

**6. PROPOSED AMENDMENT OF TENDER SC 1675C/2016: UPGRADE, MAINTENANCE AND SUPPORT OF OVERSTRAND MUNICIPALITY'S RADIO FREQUENCY NETWORK CONTRACT PERIOD ENDING 30 JUNE 2026**

**C Johnson**  
**06 June 2023**

**Senior Manager: Systems Development**

**(028) 313 8190**

**1. Executive Summary**

The purpose of this report is to provide the necessary information and motivation for the proposed amendment of Contract SC 1675C/2016: UPGRADE, MAINTENANCE AND SUPPORT OF OVERSTRAND MUNICIPALITY'S RADIO FREQUENCY NETWORK, in terms of the enabling provisions of Section 116 (3) (a) and (b) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), in order to enable Council to take an informed decision when considering the request for the amendment of the contract.

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

Directorate: Management Services  
Department: Senior Manager: Systems Development, ICT

**3. Compliance with Strategic Priority**

Provision and maintenance of municipal services  
Provision of democratic, accountable, and ethical governance

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)  
Overstrand Municipality Supply Chain Management Policy, as amended  
Overstrand Municipality Contract Management Policy, as amended

**6. Background/Discussion**

**6.1 Background**

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

“(a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent 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.”

The municipality should ideally have a consistent service provider to provide mission critical support and maintenance of core systems that runs the infrastructure the municipality relies upon. Considerations to introduce such a strategy for infrastructure systems should however always be assessed carefully against initial investment cost, maintenance costs, as well as the potential operational risks; this is done by the ICT Steering Committee.

The Radio Frequency (RF) Network was put in place more than 14 years ago from the amalgamation of the requirements for PABX and Network connectivity. The solution was put in place to provide connectivity between the various Overstrand administrations and remote offices and provide Voice over IP telephony (VoIP), Email and Corporate systems connectivity to these sites. The initial contract was awarded to Gijima Holdings, who subcontracted Comsol Networks (Pty) Ltd, previously known as Communications Solutions (Pty) Ltd, and hereafter referred to as COMSOL, to do the RF Network portion of the contract. COMSOL thus initially designed and installed the network and has maintained the network since its inception.

When the initial contract ended, it was decided not to renew the contract as we wanted to (1) split the PABX and RF Network portions, and (2) move from a partial analogue/digital PABX solution to a fully VoIP onsite/hosted environment. That was when we put out the tender SC1675/2016 for the RF Network upgrade and maintenance, which was awarded to COMSOL and which terminated on 30 June 2018 and subsequently renewed via a section 116(3) process.

The Overstrand Municipality entered the contract SC1675/2016, with COMSOL after they were awarded the tender for the upgrade, maintenance, and support of the Radio Frequency (RF) network. COMSOL complied with all the tender requirements and specifications, in addition to being the sole tenderer. The contract encompassed a portion of the upgrade of the RF Wireless network as well as the maintenance and warranty of the RF Network thereafter.

The network has expanded over the last two years to incorporate and provide the backbone communications infrastructure of the municipal Protection Services CCTV project, without which the municipality would not be able to provide cost effective connectivity to the diverse locations, quality of service and infrastructure expertise of a carrier grade licensed network.

Migration strategies for local government institutions must remain aligned with architectures and technologies of selected manufacturers as well as trusted relationships with selected service providers. Investments made by local

government institutions in system architectures and trusted relationships with service providers are seen as long-term investments which cannot readily be changed without exposing the municipality to continuity and contingency risks.

The ability to remain constantly aligned with the strategic goals and objectives of the municipality as well as the statements of direction from National Government are inhibited by two major factors:

1. Legacy Business Systems: Various business systems with similar functionalities are deployed in the Overstrand Municipality, resulting in on-going increases in, and payment of annual licensing fees and support fees without receiving any substantive value-added services or functionalities as part of the existing Agreements.
2. Multiple Vendor Contracts: The day-to-day management of critical vendor contracts remains a major challenge for all municipalities. Vendor contracts are usually very one-sided and do not properly mitigate the potential risks, legally or otherwise, to which municipalities might be exposed to during the term of such contracts.

