

**10. PROPOSED AMENDMENT OF LONG TERM CONTRACT NO. SC 1890/2018:  
WATER AND WASTE WATER BULK WORKS OPERATION AND MAINTENANCE:**

**8/3/1/SC1890/2018**

**H Blignaut**

**11 October 2019**

**Deputy Director: Engineering Planning**

**(028) 313 5047**

---

**1. Executive Summary**

The purpose of this report is to provide the necessary information and motivation with regard to the proposed amendment of Contract SC1890/2018: Water and Waste Water Bulk Works Operations and Maintenance, in terms of the enabling provisions of sections 116(3) and 33 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA), to enable Council to make an informed decision whether to consent to the proposed amendment of the contract.

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

Directorate: Infrastructure & Planning

Department: Engineering Planning (Bulk Water 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

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)  
Water Services Act 108 of 1997  
Overstrand Municipality Supply Chain Management Policy  
Overstrand Municipality Contract Management Policy  
National Treasury MFMA Circular no. 73

**6. Background/Evaluation/Conclusion**

**Background**

A 15 year contract for the operation and maintenance of Overstrand Municipality's bulk water and waste water facilities was awarded to Veolia

Water Solutions & Technologies South Africa (Pty) Ltd on 4 September 2019. The long term contract was approved by the Overstrand Council on 28 November 2018, and the contract commenced on 8 December 2018.

The contract makes provision in clause 6 for adjustment or variation of the scope of the contract during the contract period, as a result of issues arising after the effective date of the contract, which may include e.g. changes in regulatory provisions, changes in the Bulk Works (either expansion or reduction), or change in raw water quality. The impact of such a variation has to be agreed between the parties, provided that it is related to the Bulk Works as defined in the contract. The municipality has the right to test or benchmark value for money of Veolia's proposed pricing for the proposed variation against their competitively tendered rates, as escalated, or the market. The pricing schedule shall then be adjusted with Veolia's quoted rates as agreed for the proposed variation. All other terms and conditions of the contract will remain the same.

Overstrand Municipality currently has no internal capacity to operate and maintain bulk water and waste water infrastructure, following the Council decision of 22 January 2014 to outsource the function, and the subsequent transfer of municipal staff to the appointed private operator.

The reason for this proposed amendment is to include the operation and maintenance of new bulk water and waste water facilities to the scope of work of the contract, in accordance with clause 6 of the contract between the municipality and Veolia. The proposed variation of the scope of the contract is twofold, i.e.: (A) the Stanford Waste Water Treatment Works (WWTW) being upgraded from 0.5 Mega liters per day (Ml/day) capacity to 1.2 Ml/day capacity, which includes new infrastructure and resource requirements, and (B) a water stabilization system being installed at the Stanford Water Treatment Works (WTW) to improve the quality of water supplied to consumers in Stanford.

Because the proposed amendment to the existing contract is for more than three years (up to 7 December 2033), the Municipality has to comply with sections 116(3) as well as 33 of the MFMA.

## Evaluation

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

- (3) A contract or agreement procured through the supply chain management policy of the 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 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.

Section 33 of the MFMA provides as follows:

33. (1) A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if—

(a) the municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved—

(i) has, in accordance with section 21A of the Municipal Systems Act—

(aa) made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract; and

(bb) invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and

(ii) has solicited the views and recommendations of—

(aa) the National Treasury and the relevant provincial treasury;

(bb) the national department responsible for local government; and

(cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;

(b) the municipal council has taken into account—

(i) the municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;

(ii) the impact of those financial obligations on the municipality's future municipal tariffs and revenue;

(iii) any comments or representations on the proposed contract received from the local community and other interested persons; and

(iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a)(ii)(cc); and

(c) the municipal council has adopted a resolution in which—

(i) it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;

(ii) it approves the entire contract exactly as it is to be executed; and

(iii) it authorises the municipal manager to sign the contract on behalf of the municipality.

(2) The process set out in subsection (1) does not apply to—

(a) contracts for long-term debt regulated in terms of section 46(3);

(b) employment contracts; or

(c) contracts—

(i) for categories of goods as may be prescribed; or

(ii) in terms of which the financial obligation on the municipality is below—

(aa) a prescribed value; or

(bb) a prescribed percentage of the municipality's approved budget for the year in which the contract is concluded.

