approved~~ / ~~approved with the following amendments:~~


ALD DUDLEY COETZEE
EXECUTIVE MAYOR

18 / 7 / 2019

al



**Minutes of the Proceedings of a meeting of a
Bid Adjudication Committee, held in the
SCM Committee Room, Hermanus
at 08:00 on Friday, 19 July 2019.**

OFFICIALS PRESENT:

Committee Members:

Ms. SG Reyneke-Naude	Director: Finance (Chairperson)
Ms. D Arrison	Director: Management Services
Mr. R Williams	Director: Community Services
Mr. R Kuchar	Acting Director: Infrastructure and Planning
Mr. S Madikane	Director: Economic & Social Development & Tourism
Mr. N Michaels	Director: Protection Services
Mr. C Le Roux	Deputy Director: Finance & SCM

Technical Advisors:

Mr. I Witbooi	Manager: Demand & Procurement
Mr. R de Jager	Senior Admin Officer: SCM
Ms. J Grobler	Buyer
Mr. C Roets	Manager: Contracts & Logistics
Mr. M Bartman	Deputy Director: Operational Services

1. OPENING

The Chairperson, Ms. SG Reyneke-Naude, welcomed all present and read the notice convening the meeting.

2. APOLOGIES

Mr. S Muller

Director: Infrastructure and Planning

3. DECLARATION OF INTEREST OF COMMITTEE MEMBERS

All the members present declared that they have no interest in any of the companies/enterprises that submitted tenders.

4. COMPLIANCE WITH PRESCRIPTIVE PROVISIONS OF CIRCULAR 46 OF NATIONAL TREASURY

An integral strategy towards effective Supply Chain Management is not to award contracts to persons with a history of abuse of the Supply Chain Management system. In terms of Circular 46, of National Treasury, Accounting Officers are compelled to check the prohibition status of all recommended bidders prior to awarding any contract.

The Database of Restricted Suppliers managed by National Treasury was consulted and it was found that neither the under mentioned tenderer nor any of the directors/owners/trustees are listed as a company or person prohibited from doing business with the public sector.

RESOLVED

that it be noted that the prohibition status of the below mentioned tenderers were found in order to do business with the public sector.

- A.B Engelbrecht t/a Hermanus Mower Centre
- Juno Corp (Pty) Ltd.

5. CONFIRMATION OF MINUTES OF BID ADJUDICATION COMMITTEE MEETINGS

5.1 Confirmation of Minutes of a Bid Adjudication Committee meeting held on 2019/06/27

Upon a proposal by the Director: Protection Services, Mr. N Michaels, duly seconded by the Director: Management Services, Ms. D Arrison it was

RESOLVED:

That the minutes of the Bid Adjudication Committee meeting held on 27 June 2019 be confirmed.

5.2 Confirmation of Minutes of a Bid Adjudication Committee meeting held on 2019/06/28

Upon a proposal by the Director: Management Services, Ms. D Arrison, duly seconded by the the Director: Protection Services, Mr. N Michaels it was

RESOLVED:

That the minutes of the Bid Adjudication Committee meeting held on 28 June 2019 be confirmed.

6.2 TENDER NO. SC 1966/2019: CLEANING OF STORMWATER AND SEWERAGE PIPELINES ON AN "AS AND WHEN" REQUIRED BASIS FOR A CONTRACT PERIOD ENDING 30 JUNE 2022

The Director: Community Services, Mr. R Williams vacated his chair as committee member of the Bid Adjudication Committee for the duration of the adjudication of this item.

Upon a proposal by the Director: Management Services, Ms. D Arrison duly seconded by the Acting Director: Infrastructure and Planning, Mr. R Kuchar it was

RESOLVED:

- 6.2.1 That as they submitted a responsive bid and whereas their tendered rates are considered to be market related, **TENDER NO. SC1966/2019: CLEANING OF STORMWATER AND SEWERAGE PIPELINES ON AN "AS AND WHEN" REQUIRED BASIS FOR A CONTRACT PERIOD ENDING 30 JUNE 2022** be awarded to:

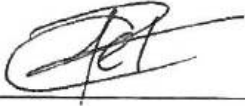
Service provider / supplier:		Juno Corp (Pty) Ltd.		SCM supplier # 776	
Service / goods provided:		CLEANING OF STORMWATER AND SEWERAGE PIPELINES			
Vote:	Item description	ContrServ:Maint. Of Unspecified Assets			
	Cost account	Various Cost Accounts	Business key	Various Business Keys	
Amount :	As per the schedule of unit rates listed below		Contingency:	n/a	
Amount in words:	As per the schedule of unit rates listed below				
Escalation percentage:	6%	Escalation date:	1 July 2020, 1 July 2021 respectively		
Contract Director:	R Williams	Contract Owner:	M Bartman		
CONTRACT PERIOD:					
Implementation date:	Date of signing of contract	End date:	30 June 2022	Period:	36 months or part thereof

6.2.2 SCHEDULE OF UNIT RATES

#	Description	Unit of Measurement	Unit Price Incl. VAT
1	COMBINATION JETTING MACHINE AND VACUUM TANKER		
1.1	Normal working day: Office hours (07:30 to 17:00 – Monday to Friday)	Rate per hour	R 902.75
1.2	After hours	Rate per hour	R 937.25
2	MAXIJET OR SIMILAR		
2.1	Normal working day: Office hours (07:30 to 17:00 – Monday to Friday)	Rate per hour	R517.50
2.2	After hours	Rate per hour	R569.25

- 6.2.3 That it be noted that Juno Corp (Pty) Ltd confirmed as per their Letter of Undertaking dated 20 June 2019 that they will assist with kit for both the football teams of the Lukhanyo- and Zwelihle Primary Schools to a value of R10 000 which donation / sponsorship will be actioned within a maximum of 3 months after the award of the tender.

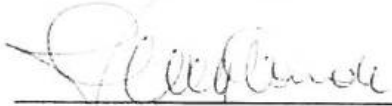
Certified as correct by:



Mr. C Le Roux
Deputy Director: Finance & SCM

19 July 2019

Date



Ms. SG Reyneke-Naude
Director: Finance (Chairperson)

23/7/2019

Date

Annexure D
1/1

SCHEDULE OF UNIT RATES

#	Description	Unit of Measurement	Unit Price Incl. VAT
1	COMBINATION JETTING MACHINE AND VACUUM TANKER		
1.1	Normal working day: Office hours (07:30 to 17:00 – Monday to Friday)	Rate per hour	R 1075.19 / hour
1.2	After hours	Rate per hour	R 1116.27 / hour
2	MAXIJET OR SIMILAR		
2.1	Normal working day: Office hours (07:30 to 17:00 – Monday to Friday)	Rate per hour	R616.35 / hour
2.2	After hours	Rate per hour	R677.99 / hour