

**7. PROPOSED AMENDMENT OF CONTRACT SC 867B/2010: OPERATION OF THE MECHANISED MATERIAL RECOVERY FACILITY (MMRF) AT THE HERMANUS SOLID WASTE TRANSFER STATION**

**8/3/1/SC867/2010**

**H Blignaut**

**(028) 313 5047**

**Hermanus Administration**

**11 September 2017**

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**1. Executive Summary**

The purpose of this report is to provide the necessary information and motivation with regard to the proposed amendment of Contract SC867B/2010: Operation of the Mechanised Material Recovery Facility (MMRF) at the Hermanus Solid Waste Transfer Station, in terms of sections 116(3) and 33 of the Local Government: Municipal Finance Management Act (MFMA), 2003 (Act 56 of 2003), to enable Council to take 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 (Solid Waste Planning section)

**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 (MFMA), 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**

In May 2010 Overstrand Municipality advertised tenders for the operation of the Hermanus MMRF (Tender SC 867/2010), which led to the award of a three year contract to Hermanus Recycling CC t/a Walker Bay Recycling.

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With the contract expiring in July 2013, the Municipality again advertised a similar tender for three years in May 2013. Only two tenders were received. Due to failure to achieve the required sub-minimum score for quality, one tender had to be rejected. The remaining tender was from Hermanus Recycling CC, the current service provider. The price offered at the time was not acceptable to the municipality, given the municipality's available budget, and measured against what was considered to be a fair and market-related estimated price.

The municipality had the options to either go out on tender again, or to negotiate with Hermanus Recycling CC. The tender document made provision for negotiations to take place, as long as it did not give any tenderer an unfair opportunity, or be to the detriment of another tenderer, or lead to a higher price than the tender originally submitted. Not acting to the detriment of any one party, and with the aim to arrive at a fair price that was affordable to the municipality, contract negotiations were entered into with Hermanus Recycling CC in accordance with legislation that allowed an amended contract. The existing long term agreement is the result of these negotiations. The contract period ends on 30 October 2022.

The purpose of this second proposed amendment of the contract is to change the escalation factor from the Baxter formula to the Consumer Price Index (CPI). The reasons for this proposed amendment are discussed in the following sections of this report.

Because the proposed amendment to the existing contract is for more than three years (up to 30 October 2022), the Municipality must comply with Section 116(3) as well as Section 33 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

The Hermanus MMRF is a very important component of the solid waste service of the Overstrand Municipality, and its efficient operation contributes significantly to the diversion of waste from landfill, thereby extending the lifespan of the landfill. Overstrand Municipality's rate of diversion from landfill (>50%) is currently the highest in the country. The extended contract negotiated with Hermanus Recycling CC in 2013 was very favourable to Overstrand Municipality, and significantly lower than the tenders originally received. Furthermore, the Hermanus MMRF provides employment to 12 people from Zwelihle.

**Discussion**

The negotiated escalation formula in the existing long term contract is the Baxter formula, and is based on a composition of the total cost of rendering the specified service of operating the Hermanus MMRF, that was made up of:

- 55% labour, represented by the Consumer Price Index for all items in the Western Cape
- 10% equipment, represented by the index for Trucks

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- 5% material, represented by the index for Tyres and Tubes, and
- 30% fuel, represented by the index for Diesel at the Coast

Reality during the four years since negotiating the existing long term contract has proven this composition of the actual cost mainly consists of the labour component and that the monthly increases or decreases of the diesel price significantly affected the outcome of the escalation. Furthermore, the indices for Trucks, Tyres and Tubes, and Diesel are being discontinued by Statistics South Africa as from January 2018.

It is therefore proposed to amend the escalation clause in the existing long term agreement to consist of 100% labour, represented by the Consumer Price Index for all items in the Western Cape, as published by Statistics South Africa in Statistical Release P0141, Table 3. This is the only proposed amendment to the existing long term contract. If Council give its consent for this amendment, future escalation on the contract will be aligned with inflation, and no significant adverse effect on future budgets and tariffs is foreseen.

### **Evaluation**

Sections 33 and 116(3) of the MFMA provide as follows:

(a) Section 33:

**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

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- (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.

**(b) Section 116(3):**

- (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 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).

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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.

This report to Council concludes the Section 33 process, and includes the projected financial obligations for each financial year and the impact of those financial obligations on the tariffs of the Overstrand Municipality.