(3) (a) All contracts referred to in subsection (1) and all other contracts that impose a financial obligation on a municipality—

(i) must be made available in their entirety to the municipal council; and

(ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(b) Paragraph (a)(i) does not apply to contracts in respect of which the financial obligation on the municipality is below a prescribed value.

(4) This section may not be read as exempting the municipality from the provisions of Chapter 11 to the extent that those provisions are applicable in a particular case.

Section 116(3) of the MFMA should be read together with MFMA Circular no. 73, issued by National Treasury in 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).

In terms of Sections 33 and 116(3) of the MFMA, due process has been followed, making provision for the contract having future budgetary implications.

The following activities were completed in accordance with Sections 33 and 116(3) of the MFMA:

- An advertisement, inviting comments from the local community and other interested persons was placed in the local newspapers on 23 August 2019 (i.e. more than 60 days before the Council meeting) – refer to Annexure B. No comment, input or inquiry was received from the public at the closing date of 23 September 2019.
- An Information Statement explaining the proposed amendment to the contract was made available to the public from 23 August 2019 – refer to Annexure A.
- The views and recommendations of the following stakeholders have been solicited: National Treasury, Western Cape Provincial Treasury, Department of Co-operative Governance & Traditional Affairs, and the Department of Water & Sanitation (Annexure C). Only National Treasury responded with comments, although it was received on 1 October 2019, i.e. after the closure date of 23 September 2019 (refer to Annexure D). They were under the impression that the required MFMA section 33 process was not followed for the original Contract SC 1890/2018 before final approval. The Municipal Manager responded to their query by providing proof of the relevant MFMA section 33 process that was followed during 2018 (refer to Annexure E).
- The proposed amendment of the contract served before the Overstrand Bid Adjudication Committee on 15 October 2019, where it was recommended to the Accounting Officer for approval.

The entire contract represents approximately 27.6% of the total expenditure for Water and 13.3% of the total expenditure for Sewerage Services.

### **Conclusion**

All the processes required in terms of the MFMA for the amendment of the contract have been followed. No input opposing the proposed amendment of the contract was received from any stakeholder. The amended rates quoted by Veolia for the inclusion of the operation and maintenance of (A) the upgraded Stanford WWTW as well as (B) the water stabilization plant at Stanford in the contract are deemed to be fair and market related.

## 7. Financial Implications

Source of Funding: Operating Budget Provision

The estimated Medium Term Expenditure Framework financial implications are summarised in the following table:

A: Stanford Upgraded WWTW	2019/20	2020/21	2021/22
mSCOA Description	Outsourced Services: Sewerage Servs: waste water	Outsourced Services: Sewerage Servs: waste water	Outsourced Services: Sewerage Servs: waste water
mSCOA Cost Account	12210200570000	12210200570000	12210200570000
mSCOA Business Key	20190624071401	20190624071401	20190624071401
Budget Provision	R 11 544 990	R 12 399 320	R 13 316 870
Balance Available	<b>R3 544 990</b>	R 12 399 320	R 13 316 870
Total Estimated Expenditure on Proposed Amendment A	R 234 969 (6 months)	R 505 418	R 543 678
Escalation (if any)	Clause 20 of Contract SC 1890/2018		
Escalation Date	Annually on 1 July		

B: Stanford Upgraded WTW	2019/20	2020/21	2021/22
mSCOA Description	Outsourced Services: Sewerage Servs: water	Outsourced Services: Sewerage Servs: water	Outsourced Services: Sewerage Servs: water
mSCOA Cost Account	12210200570000	12210200570000	12210200570000
mSCOA Business Key	20180705059772	20180705059772	20180705059772
Budget Provision (excl VAT)	R 36 722 290	R 39 439 740	R 42 358 280
Balance Available (excl VAT)	<b>R 6 722 290</b>	R 39 439 740	R 42 358 280
Total Estimated Expenditure on Proposed Amendment B	R 484 873 (6 months)	R 1 042 962	R 1 121 915
Escalation (if any)	Clause 20 of Contract SC 1890/2018		
Escalation Date	Annually on 1 July		

The projected financial implications of the long term contract including the proposed amendment are illustrated in Annexure F.