## **6.2 Discussion**

### **6.2.1 Contractual Considerations with Service Providers**

It is proposed that contract SC1675C/2016 terminating on 30 June 2023, be amended to remain in effect for a period of 36 months to 30 June 2026 for the following reasons:

#### **Sole Tenderer**

The reasons they were the sole tenderer is in part due to the requirements that was placed on the skillsets and expertise needed to perform the procurement, setup, installation and maintenance of the network be big enough to support the scope and setup of our RF Network have the manpower to provide the necessary critical SLA response times required, Overstrand Wide, and providing an ongoing warranty of the products that we not only purchased, but also the equipment already in place.

Due to these reasons and the price and service rendered, outlined below, COMSOL were the only responder to the tender, however, they also complied with the technical, evaluation and compliance criteria and were eventually awarded the contract. Due to the nature of the requirements, we believe any subsequent tender will produce the same results. There were more than 5 service providers at the compulsory tender meeting and the general sentiment was that they were not prepared to accept the risk of the warranties on new and existing equipment. Their costing models also wanted to include cost of transport and after hour's rates, which would have been a problem for ICT in terms of budgets and risks.

#### **Price**

The new rate reflects a discounted rate for the existing and new links that comprises the Overstrand backbone network, saving 12% per link and 20% on the existing SLA cost. The new discounted rate will become the new monthly SLA cost.

The escalation rate going forward in terms of the two outer years (3-year budget cycle) is set to the normal CPI or 6% (whichever is lower) applied to the new SLA rate and is considered low in the current climate where ICT Service Providers are expecting a 10% escalation annually.

The current maintenance cost of R134 943.57 has been discounted to R114 420.66 (inclusive of the SLA cost). Thus, the existing contract of COMSOL will be discounted by a 15.21% decrease. This monthly set rate considers the scope, geographic area covered, hardware/equipment involved, support infrastructure and personnel required to successfully managed our environment.

If the proposed contract is extrapolated to 36 months as per the original contract, then the contractual value is **decreased** by 20%, which is well within the guideline threshold of 20% increase of National Treasury's Circular 62 for amendment increases. There are indirect costs, however, these are ad-hoc and contingent on relevant departmental budgets that had requested the link and in accordance with the pricelist.

### **Service**

COMSOL has been an excellent and trustworthy Service Provider throughout its entire tenure as our RF Network Service Provider. This spans not only the last 4-5 years, but also the previous 9-10 years of service and maintenance of the network. They;

- always respond according to the SLA, and when they cannot it is because of extraneous factors, such as heavy rain, lightning or weather
- prioritise our request, and if needed, we have an escalation to their senior management
- advise us on new sites, troubleshoot problems caused by others on existing sites (bandwidth clashes) and the elements,
- replaced broken or damaged equipment and those that have succumbed to wear and tear / weather at no cost to the municipality and without any problems, honouring their contractual obligations, and
- help and advise us with our strategic plans going forward and do not suggest solutions that would be beneficial to their pockets and not ours, as well as to re-use equipment that are being replaced with larger bandwidth to sweat our assets and getting the most return on our investments.

In short, they have become an indispensable partner in managing a core system for the municipality, without which we would have not have connectivity to our remote, branch and administrative offices, no Voice Over IP capability, no centralised services, no internet for our outlying offices, no Disaster Recovery and remote offsite backups and no CCTV, that is, they are the strategic partner in providing the backbone to this infrastructure and project to ensure safety and security.

We cannot, as an organisation afford to misstep in the management of this system as it provides the core connectivity to all our offices Overstrand wide, without which we would not be able to function or deliver on our Service Delivery mandate. Connectivity is a critical business service in delivering service, and the municipality

needs to ensure that we can rely on our systems to meet our service and delivery demands.

COMSOL is a reputable contractor, with the skills, expertise and equipment available for execution of the proposed amendment, and they have excellent knowledge of local conditions and infrastructure. The Support, continuing operation for installation and maintenance is paramount to the delivery of services from and to the municipality.