The following activities were completed, in accordance with Section 33 of the MFMA:

- An advertisement, inviting comments from the local community and other interested persons was placed on 27 July 2017 (i.e. 60 days before the Council meeting). No comment, input or inquiry was received before the closing date of 28 August 2017.
- An Information Statement indicating the proposed amendment to the contract was made available to the public from 27 July 2017.
- The views and recommendations of the following stakeholders have been solicited from 28 July 2017: National Treasury, Provincial Treasury, Department of Local Government, and the Department of Environmental Affairs. No comment or input was received from any of these stakeholders by the closing date of 28 August 2017.

The projected financial implications of the proposed amendment of the contract are illustrated in the two tables in paragraph 7 below. It is clear from the tables that no adverse effect on future budgets and therefore tariffs are envisaged if the escalation formula in the contract is amended to be aligned with inflation.

**Conclusion**

Due to several of the indices used in the Baxter escalation formula to be discontinued by Stats SA as from January 2018, the escalation formula in the contract has to be amended. The use of CPI in place of the Baxter formula will ensure alignment with inflation, with no significant adverse effect on future budgets and tariffs. The revised estimated expenditure with CPI escalation for the current Medium Term Expenditure Framework falls within the approved budget – please refer to paragraph 7 below.

**7. Financial Implications**

Source of Funding: Operating Budget Provisions

The estimated financial implications of the amended escalation formula over the remaining contract period are illustrated in the table below:

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Financial Year	Original estimate with Baxter escalation formula at Award, November 2013	Actual to date, and estimated with Baxter escalation formula for remaining contract period	Actual to date, and estimated with CPI escalation from June 2017 for remaining contract period
2013/14	R 730 487	R 442 877	R 442 877
2014/15	R 1 130 321	R 791 598	R 791 598
2015/16	R 1 215 736	R 877 971	R 877 971
2016/17	R 1 308 535	R 831 032	R 831 032
2017/18	R 1 409 453	R 1 165 766	R 1 161 841
2018/19	R 1 519 308	R 1 258 264	R 1 242 050
2019/20	R 1 639 005	R 1 360 165	R 1 323 624
2020/21	R 1 769 554	R 1 472 693	R 1 406 643
2021/22	R 1 912 077	R 1 597 257	R 1 491 193
2022/23	R 674 548	R 565 679	R 519 402
<b>Total</b>	<b>R 13 309 029</b>	<b>R 10 363 307</b>	<b>R 10 088 235</b>

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

	2017/18	2018/19	2019/20
<b>mSCOA Description</b>	Operation of Hermanus Material Recovery Facility	Operation of Hermanus Material Recovery Facility	Operation of Hermanus Material Recovery Facility
<b>mSCOA Cost Account</b>	13640200530000	13640200530000	13640200530000
<b>mSCOA Business Key</b>	20170525078486	20170525078486	20170525078486
<b>Budget Provision (excl VAT)</b>	R 955 060.00	R 1 012 360	R 1 073 101
<b>Balance Available (excl VAT)</b>	R 833 004.29	R 1 012 360	R 1 073 101
<b>Total Estimated Expenditure (excl VAT)</b>	R 819 098.00	R 876 583	R 934 068
<b>mSCOA Description</b>	Maintenance of Equipment	Maintenance of Equipment	Maintenance of Equipment
<b>mSCOA Cost Account</b>	12240201460000	12240201460000	12240201460000
<b>mSCOA Business Key</b>	20170525078524	20170525078524	20170525078524
<b>Budget Provision (excl VAT)</b>	R 319 100.00	R 399 800	R 423 900
<b>Balance Available (excl VAT)</b>	R 294 983.86	R 399 800	R 423 900
<b>Total Estimated Expenditure (excl VAT)</b>	R 284 623.00	R 303 867	R 324 256
<b>mSCOA Description</b>	Maintenance Contractor	Maintenance Contractor	Maintenance Contractor
<b>mSCOA Cost Account</b>	12240201460000	12240201460000	12240201460000
<b>mSCOA Business Key</b>	20170525078539	20170525078539	20170525078539
<b>Budget Provision (excl VAT)</b>	R 58 120.00	R 61 600	R 65 300
<b>Balance Available (excl VAT)</b>	R 54 540.70	R 61 600	R 65 300
<b>Total Estimated Expenditure (excl VAT)</b>	R 54 540.00	R 61 600	R 65 300
<b>Any other related costs (excl VAT)</b>	0	0	0
<b>Total Budget Provision (excl VAT)</b>	R 1 332 280.00	R 1 473 760	R 1 562 301
<b>Total Balance Available (excl VAT)</b>	R 1 182 528.85	R 1 473 760	R 1 562 301
<b>Total Estimated Project Cost (excl VAT)</b>	R 1 161 841.00	R 1 242 050	R 1 323 624
<b>Escalation (if any)</b>	CPI	CPI	CPI
<b>Escalation Date</b>	Monthly	Monthly	Monthly