## 8. Staff Implications

None

## 9. Comments from other Departments, Divisions and Administrations

None

## 10. Annexures

- Annexure A: MFMA Section 33 Information Statement
- Annexure B: MFMA Section 33 Public Notice
- Annexure C: MFMA Section 33 Letter to Stakeholders
- Annexure D: Comments received from National Treasury
- Annexure E: Municipal Manager's response to National Treasury
- Annexure F: Projected financial implications of the long term contract

**RECOMMENDATION TO THE COUNCIL:**

1. that cognisance be taken of the reasons for the proposed amendment of Contract SC 1890/2018 between Overstrand Municipality and Veolia Water Solutions & Technologies South Africa (Pty) Ltd for the operation and maintenance of the bulk water and waste water infrastructure, in terms of the enabling provisions of Sections 33 and 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003);
2. that cognisance be taken of the comments received from National Treasury in respect of the proposed amendment of long term Contract SC 1890/2018 between Overstrand Municipality and Veolia Water Solutions & Technologies South Africa (Pty) Ltd for the operation and maintenance of the bulk water and waste water infrastructure, in terms of the enabling provisions of Sections 33 and 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), as well as the Municipal Manager's response to National treasury; and
3. that the proposed amendment of Contract SC 1890/2018 between Overstrand Municipality and Veolia Water Solutions & Technologies South Africa (Pty) Ltd for the operation and maintenance of the bulk water and waste water infrastructure, be consented to.

**RESPONSIBLE OFFICIAL:****H BLIGNAUT****TARGET DATE FOR IMPLEMENTATION :****1 NOVEMBER 2019****TARGET DATE TO INFORM APPLICANT :****N/A****TARGET DATE TO INFORM OBJECTOR :****N/A**



## MFMA INFORMATION STATEMENT

### AMENDMENT OF LONG TERM CONTRACT SC 1890/2018 FOR THE OPERATION AND MAINTENANCE OF THE BULK WATER AND WASTE WATER WORKS

#### 1. OBJECTIVE

Overstrand Municipality has made public the proposed amendment of the municipality's existing long term contract with Veolia Water Solutions & Technologies South Africa (Pty) Ltd, to whom the contract has been awarded following a competitive bidding process, with respect to the operation and maintenance of the municipality's bulk water and waste water facilities.

The amendment is subject to approval by the Municipal Council in terms of Section 33 of the Municipal Finance Management Act, Act no 56 of 2003 (MFMA), as the actual implementation period of the proposed amendment of the long term contract exceeds three (3) years.

The objective of this Information Statement is to inform the community and other interested parties of the proposed amendment of the long term contract.

#### 2. INVITATION

The local community and other interested parties are invited to submit comments or representations to the municipality in respect of the proposed amendment of the long term contract.

#### 3. PROCEDURE FOR SUBMISSION OF COMMENTS

Members of the local community and other interested parties are invited to submit comments or representations in respect of the amendment of the long term contract to:

The Municipal Manager, Overstrand Municipality, before 12:00 on Monday, 23 September 2019, in a sealed envelope clearly endorsed "Proposed amendment of Contract SC 1890/2018: Water and Waste Water Bulk Works Operation and Maintenance" and be deposited in Tender Box no. 7.

Written enquiries for clarification can be directed to Mr Hanré Blignaut at e-mail address: [hblignaut@overstrand.gov.za](mailto:hblignaut@overstrand.gov.za).

Any person who wishes to submit comments or representations with regards to the proposed amendment of the long term contract, and who cannot write, will be assisted by the Director: Finance or a person designated by her at the Overstrand Civic Centre, Hermanus, up to 12:00 on Monday, 23 September 2019.

#### 4. PROJECT BACKGROUND

A 15 year contract for the operation and maintenance of Overstrand Municipality's bulk water and waste water facilities was awarded to Veolia Water Solutions & Technologies South Africa (Pty) Ltd on 4 September 2019. The long term contract was approved by the Overstrand Council on 28 November 2018, and the contract commenced on 8 December 2018.