### **6.2.2 Section 116(3) process**

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.”*

The proposed amendment of contract SC1675C/2016 was advertised for public comment as follows:

Date of Advertising: 02 May 2023  
Method of Advertising: Cape Times, Burger, Village news  
Closing Date for Comments: 05 June 2023

No comments were received by the closing date of 05 June 2023.

Section 116(3) should however be read together with MFMA Circular No. 73 issued by National Treasury, May 2013. In terms of the said circular, **the following power/duty was conferred to Council** which is cited as follows: (Emphasis added) “Considering the reasons for the proposed amendment of a contract or agreement and any representations that may have been received regarding the proposed amendment of a contract or an agreement procured through the supply chain management policy of the municipality and deciding whether to consent to the amendment of the contract or agreement.” (Emphasis added)

It is recommended that contract SC1675C/2016 with COMSOL Networks (Pty) Ltd be amended, to allow for the services for the software and website for caravan park/camping reservations.

**7. Financial Implications**

Source of funding: Operational Budget

<b>SCOA Description</b>	OperCost:Ext Comp Serv-Wireless Ntwrk		
<b>SCOA Cost Account</b>	10660222120000		
<b>SCOA Business Key</b>	20200630035589		
	<b>2023/2024</b>	<b>2024/2025</b>	<b>2025/2026</b>
Budget Provision (excl. VAT)	R 2 409 857.00	R2 590 596.00	R 2 784 891.00
Balance Available (excl. VAT)	R 2 409 857.00	R2 590 596.00	R 2 784 891.00
Expenditure on proposed amendment (excl. VAT)	R1 716 482,21	R1 819 471,14	R 1 928 639,41

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations****Supply Chain Management**

All verifications in terms of the administrative requirements of the Supply Chain Management policy have been undertaken and the Supply Chain Management Unit is satisfied that COMSOL Networks (Pty) Ltd complies in all respects.

A compliance check in terms of the Supply Chain Management Policy has been undertaken to ensure that COMSOL Networks (Pty) Ltd complies in all respects.

The Supply Chain Management Unit supports the proposed amendment of contract no. SC1675C/2016.

**Contract Management**

It is confirmed that contract SC1675C/2016 is still active and the proposed amendment of the contract is supported.

This is the third amendment to the existing contract, and a Section 116 (3) process as required by the MFMA has been followed.

The successful amendment of this contract is subject to Council's consent to the proposed amendment of this contract

**10. Annexures**

- Annexure A: Public Notice of intention to amend the Contract
- Annexure B: Addendum to the Contract (Intent to Amend)
- Annexure C: Budget Office Budget confirmation

**RECOMMENDATION TO THE COUNCIL:**

1. that **cognisance be taken** that no representations were received from the local community against the intention to amend contract SC1675C/2016; and
2. that **cognisance be taken** of the reasons for the proposed amendment of **Contract Sc 1675c/2016: Upgrade, Maintenance and Support of Overstrand Municipality's Radio Frequency Network**, in terms of the enabling provisions of Section 116 (3) (a) and (b) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), and that the amendment be consented to.