**8. Staff Implications**

None

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It is confirmed that contract SC867B/2010 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) amendment as required by the MFMA has been followed. In terms of Section 33 of the MFMA, due process has been followed, making provision for the contract having future budgetary implications.

No recommendations or representations were received from any relevant stakeholders against the intention to amend the contract.

The amendment of this contract carries exceptional reason for the amendment of the contract and is expected to contribute a financial benefit to the municipality, without having an impact on the municipality's future tariffs and revenue.

**10. Annexures**

- Annexure A: Intent to amend
- Annexure B: BAC Minutes of 18 November 2013
- Annexure C: MFMA Section 33 Information Statement
- Annexure D: MFMA s.33 and S 116(3) Advertisement
- Annexure E: Letter to Government Departments

**RECOMMENDATION TO THE COUNCIL:**

1. that **cognisance be taken of the reasons** for the proposed amendment of Contract SC867B/2010 for the Operation of the Mechanised Material recovery Facility at the Hermanus Solid Waste Transfer Station, 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), and that the **amendment be consented to**; and
2. that **cognisance be taken** that no recommendations or representations were received from the local community or other stakeholders by the closing date of 28 August 2017.

**RESPONSIBLE OFFICIALS :****H BLIGNAUT  
J VAN TAAK****TARGET DATE FOR IMPLEMENTATION :****1 OCTOBER 2017****TARGET DATE TO INFORM APPLICANT :****N/A****TARGET DATE TO INFORM OBJECTOR :****N/A**



OFFICE OF THE DIRECTOR:  
INFRASTRUCTURE & PLANNING

Enquiries: Johan van Taak  
Date: 25 July 2017

**ADDENDUM – INTENT TO AMEND A CONTRACT**

The parties agree to the following intention to amend the existing contract SC867B/2013 with Hermanus Recycling for the Operation of the Mechanised Material Recovery Facility at the Hermanus Solid Waste Transfer Station, which was signed between them on 16 September 2013, and record this was done freely and willingly, without any coercion whatsoever from any one party:

The parties agree to the amendment of the escalation clause in the current contract, Part C.1.2, clause 15, item 3.15, by replacing the escalation formula with the Consumer Price Index (CPI), with all other terms and conditions of the contract remaining the same.

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 processes as prescribed by sections 116(3) and 33 of the Municipal Finance Management Act.


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

Thus done and signed at Hermanus this 25th day of July 2017 in the presence of the undersigned witnesses

WITNESSES:


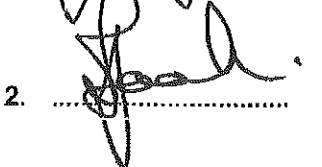
1. 


2. 

  
.....  
for and on behalf of Hermanus Recycling CC: Jan van Niekerk,  
Member

Thus done and signed at Hermanus this 25<sup>th</sup> day of July 2017 in the presence of the undersigned witnesses:

WITNESSES:

1.   
2. 

  
.....  
for and on behalf of Overstrand Municipality: Stephen Müller  
Director: Infrastructure & Planning