The contract makes provision in clause 6 for adjustment or variation of the scope of the contract during the contract period, as a result of issues arising after the effective date of

the contract, which may include e.g. changes in regulatory provisions, changes in the Bulk Works (either expansion or reduction), or change in raw water quality. The impact of such a variation has to be agreed between the parties, provided that it is related to the Bulk Works as defined in the contract. The municipality has the right to test or benchmark value for money of Veolia's proposed pricing for the proposed variation against their competitively tendered rates, as escalated, or the market. The pricing schedule shall then be adjusted with Veolia's quoted rates as agreed for the proposed variation.

The reason for this proposed amendment is to include the operation and maintenance of newly completed bulk water and waste water facilities to the scope of work of the contract, in accordance with clause 6 of the contract between the municipality and Veolia.

Since commencement of the contract, two variations to the scope of the contract became relevant: (1) the Stanford Waste Water Treatment Works (WWTW) was upgraded from 0.5 Megalitres per day (Ml/day) capacity to 1.2 Ml/day capacity, which includes new infrastructure and resource requirements, and (2) a water stabilization system is being installed on the Stanford water supply system to improve the quality of water supplied to consumers in Stanford.

Regulation 2834 of the of the Department of Water and Sanitation (DWS) makes provision for the classification of water and waste water treatment plants in terms of size, complexity of operation, sensitivity of the environment being discharged to, and the subsequent resources required.

An assessment in terms of the regulation indicated that the upgraded Stanford WWTW will most likely be re-classified as a C class works from its existing E Class. This will bring it in comparison to the Gansbaai WWTW, which is also a C Class works in terms of the regulation. Veolia quoted for a fixed cost for the upgraded plant similar to the fixed cost of the existing Gansbaai WWTW, and they quoted the variable cost at the same level as for the Stanford WWTW before the upgrade, as it is not envisaged that more chemicals will be used by the upgraded plant. The quoted fixed cost is acceptable to the municipality, as there is a significant increase in equipment at the upgraded plant, and the fixed cost has to make provision for maintenance manpower and materials, operational manpower required, training, health and safety aspects, etc.

With regards to the water stabilization system being installed at Stanford, it comprises of a media filtration unit, a reverse osmosis (RO) unit, a CIP skid for membrane cleansing, a limestone unit, and batch interconnecting tanks. The plant is to a large extent comparable with the existing water treatment plant at De Kelders, which also forms part of the contract, and is being operated and maintained by Veolia. Their quoted variable cost for Stanford is higher than that of De Kelders, due to additional process units, e.g. the media filters and re-mineralization unit, which is acceptable. The quoted additional fixed cost component for Stanford compares well with De Kelders, with a 35% saving. It must also be noted that the replacement of the RO membranes approximately every 7 years is included in the fixed cost quoted for Stanford, as well as insurance of the plant.

The commencement date of the two components of this proposed amendment will be the commissioning dates of the respective new infrastructure projects, and the duration will be until 7 December 2033.

## **5. LONG TERM SERVICE LEVEL AGREEMENT**

All the provisions of the existing long term contract between Overstrand Municipality and Veolia will apply to this proposed amendment of the contract.



## 6. NEXT STEPS

Members of the local community and other interested persons are invited to submit to the Municipality their comments or representations in respect of the proposed amendment of the long term contract as set out above.

The Municipality will also solicit the views and recommendations of stakeholders, including the National and Provincial Treasuries and the national department responsible for Local Government.

The amendment to the long term contract and all comments and views received will be presented to the Municipal Council for final approval on 30 October 2019.