**RESPONSIBLE OFFICIAL :****C JOHNSON****TARGET DATE FOR IMPLEMENTATION :****1 JULY 2023**

<p><b>NOTICE</b></p> <p><b>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 COMMUNICATIONS SOLUTIONS (PTY) LTD FOR UPGRADE MAINTENANCE AND SUPPORT OF OVERSTRAND MUNICIPALITY'S RADIO FREQUENCY NETWORK.</b></p> <p>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 Communications Solutions (Pty) Ltd. The proposed amendment of the contract is to provide for the extension of the agreement for a period ending 30 June 2026.</p> <p>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 <b>Monday, 05 June 2023 at 12:00.</b></p> <p>Comments or representations must be submitted in a sealed envelope clearly endorsed <b>"SC1675B/2016: COMMENTS ON NOTICE OF AMENDMENT OF EXISTING AGREEMENT WITH COMMUNICATIONS SOLUTIONS (PTY) LTD"</b> and be deposited in tender box no. 7.</p> <p>All submissions must be addressed to: The Municipal Manager Tender box no 7 Overstrand Municipality Magnolia Avenue Hermannus 7200</p> <p>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, Hermannus where a staff member will assist that person to transcribe that person's comments or representations.</p> <p><b>D O'NEILL MUNICIPAL MANAGER Overstrand Municipality PO Box 20 HERMANNUS 7200 Notice number: 82/2023</b></p>	<p><b>KENNISGEWING</b></p> <p><b>KENNISGEWING INGEVOLGE ARTIKEL 116(3) VAN DIE WET OP PLAASLIKE REGERING: MUNISIPALE FINANSIELE BESTUUR, 2003 (WET 56 VAN 2003) VIR DIE VOORGESTELDE WYSGING VAN DIE BESTAANDE OOREENKOMS MET COMMUNICATIONS SOLUTIONS (EDMS) BPK VIR DIE OPGRADEERINGS, ONDERHOUD EN ONDERSTELTING VAN OVERSTRAND MUNISIPALITEIT SE RADIO FREKWENSIE NETWERK.</b></p> <p>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 voornemens is om die bestaande ooreenkoms met Communications Solutions (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 2026.</p> <p>Kennis geskied verder ingevolge artikel 21 en 21A van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2000 (Wet 32 van 2000), dat die plaaslike gemeenskap en gashekkende partye genooi word om kommentaar of vertoe oor die voorgestelde wysiging van die ooreenkoms aan die Munisipaliteit te lewer. Hierdie kommentaar of vertoe moet teen nie later nie as <b>Maandag, 05 Junie 2023 om 12:00</b> ingedien word.</p> <p>Alle kommentare of vertoe moet ingedien word in 'n verselde kovert, duidelik gemerk <b>"SC1675B/2016: KOMMENTAAR OP KENNISGEWING VAN WYSGING VAN BESTAANDE OOREENKOMS MET COMMUNICATIONS SOLUTIONS (EDMS) BPK"</b> en geplaas word in Tenderbox nr. 7.</p> <p>Alle voorleedings moet geadresseer word aan: Die Munisipale Bestuurder Tenderbox nr. 7 Munisipaliteit Overstrand Magnoliaaan Hermannus 7200</p> <p>Personen wat liggaamlik gestrand is of nie kan lees of skryf nie, maar aan die proses wil deelneem, kan gedurende kantoorure na die Munisipale Kantore, Magnoliaaan, Hermannus kom, waar 'n persoonelid hulle sal help om die kommentaar of vertoe neer te skryf.</p> <p><b>D O'NEILL MUNISIPALE BESTUURDER Overstrand Munisipaliteit Postus 20 HERMANNUS 7200 kennisgewingnommer: 82/2023</b></p>	<p><b>ISAZISO</b></p> <p><b>ISAZISO SECANDELO-O-116(3) LOMITHETHO IL LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO.56 WANGO-2003 OKUBA UJONGE UKWANDISA ISIVUMELWANO NO MINKI NKONZO U. COMMUNICATIONS SOLUTIONS (PTY) LTD. SENKONZO EZIDIBENE NE-UPGRADE UKULONDOLOZWA NENKXASO YE-RADIO FREQUENCY NETWORK YOMASIPALA WASE-OVERSTRAND.</b></p> <p>Isaziso syanikezelwa ngokweCandelo be-116 (3) (a) kunye no (b) kuRhulumente weNgingqi: ukuthetho volawulo weMali kaKamasipala, ka-2003 (ukuthetho wama-56 ka-2003) ukuba yingqongolo kaMasisipala waseOverstrand ukulungisa isivumelwano esikhoyo, kunye neCommunication Solutions (Pty) Ltd. Isilingiso esicelwayo sekhontrakthi kukubonelela ngokwandiso lwesivumelwano kangangcwelela eliphela ngowama-30 kuJuni wama-2026.</p> <p>Isaziso siphinda sinikwe ngokwecandelo lama-21 kunye nelama-21A kuRhulumente waseKinyaga: ukuthetho weMiqubo zikaMasisipala, 2000 (ukuthetho 32 ka-2000) Ukuba uluntu lwasekuhlaleni kunye namasipala achiqaphazelekayo ayameliwa ukuba angenise izimvo okanye izimvo malunga nolungiso olucelwayo lwesivumelwano. Izimvo okanye ezo zimvo kulandela zingeniswe ngasulungisa ukwulo umhla 05 Juni 2023 ngo-12:00.</p> <p>Izimvo ezibhalwayo zibhalwe ngokucacileyo kwimvulophu eYimvinyo kwabhaliwa <b>"SC1675B/2016: ZIMVO ZESAZISO UKWANDISA ISIVUMELWANO NO- MINKI NKONZO U- COMMUNICATIONS SOLUTIONS (PTY) LTD"</b> mayifakhe kw Bholisi yezink-nxaxabiso no. 7.</p> <p>Zonke izibhalo zithunyelwe kwi: Umphahli kaKamasipala Bholisi yezink-nxaxabiso no 7 Ukamasipala weNgingqi yase-Overstrand Magnolia Avenue Hermannus 7200</p> <p>Abanu abakhulazakeleyo kunye nabantu abangakwaziyo ukubhala kodwa bayangqumenela ukuthatha inxaxheba kulonba, bayacakwa baye kwi ofisi zika Masisipala eMagnolia Avenue eHermannus apho khona banokulandana uncedo ngokubeka izimvo zabo.</p> <p><b>D O'NEILL UMPHATHI KAMASIPALA Umasipala waseOverstrand PO Box 20 HERMANNUS 7200 Iimbolo yesaziso: 82/2023</b></p>
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#overstrand4all