MUNISIPALITEIT



MUNICIPALITY

## BID ADJUDICATION COMMITTEE MEETING

## ATTENDANCE REGISTER &amp; UNDERTAKING OF CONFIDENTIALITY AND IMPARTIALITY

Date: 2013.11.18

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
<i>[Signature]</i> Sj. Reynette-Naudé	SCM Finance	<i>[Signature]</i> Ellen
M. Berman	COMMUNITY SERVICES	<i>[Signature]</i>
H. A. Michaels	Port Services	<i>[Signature]</i>
H. van Tonder	Bestuursdienste	<i>[Signature]</i>
S. Müller	Infra & Plan	<i>[Signature]</i>
J.P. van Jaal	Infra-Struktuur	<i>[Signature]</i>
HANRÉ BLIGNAUT	INFRASTRUKTUR & BEPL.	<i>[Signature]</i>
Dennis Hendriks	Infrastructure & Planning	<i>[Signature]</i>
D. Lahey	Legal Services	<i>[Signature]</i>
T. SAMPSON	BMS WFD	<i>[Signature]</i>
L.L. De Wet	SCM	<i>[Signature]</i>
Clint La Roux	Finance	<i>[Signature]</i>
MORNE POTGIETER	SCM	<i>[Signature]</i>
Marion Madman	Area Manager's Office	<i>[Signature]</i>
B. D'Oliveira	SCM	<i>[Signature]</i>
S. Immelman	SCM	<i>[Signature]</i>
R. DE JAGER	SCM	<i>[Signature]</i>

Minutes of the Proceedings of a Meeting of the Bid Adjudication Committee held in the Finance Committee Room, Hermanus, on Monday, 18 November 2013 at 08:00

## 6. ADJUDICATION OF TENDERS

### 6.1. TENDER NO. SC 867B/2010: AMENDMENT OF CONTRACT FOR THE OPERATION OF THE MECHANISED MATERIAL RECOVERY FACILITY AT THE HERMANUS SOLID WASTE TRANSFER STATION

**Remark:**

In terms of the prescriptive provisions of Section 5(2)(a) of the Supply Chain Management Regulations promulgated in Government Gazette No. 27636 dated 30 May 2005, read together with the Municipality's Supply Chain Management Policy, tenders with a rand value above R10 million (VAT included) must be approved by the Accounting Officer and may not be sub delegated.

**RESOLVED TO RECOMMEND TO THE ACCOUNTING OFFICER:**

1. That Contract no. SC 867/2010, FOR THE OPERATION OF THE MECHANISED MATERIAL RECOVERY FACILITY AT THE HERMANUS SOLID WASTE TRANSFER STATION, which was awarded to Hermanus Recycling CC t/a Walker Bay Recycling on 15 July 2010, be amended in terms of sections 116(3) and 33 of the MFMA, 2003, subject to approval by Council, as follows.

<b>Service Provider / Supplier:</b>	Hermanus Recycling CC T/A Walker Bay Recycling		<b>SCM#</b>	H004087	
<b>Service / Goods Provided:</b>	OPERATION OF THE MECHANISED MATERIAL RECOVERY FACILITY AT THE HERMANUS SOLID WASTE TRANSFER STATION				
<b>Vote:</b>	1010364075	<b>Cost Code:</b>			
<b>Vote:</b>	1010224151	<b>Cost Code:</b>			
<b>Vote:</b>	1010224136	<b>Cost Code:</b>			
<b>Financial Year</b>	<b>Monthly Fixed amount</b>	<b>Incentive Amount</b>	<b>Escalation</b>	<b>Contingency (Replacement Costs) Total</b>	<b>Total</b>
2013-2014	R 360 843.75	R 78 218.70	R 27 424.65	R 264 000.00	R 730 487.11
2014-2015	R 618 589.29	R 134 089.20	R 95 643.37	R 282 000.00	R 1 130 321.86
2015-2016	R 618 589.29	R 134 089.20	R 161 978.07	R 301 080.00	R 1 215 736.57
2016-2017	R 618 589.29	R 134 089.20	R 234 552.24	R 321 304.80	R 1 308 535.53
2017-2018	R 618 589.29	R 134 089.20	R 314 032.35	R 342 743.09	R 1 409 453.93
2018-2019	R 618 589.29	R 134 089.20	R 401 162.00	R 365 467.67	R 1 519 308.16
2019-2020	R 618 589.29	R 134 089.20	R 496 771.19	R 389 555.73	R 1 639 005.42
2020-2021	R 618 589.29	R 134 089.20	R 601 786.87	R 415 089.08	R 1 769 554.44
2021-2022	R 618 589.29	R 134 089.20	R 717 244.66	R 442 154.42	R 1 912 077.57
2022-2023 (July – October 2023)	R 206 196.43	R 44 696.40	R 266 707.84	R 156 947.90	R 674 548.56


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Minutes of the Proceedings of a Meeting of the Bid Adjudication Committee held in the Finance Committee Room, Hermanus, on Monday, 18 November 2013 at 08:00