<b>NOTICE/KENNISGEWING/ISAZISO</b>		
<p>Proposed amendment of long term contract no. SC1890/2018, Water and Waste Water Bulk Works Operation and Maintenance, giving effect to the Local Government: Municipal Finance Management Act, Act No. 56 of 2003: Section 116 (3) (a) and (b) and Section 33.</p>	<p>Voorgenome wysiging van langtermyn kontrak SC1890/2018 vir die Bedryf en Instandhouding van Grootmaat Water- en Riwooldienste Fasiliteite, in naking van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet Nr. 56 van 2003: Artikel 116 (3) (a) en (b) en Artikel 33.</p>	<p>Isiphakamiso sokuhlangahlengisa isivumelwano sexesha elide SC1890/2018 seenkonzo zamanzi nezenkunkuma, ngokugunyaziswa ngummiselo kaMasipala weNgingqi: Umthetho wokuLawula ezembali kaMasipala onguNombolo 56 ka2003: ngokweCandelo-116(3) (a) no (b) iCandelo 33</p>
<p>The Overstrand Local Municipality, in terms of the provisions of Section 116(3)(a) and (b) and Section 33 of the Local Government: Municipal Finance Management Act, Act No. 56 of 2003, hereby makes it public that it intends to amend the existing long term contract for the operation and maintenance of bulk water services facilities by including the operation and maintenance of newly completed bulk water services facilities in the scope of work of the contract.</p>	<p>Overstrand Munisipaliteit, overeenkomstig die bepalinge van artikel 116(3)(a) en (b) en Artikel 33 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet Nr. 56 van 2003, gee hiermee kennis van sy voorneme om die bestaande langtermyn kontrak vir die bedryf en instandhouding van grootmaat waterdienste fasiliteite te wysig deur die bedryf en instandhouding van nuut voltoëde grootmaat waterdienste fasiliteite in te sluit by die kontrak se omvang van werk.</p>	<p>Umasipala waseOverstrand, ngokugunyaziswa iCandelo-116(3) (a) no (b) neCandelo 33 kaMasipala weNgingqi: Umthetho wokuLawula ezembali kaMasipala onguNombolo 56 ka2003, upapasha injongo zawo zokuhlangahlengisa isivumelwano sekhe esimyo seenkonzo zamanzi nezenkunkuma ngokwengaza amaziko eenkonzo samanzi nenkunkuma amatsha asandula ukwakhiwa kwinxalenye yesivumelwane simiyo.</p>
<p>The proposed contract amendment and an information statement summarising the Municipality's obligations in terms of the proposed amendment contract can be inspected during official office hours at the Municipality's head and satellite offices and libraries or on the Municipality's official web-site <a href="http://www.overstrand.gov.za">www.overstrand.gov.za</a>, from 23 August 2019.</p>	<p>Die voorgenome kontrak-wysiging en die inligtingstuk wat die Munisipaliteit se verpliginge ten opsigte van die voorgenome wysiging van kontrak saamvat, kan gedurende amptelike kantoorure by die munisipaliteit se hoof-en satellietkantore en bibliotekes geïnspekteer word, of op die amptelike webblad van die Munisipaliteit by <a href="http://www.overstrand.gov.za">www.overstrand.gov.za</a>, vanaf 23 Augustus 2019.</p>	<p>Esi sivumelwano siphakanyisiwayo kunye nenkukakacha ezishwankathela izibophelelo zikaMasipala singahloha kwi-ofisi eyintloko kaMasipala nakwi-ofisi ezingamaseyena kwakunye namathala eencwadi ngeeyure zokusebenza zezi ofisi nala mathala eencwadi. Esi sivumelwano siphakanyisiwayo kunye nenkukakacha siyatumaneka kwi website esemthethweni yakwa Masipala engu- <a href="http://www.overstrand.gov.za">www.overstrand.gov.za</a> ukususela ngomhla 23 August 2019.</p>