Enquiries: Craig Johnson  
Date: 11 April 2023



OFFICE OF THE DIRECTOR:  
MANAGEMENT SERVICES

**ADDENDUM – INTENT TO AMEND A CONTRACT**

The parties agree to the following intention to amend the existing contract **SC 1675B/2016** with **COMSOL NETWORKS (PTY) LTD** for the **UPGRADE, MAINTENANCE AND SUPPORT OF OVERSTRAND MUNICIPALITY’S RADIO FREQUENCY NETWORK FOR A CONTRACT PERIOD ENDING 30 JUNE 2023**, which were signed between them on **24 March 2021** 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 2026** 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 Midrand this 19 day of April 2023 in the presence of the undersigned witnesses

**WITNESSES:**

- 1. M. D. Gowe
- 2. P. Mokuwana

Naki Matamela  
 for and on behalf of **Comsol Networks (Pty) Ltd:**  
 NAME: Naki Matamela  
 DESIGNATION / DIRECTOR: Executive Director

Thus done and signed at HERMANUS this 2nd day of MAY 2023 in the presence of the undersigned witnesses

**WITNESSES:**

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

Desiree Arrison  
 for and on behalf of **Overstrand Municipality:**  
 NAME: **Desiree Arrison**, Director: Management Services

## Annexure C 1/1

**From:** Georgia Bucchianeri <[gbucchianeri@overstrand.gov.za](mailto:gbucchianeri@overstrand.gov.za)>  
**Sent:** Monday, June 5, 2023 4:00 PM  
**To:** C Engelbrecht <[cengelbrecht@overstrand.gov.za](mailto:cengelbrecht@overstrand.gov.za)>  
**Subject:** RE: Budget Provision - next 3 years

Beste Carlouw

Hiermee die begrotings soos versoek.

Project	Item	Actuals	2022/23	2023/24	2024/25	2025/26	MSC/Own	Function
AR06601 - R+M-ICT-MAINTEN...	Maintenance of Equipment	0.00	738 146.00	620 000.00	735 857.00	809 442.00	Info & Communication Technology	Information Technology
AA06601 - MRC-ICT	Municipal Services	0.00	70 390.00	70 390.00	70 390.00	70 390.00	Info & Communication Technology	Information Technology
AA06601 - MRC-ICT	Specialised Computer Service	0.00	810 636.00	1 635 759.00	1 758 441.00	1 890 324.00	Info & Communication Technology	Information Technology
AA06601 - MRC-ICT	Wireless Network	0.00	2 409 857.00	2 590 596.00	2 784 891.00	2 993 750.00	Info & Communication Technology	Information Technology

Regards

**Georgia Bucchianeri**  
 Manager: Budget Office  
 Overstrand Municipality