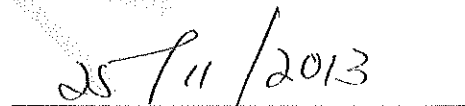
Amount in words (total estimated):	Thirteen million, three hundred and nine thousand and twenty nine rand and fifteen cent.				
Escalation Percentage:	According to Baxter formula	Escalation Date:	Monthly as determined by the Baxter formula		
Contract Owner:	Stephen Muller Director Infrastructure and Planning	Contract Champion:	Johan van Taak Solid Waste Manager: Planning		
<b>CONTRACT PERIOD:</b>					
Implementation date:	1.12.2013	End date:	30.10.2022	Period:	8 Years 11 Months

Certified as correct by:

  
 Ms. R la Cock  
 Senior Manager: SCM

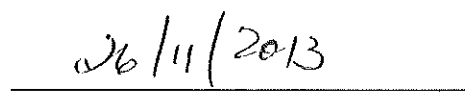
  
 Date

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

  
 Date

Recommendation approved:

  
 Mr. C Groenewald  
 Accounting Officer

  
 Date



**CONTRACT NO.: SC 867B/2010: PROPOSED AMENDMENT  
THE OPERATION OF THE MECHANISED MATERIAL RECOVERY FACILITY  
AT THE HERMANUS SOLID WASTE TRANSFER STATION  
MFMA INFORMATION STATEMENT**

**1. OBJECTIVE**

Overstrand Municipality has made public its intention to amend the existing long term agreement with Hermanus Recycling cc for the operation of the mechanised material recovery facility at the Hermanus Solid Waste Transfer Station, ending 30 October 2022.

Because the proposed amendment to the existing agreement is for more than three years, the Municipality must comply with Sections 33 and 116(3) of the Local Government: Municipal Finance Management Act No. 56 of 2003.

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

**2. INVITATION**

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

**3. PROCEDURE FOR GIVING COMMENTS**

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 to the existing long term agreement **before 12:00, Monday 28 August 2017 in a sealed envelope clearly endorsed "SC867B/2010: Long term contract for Hermanus Solid Waste Transfer Station"** and addressed to: Municipal Manager, Overstrand Municipality, Magnolia Avenue, Hermanus, 7200 and to be deposited in Tender box no.7.

Written enquiries for clarification can be directed to Mr Johan van Taak e-mail: [jvantaak@overstrand.gov.za](mailto:jvantaak@overstrand.gov.za).

Any person who wishes to submit comments or representations in respect of the proposed amendment to the existing long term agreement and who cannot write will be assisted by the

Director: Infrastructure and Planning or a person designated by him at Overstrand Civic Centre, Hermanus up to Friday 25 August 2017.

#### **4. PROJECT BACKGROUND**

In May 2010 the Municipality put the Operation of the Hermanus MRF out to tender (Tender No. SC 867/2010) which led to the award of a three year tender to Hermanus Recycling cc. With the contract to expire in July 2013, the Municipality again put out a similar tender for three years in May 2013. Two tenders were received. Both were responsive tenders but due to non-eligibility based on a failure to achieve the required sub-minimum for quality, one tender had to be rejected. The remaining tender was from Hermanus Recycling cc, the current service provider. Although the tender achieved 8 points out of a maximum of 10 for the Level 3 BBBEE certification, the price offered was not acceptable given the Municipality's budget and measured against what was considered to be a fair market-related price.

The Municipality had the choice to go out on tender again or to negotiate with Hermanus Recycling cc. The tender document made provision for such negotiations to take place as long as it did not give any tenderer an unfair opportunity, be to the detriment of another tenderer or lead to a higher price than the tender submitted. Not acting to the detriment of any one party and with the aim to arrive at a fair price that was affordable to the Municipality, contract negotiations were entered into with Hermanus Recycling cc in accordance with legislation<sup>1</sup> that allowed an amended contract.

The existing long term agreement is the result of these negotiations.