<p>The proposed amendment of the contract will be considered by the Municipal Council of the Overstrand Local Municipality at its Council meeting to be held on 30 October 2019 at the Municipal Offices in Hermanus.</p>	<p>Die voorgenome wysiging van die kontrak sal vir oeweging voor die Munisipale Raad van die Overstrand Plaaslike Munisipaliteit dien tydens die Raadsvergadering wat geskeduleer is vir 30 Oktober 2019 by die Munisipale Kantore in Hermanus.</p>	<p>Esi sivumelwano siphakanyisiwayo siya kuqwalasela iBhunga likaMasipala elikuMasipala weNgingqi iOverstrand ngesesha lentianganiso yeBhunga eya kube ibanjelwe eHermanus 30 October 2019 kwiOfisi zikaMasipala eHermanus.</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 long term contract. Such comments or representations must be submitted by not later than Monday, 23 September 2019 at 12h00.</p>	<p>Kennis geskied hiermee 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 voorgenome wysiging van die langtermyn kontrak in te dien. Hierdie kommentaar of vertoë moet teen nie later nie as Maandag, 23 September 2019 om 12h00 ingedien word.</p>	<p>Isaziso sinikwa ngokwerimisele ye Candelo 21 no 21A kaMasipala weNgingqi: Umthetho wokuZiphatha kaMasipala, 2000 (umthetho 32 ka2000) ukuba abantu abasuka ekuhlaleni nabanye abantu abachaphazelekayo bayamenywa ukuba bathumele izimvo zabo okanye izinto abazibhalileyo kuMasipala mayelana nesivumelwano sexesha elide esiphakanyisiwayo. Izimvo okanye izinto ezibhalileyo mazingeniswe ngoMvula, umhla we 23 Septemba 2019 ngentsimbi yehlelmi elinesibini emini.</p>
<p>Comments or representations must be submitted in a sealed envelope clearly endorsed "Proposed amendment of Contract SC1890/2018: Water and Waste Water Bulk Works Operations and Maintenance" and be deposited in Tender box no.7.</p>	<p>Kommentaar of vertoë moet ingedien word in 'n versaelede koevert, duidelik gemerk "Voorgesteide wysiging van Kontrak SC1890/2018 vir die Bedryf en Instandhouding van Grootmaat Water- en Riwooldienste Fasiliteite" en geplaas word in Tenderbus nr.7.</p>	<p>Izimvo ezibhalileyo mazifakwe kwimvulophu ebhalwe ngokucacileyo, etywinweyo kubhalwe "SC1890/2018: Ukusebenziswa kwenkonzo zamanzi nenkunkuma zifakwe kwi Bhokisi ye Ziniki-maxabiso no.7.</p>
<p>All submissions must be addressed to: The Municipal Manager Tender box no.7 Overstrand Municipality Magnolia Avenue Hermanus 7200</p>	<p>Alle voorleggings moet geadresseer word aan: Die Munisipale Bestuurder Tenderbus nr.7 Overstrand Munisipaliteit Magnolialaan Hermanus 7200</p>	<p>Zonke iziphakamiso mazithunyelwe ku: Umphathi kaMasipala Bhokisi yeZiniki-maxabiso no.7 UMasipala weNgingqi yase-Overstrand Magnolia Avenue Hermanus 7200</p>
<p>Enquiries can be directed to Mr. H Bignaut, Tel: 028 313 5047 and e-mail: <a href="mailto:hbignaut@overstrand.gov.za">hbignaut@overstrand.gov.za</a>.</p>	<p>Navrae kan gerig word aan Mnr. H Bignaut, Tel: 028 313 5047 en e-pos: <a href="mailto:hbignaut@overstrand.gov.za">hbignaut@overstrand.gov.za</a></p>	<p>Imibuzo ingathunyelwa ku hfnu. Nkzn. H Bignaut, Umnxeba: 028 313 5047 ne-meyili: <a href="mailto:hbignaut@overstrand.gov.za">hbignaut@overstrand.gov.za</a>.</p>
<p>Persons who are physically disabled or who cannot read or write but wish to participate in the process, may visit the Municipal Offices, Magnolia Avenue, Hermanus, during office hours, where that person will be assisted by the Director: Finance or a person designated by her to transcribe that person's comments or representations.</p>	<p>Person wat liggaamlik gestremd is of nie kan lees of skryf nie, maar aan die proses wil deelneem, kan gedurende kantoorure die Munisipale Kantore, Magnolialaan, Hermanus, besoek, waar die Direkteur: Finansiële of 'n persoon soos deur haar aangewys daardie persoon sal help om die kommentaar of vertoë neer te skryf.</p>	<p>Nawuphi na umntu okwenela ukuthumela izimvo zakhe okanye izinto abazibhalileyo, abe engakwazi ukubhala okanye ukufunda baya kuncedwa nguMawuli-wezolawulo okanye ngumntu omiselwe nguye kwi-ofisi zikaMasipala eMagnolia Avenue, eHermanus.</p>
<p>C.Groenewald Municipal Manager</p>	<p>C.Groenewald Munisipale Bestuurder</p>	<p>C.Groenewald UManejala kaMasipala</p>



Navrae:  
Enquiries: Mr Hanré Bignaut – 028 313 5047

Ons Verw./Our Ref: SC 1890/2018  
U Verw./Your Ref:

Datum:  
Date: 22 August 2019

KANTOOR VAN DIE MUNISIPALE BESTUURDER /  
OFFICE OF THE MUNICIPAL MANAGER

National Treasury – Mr S Mkhwanazi (GTAC) & Mr W McComans (MFMA Implementation)  
Provincial Treasury Western Cape – Ms J Gantana  
Department of Co-operative Governance and Traditional Affairs (COGTA) – Mr T Lebohang  
Department of Water & Sanitation – Mr R Khan

Sir / Madam

**PROPOSED AMENDMENT TO LONG TERM CONTRACT FOR THE OPERATION AND MAINTENANCE OF THE WATER AND WASTE WATER TREATMENT WORKS OF THE OVERSTRAND MUNICIPALITY: NOTICE IN TERMS OF SECTION 33 OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003)**

In terms of Section 33(1)(a)(ii) of the Local Government: Municipal Finance Management Act, 2003 (Act no. 56 of 2003) (MFMA), you are hereby notified of the Overstrand Municipality's intention to amend Contract SC 1890/2018, which will impose a financial obligation beyond the three years covered in the budgets for the 2019/2020 to 2021/22 financial years.

As is required in terms of the MFMA, we hereby solicit your views and recommendations on the proposed amendment of the long term contract between Overstrand Local Municipality and Veolia Water Solutions and Technologies South Africa (Pty) Ltd, with regard to the operation and maintenance of the water and waste water treatment works of the municipality. The contract came into effect on 8 December 2018, for a contract period of 15 years, until 7 December 2033. Please find attached the following information pertaining to the proposed amendment of the contract:

1. Annexure A: Information Statement and Financial Impact Statement
2. Annexure B: Amendment to Contract (Letter of Intent)
3. Annexure C: Advertisement inviting the local community and interested stakeholders to submit representations on the draft long term contract.

Please express your views and recommendation(s), if any, to the undersigned on or before 23 September 2019, in order for my Council to take all representations into

account for decision making, thereby giving effect to the provision of Section 33(1)(b)(i-iv) of the MFMA.

Yours sincerely,



CG GROENEWALD  
MUNICIPAL MANAGER

**national treasury****Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA**Private Bag x 115, Pretoria, 0001. Tel: 012 315 5850 Fax: 012 315 5230  
MFMA@treasury.gov.za

The Municipal Manager  
Overstrand Municipality  
P.O Box 20  
**HERMANUS**  
7200

**For Attention: Mr C Groenewald****Fax: (028) 313 0030**

Dear Sir

**PROPOSED AMENDMENT TO LONG TERM CONTRACT FOR THE OPERATION AND MAINTENANCE OF THE WATER AND WASTE WATER TREATMENT WORKS OF THE OVERSTRAND MUNICIPALITY: NOTICE IN TERMS OF SECTION 33 OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003)**

Your letter received 26 August 2019 requesting the National Treasury's comments on the municipality's intention to amend a long-term contract for the operation and maintenance of the waste water treatment has reference.

We have noted the contents of the letter, including the additional information provided on 05 September 2019. The municipality entered into a 15-year contract in December 2018, for the operation and maintenance of water and waste water treatment works within the municipality. The municipality now intends to extend the contract by including the operation and maintenance of the newly completed bulk water and waste water facilities to the scope of work of the contract. It should be noted that the municipality should have complied with section 33 of the MFMA when the contract was initially entered into, which includes consultation with the National Treasury on the municipality's intention. We have no records of such consultation having taken place with the National Treasury. In the absence of anything to the contrary, the initial contract would be non-compliant with section 33 of the MFMA and all expenditure incurred to date will be irregular expenditure.

In addition to the above, since there is already a 15-year contract in place, please note that section 33 is not the correct provision to make the necessary amendments. The municipality is required to utilise the provisions of section 116(3) of the MFMA read together with MFMA Circular 62 which deals with the variation of contracts. Therefore, the municipality must ensure that it also gives the local community reasonable notice of the intention to amend the contract or agreement and invite the submission of representations to the municipality. The municipality must also table the reasons for the proposed amendment in the council of the municipality.