#### **5. THE PROPOSED AMENDMENT**

##### **5.1. Escalation Formula**

The negotiated escalation formula in the existing long term agreement is the Baxter formula and is based on a composition of the total cost of rendering the specified service of operating the mechanised Material Recovery Facility that was made up of:

- 55% labour, represented by the Consumer Price Index for all items in the Western Cape
- 10% equipment, represented by the index for Trucks
- 5% material, represented by the index for Tyres and Tubes, and
- 30% fuel, represented by the index for Diesel at the Coast

Reality during the four years since negotiating the existing long term contract has proven this composition of the cost to be inaccurate and that the actual cost mainly consists of the labour component and that the monthly increases or decreases of the diesel price significantly affected

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<sup>1</sup> In accordance with Section 116(3) of the MFMA

the outcome of the escalation. Furthermore, the indices for Trucks, Tyres and Tubes and Diesel are being discontinued by Statistics South Africa as from January 2018.

It is therefore proposed to amend the escalation clause in the existing long term agreement to consist of 100% labour, represented by the Consumer Price Index for all items in the Western Cape as published by Statistics South Africa in Statistical Release P0141, Table 3. This is the only proposed amendment to the existing long term agreement. If the amendment is approved by Council, escalation on the contract will be aligned with inflation, and no significant adverse effect on future budgets and tariffs is foreseen.

## **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 existing long term agreement as set out above.

The Municipality will solicit and receive the views and recommendations of stakeholders, including National and Provincial Treasuries and the Department of Environmental Affairs and the National department responsible for local government.

The proposed amendment to the existing long term agreement and all comments and views received relevant to the proposed amendment will be presented to Council on 27 September 2017 for the final decision as to whether to amend the existing long term agreement.

VERHOORDE NEDERLIK SAKKIE MET DIE INSTRUMENTEERS OP die verhoog gedans en gesing.



**MERVYN DENDY ATTORNEY**  
BCOM LLB (WITS)

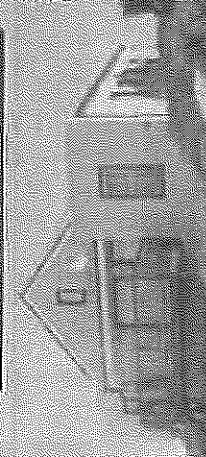
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HT 27/07/2017

Proposed long term amendment of contract SC667B/2010 for the operation of the mechanised material recovery facility (INDAWO) at the Hermanus Solid Waste Transfer Station with Walker Bay Recycling in Overstrand Municipality, giving effect to the Local Government: Municipal Finance Management Act (MFMA) No. 56 of 2005: Section 33 and 116(3).

Duly authorised by resolution of Council, the Overstrand Local Municipality, in terms of the provisions of Section 33 and 116 (3) of the Local Government: Municipal Finance Management Act, No. 56 of 2005, hereby makes it public that Overstrand Municipality intend to amend the existing agreement with Walker Bay Recycling, entering into a long term contract for the operation of the mechanised material recovery facility at the Hermanus Solid Waste Transfer Station, ending 30 October 2022.

The proposed contract and an information statement summarising the Municipality's obligations in terms of the proposed contract can be inspected at the Municipality's head and satellite offices and libraries during the official office hours, or accessed on the Municipality's official web-site [www.overstrand.gov.za](http://www.overstrand.gov.za), from 27 July 2017.

The contract will be considered by the Municipal Council of the Overstrand Local Municipality at its Council meeting to be held on 27 September 2017 at the Municipal Office in Hermanus.

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 and long term contract for the operation of the mechanised material recovery facility at the Hermanus Solid Waste Transfer Station. Such comments or representations must be submitted by not later than Monday, 28 August 2017 at 12:00.

Comments or representations must be submitted in a sealed envelope clearly endorsed "SC667B/2010: Long term contract for Hermanus Solid Waste Transfer Station" 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

Enquiries can be directed to Mr. Johan van Taak, Tel: 028 313 5045 and e-mail: [jvanisa@overstrand.gov.za](mailto:jvanisa@overstrand.gov.za).

Persons who are physically 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 that person will be assisted by the Director: Infrastructure and Planning or a person designated by him to transcribe that person's comments or representations.

C. Groenewald  
Municipal Manager

Voorgesonde langtermyn wysiging van kontrak SC667B/2010 vir die bedryf van die gemeganiseerde herwinningaanlyn by die Hermanus Vaste Afval Oortuissatise met Walker Bay Recycling in die Overstrand Munisipaliteit, in nakoming van die Wet op Plaaslike Regering, Munisipale Finansiële Bestuur, Wet No. 56 van 2005: Artikel 33 en 116(3).