We therefore request confirmation from the municipality regarding compliance with section 33 of the MFMA. Kindly also provide any documentary evidence in support of any contrary view from the municipality relating to compliance with section 33 of the MFMA.

We trust that you be guided by the above.

Kind regards



**Silindile Kubheka**  
**ACTING ACCOUNTANT-GENERAL**

Date: 30/07/30

Cc: Chief Financial Officer

Cc: MFMA Coordinator: Western Cape Provincial Treasury



Navrae:  
Enquiries: Mr Coenie Groenewald

Ons Verw./Our Ref:  
U Verw./Your Ref:

Datum:  
Date: 1 October 2019

KANTOOR VAN DIE MUNISIPALE BESTUURDER /  
OFFICE OF THE MUNICIPAL MANAGER

The Acting Accountant-General  
National Treasury  
Private Bag X115  
PRETORIA  
0001

By e-mail: [MFMA@treasury.gov.za](mailto:MFMA@treasury.gov.za)

Sir

**PROPOSED AMENDMENT TO LONG TERM CONTRACT FOR THE OPERATION AND MAINTENANCE OF THE WATER AND WASTE WATER TREATMENT WORKS OF THE OVERSTRAND MUNICIPALITY: NOTICE IN TERMS OF SECTION 33 OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003)**

I refer to your letter dated 30 September 2019 in the above regard.

Your information is unfortunately incorrect. We have fully complied with the provisions of MFMA and your attention is invited to the following attached documents:

- Full item with annexures which served before Council on 28 November 2018; and
- Proof that *inter alia* National Treasury was consulted. (Kindly also see the third bullet point on page 18 of the report.)

Yours sincerely,

**CC GROENEWALD  
MUNICIPAL MANAGER**

**Annexure F: Projected Total Contract Expenditure over 15 year Contract Period (including proposed amendment):**

	Fixed Cost	Variable Cost	Salary Contribution	Large Maintenance and Repairs	Total Estimated Cost	Average Increase
2018/19	R 8 751 603	R 5 018 876	R 10 612 189	R 787 500	R 25 170 168	Actual, 7 Months
2019/20	R 16 333 569	R 9 280 249	R 19 756 864	R 1 426 950	R 46 797 631	8.46%
2020/21	R 17 957 653	R 10 173 336	R 21 455 954	R 1 508 286	R 51 095 230	9.18%
2021/22	R 18 981 239	R 11 075 813	R 23 301 166	R 1 594 258	R 54 952 477	7.55%
2022/23	R 20 063 170	R 12 058 348	R 25 305 067	R 1 685 131	R 59 111 716	7.57%
2023/24	R 21 206 771	R 13 128 044	R 27 481 302	R 1 781 184	R 63 597 301	7.59%
2024/25	R 22 415 557	R 14 292 633	R 29 844 694	R 1 882 711	R 68 435 595	7.61%
2025/26	R 23 693 243	R 15 560 533	R 32 411 338	R 1 990 026	R 73 655 140	7.63%
2026/27	R 25 043 758	R 16 940 908	R 35 198 713	R 2 103 457	R 79 286 836	7.65%
2027/28	R 26 471 252	R 18 443 735	R 38 225 802	R 2 223 354	R 85 364 144	7.66%
2028/29	R 27 980 114	R 20 079 879	R 41 513 221	R 2 350 085	R 91 923 300	7.68%
2029/30	R 29 574 980	R 21 861 165	R 45 083 358	R 2 484 040	R 99 003 544	7.70%
2030/31	R 31 260 754	R 23 800 469	R 48 960 527	R 2 625 631	R 106 647 381	7.72%
2031/32	R 33 042 617	R 25 911 809	R 53 171 132	R 2 775 291	R 114 900 850	7.74%
2032/33	R 34 926 046	R 28 210 445	R 57 743 850	R 2 933 483	R 123 813 825	7.76%
2033/34	R 15 382 013	R 12 797 081	R 26 129 092	R 1 291 955	R 55 600 141	5 Months only
<b>Total</b>	<b>R 373 084 340</b>	<b>R 258 633 325</b>	<b>R 536 194 271</b>	<b>R 31 443 343</b>	<b>R 1 199 355 278</b>	
<b>Total, including 15% VAT</b>					<b>R 1 379 258 570</b>	