Soos ooreengekom deur die raad, ooreenkomstig die bepalings van Artikel 33 en 116(3) van die Wet op Plaaslike Regering, Munisipale Finansiële Bestuur, Nr. 56 van 2005, ges Owerstrand Munisipaliteit, hiermee kennis dat hul van voorneme is om die bestaande kontrak te wysig met Walker Bay Recycling, met 'n langtermynkontrak vir die bedryf van die gemeganiseerde herwinningaanlyn by die Hermanus Vaste Afval Oortuissatise, eindigend 30 Oktober 2022.

Die voorgesonde kontrak en die inligtingsk wat die Munisipaliteit se verpligings ten opsigte van die voorgesonde kontrak vervat kan by die Munisipaliteit se hoof- en afdelingskantore en biblioteke gedurende amptelike kantoorure oënskynbaar word. Die kontrak en inligtingsk is ook verkrygbaar op die amptelike webblad van die Munisipaliteit by [www.overstrand.gov.za](http://www.overstrand.gov.za) vanaf 27 Julie 2017.

Die voorgesonde kontrak sal vir oorsigging voor die Munisipale Raad van die Owerstrand Plaaslike Munisipaliteit dien tydens die Raadsvergadering ses-tenstekeer vir 27 September 2017 by die Munisipale Kantore in Hermanus.

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 geïnteresseerde partye geïnviteer word om kommentaar of vertoe oor die voorgesonde wysiging in langtermynkontrak vir die bedryf van die gemeganiseerde herwinningaanlyn by die Hermanus Vaste Afval Oortuissatise, Hierdie kommentaar of vertoe moet teen nie later nie as Maandag, 28 Augustus 2017 om 12:00 ingesdien word.

Kommentare of vertoe moet ingesdien word in 'n verselde oswert, duidelik gemerk "SC667B/2010: Langtermyn kontrak vir Hermanus Vaste Afval Oortuissatise" en geplaas word in tenderbusn.7.

Alle voorleggings moet geadresseer word aan:

Die Munisipale Bestuurder  
Tenderbusn.7  
Overstrand Munisipaliteit  
Magnolielaan  
Hermanus  
7200

Navrae kan gerig word aan Mnr. Johan van Taak, Tel: 028 313 5045 en e-pos: [jvanisa@overstrand.gov.za](mailto:jvanisa@overstrand.gov.za)

Persones wat liggaemlik geïnteresseerd is of nie kan lees of skryf nie, maar aan die proses wil deelneem, kan gedurende kantoorure na die Munisipale Kantore, Magnolielaan, Hermanus kom, waar die Direkteur: Infrastruktuur en Beplanning of 'n persoon soos deur hom aangewys word persoon sal help om die kommentaar of vertoe te verskryf.

C. Groenewald  
Munisipale Bestuurder

Ishumbeano SC657B/2010 seerhesha eide esphatanyiswayo kwazinto eSikhululweni Sokugqithisela Nkukuma Eginleyo Umthetho wokubawula ezakhal kaMasipala waseOverstrand; ka2005: kandebo 33 no116 (3).

Iigqibo esesisekweni esigunyizwe Ibhunga likaMasipala waseOverstrand, ngemamsele yembandela yeCandebo 33 no116 (3) kaMasipala weNgqibo Umthetho wokubawula ezakhal kaMasipala onqunombolo 56 ka2005, ipapasha ukuba uMasipala waseOverstrand ucaba ukwandisa ishumbeano esasikuma noWalker Bay Recycling, angene kwisumbeano sezeshisa elide sokuseyenziswa kwendawo yokubuyiselwa kwazinto eSikhululweni Sokugqithisela Nkukuma Eginleyo esaseHeramanus esayophelana ngo30 kaOctober 2022.

Esi shumbeano esiphakanyiswayo, kunye nenkcukacha esiphambathela izophelate zakalesipala ngokwesisi shumbeano nakwi lona azingamabeyana kwakunye namafala esowcedi ngayure zokusebenza zazi ofisi nala mathala esowcedi. Esi shumbeano siphatanyiswayo kunye nenkcukacha siyilumanela kwi website esemintshweni yakwa Masipala ngoku [www.overstrand.gov.za](http://www.overstrand.gov.za) ukususela we27 ku-Julyi 2017 ngoku kwawulawula.

Esi shumbeano siya kwulawulwa Ibhunga likaMasipala elikuMasipala weNgqibo Owerstrand ngexesha, tenqaniso yeBhunga eya kube ibanjelwe eHeramanus ngomhla we27 kuSeptemba 2017, kwilOsi zikaMasipala eHeramanus.

Isaziso shiswa ngokweninzi ye Candebo 21 no 21A kaMasipala weNgqibo Umthetho wokubawula ezakhal kaMasipala, 2000 (umthetho 32 ka2000) ukuba abantu abasuka ekuhloleni nabanye abantu abanoma, bayamanywa ukuba bathumele izimvo zazo okanye izimvo ezilobhalelweyo kuMasipala mayelana nesihumbeano sezeshisa elide esiphakanyiswayo neshintshisiwayo ukuseyenziswa kwandako yokubuyiselwa kwazinto eSikhululweni Sokugqithisela Nkukuma Eginleyo eHeramanus, oko kwenzwa pibanzi kuka 12:00, ngoMvulo, umhla we 28 Agasti 2017.

Izimvo ezilobhalelweyo mazifakwe kwimvulophu ebhalwe nokucacileyo, elwiniweyo kubhalwe "Isivumelwano SC657B/2010 sezeshisa elide sokulawula kweSikhululweni Sokugqithisela Nkukuma Eginleyo esaseHeramanus" zifakwe kwibhokisi ye-Zinkh-maxabiso no.7.

Zanke iziphakamiso mazithurwe kwi:

Umphethi kaMasipala  
Brokwe yezinkh-maxabiso no. 7  
UkMasipala weNgqibo yase-Overstrand  
Magnolia Avenue  
Heramanus  
7200

Ibhuzo ngobumyehwe ku Mru. Johan van Taak, Ummeber, 028 313 5045 ne-imeyili: [jvanisa@overstrand.gov.za](mailto:jvanisa@overstrand.gov.za)

Navaphi na umntu onqwenela ukuthumela izimvo zazo okanye izimvo ezilobhalelweyo, abantakwazayo ukubhalwa bakhe okanye ngumlawuli weziseko noZwango so okanye ngumntu onisekwe nguye ukuncedisa ukubhalwa izimvo.

C. Groenewald  
UkMasipala kaMasipala



Navrae:  
Enquiries: H Bignaut/ S Muller/ J van Taak

Verwysing:  
Reference: SC 867B/2010



Datum:  
Date: 28 July 2017

KANTOOR VAN DIE MUNISIPALE BESTUURDER /  
OFFICE OF THE MUNICIPAL MANAGER

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To: National Treasury – Mr S Mkhwanazi (GTAC) & Mr W McComans (MFMA Implementation)  
Provincial Treasury Western Cape – Mr Z Hoosain  
Department of Environmental Affairs – Mr E Hanekom  
Co-operative Governance and Traditional Affairs (COGTA) – Mr T Lebohang

Dear Sir/Madam

**Views and Recommendations – Proposed Amendment to Existing Long Term Contract SC867B/2010 for the Operation of the Mechanised Material Recovery Facility at the Hermanus Solid Waste Transfer Station**

In terms of section 33 of the Local Government: Municipal Financial Management Act, No 56 of 2003 (MFMA), we hereby request your views and recommendations in respect of the proposed amendment of the existing long term contract SC867B/2010 for the Operation of the Mechanised Material Recovery Facility at the Hermanus Solid Waste Transfer Station.

In order for you to express your views and recommendation(s) as required in terms of section 33 (1)(b)(iv) please find attached the following:

1. Annexure A: Information Statement
2. Annexure B: Existing Contract
3. Annexure C: Addendum to the existing contract indicating the intent of both parties to amend the escalation clause of the existing agreement, subject to the approval of the Supply Chain Management Bid Adjudication Committee and the Overstrand Municipal Council
4. Annexure D: Advertisement inviting the local community and interested stakeholders to submit representations or comments on the amendment of the escalation clause of the existing contract SC867B/2010.

In terms of section 33 (1)(a) you are hereby notified of the Overstrand Municipality's intent to enter into a contract which will impose a financial obligation beyond the three years covered in the annual budget for the 2017/2018 to 2019/20 financial years. The proposed contract amendment will end on 30 October 2022.



Please express your views and recommendation(s) to the undersigned within 30 days of the date of this letter, in order for the local council to take all representations into account for decision making, giving effect to section 33(1)(b)(i-iv) of the MFMA.

Yours sincerely



*PH*  
Mr. CC Groenewald  
MUNICIPAL MANAGER