

**6.
PROPOSED AMENDMENT OF CONTRACT SC 878/2010: OPERATION OF THE
GANSBAAI LANDFILL SITE AND PUBLIC DROP-OFF FACILITIES IN GREATER
GANSBAAI AND STANFORD**

8/2/1/SC878/2010

H Blignaut

(028) 313 5047

Hermanus Administration

13 November 2018

1. Executive Summary

The purpose of this report is to provide the necessary information and motivation for the proposed amendment of Contract Number SC878/2010: Operation of the Gansbaai Landfill Site and Public Drop-Off Facilities in Greater Gansbaai and Stanford, in terms of the enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act No. 56 of 2003) (MFMA), to enable Council to make an informed decision whether to consent to the amendment of the contract.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Infrastructure & Planning

Department: Engineering Planning, Solid Waste Planning section

3. Compliance with Strategic Priority/ies

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)

National Environmental Management: Waste Act, 2008 (Act 59 of 2008)

Overstrand Municipality Supply Chain Management Policy as amended

Overstrand Municipality Contract Management Policy as amended

National Treasury MFMA Circular 73

6. Background/Evaluation/Conclusion

Background

Contract SC878/2010 for the Operation of the Gansbaai Landfill Site and public drop-off facilities in Greater Gansbaai and Stanford was awarded to EnviroServ Waste Management (Pty) Ltd on 18 August 2010, and approved by Council in terms of section 33 of the MFMA on 24 November 2010, and will terminate on 30 November 2018. Due to unforeseen delays in the evaluation and adjudication process of the new tender, SC1892/2018, it became necessary to extend the end date of the current operations contract, SC 878/2010, with 3 months until 28 February 2019 to ensure uninterrupted service delivery.

MFMA 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 SC878/2010 was advertised for public comment as follows (refer to Annexure B):

Date of Advertising:	11 October 2018
Method of Advertising:	Cape Times, Die Burger, Overstrand Website & Municipal Notice Boards
Closing Date for Comments:	25 October 2018

No comments were received by the closing date.

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).

Evaluation

The proposed amendment of Contract SC878/2010 is for the following reasons:

- (a) To ensure that there is no interruption in service delivery before the award of the new Gansbaai Landfill Operation contract, i.e. Contract SC 1892/2018.
- (b) To provide sufficient time for the successful bidder for the operation of the Gansbaai Landfill to establish on site in terms of the new contract, to ensure continuous landfill air space availability to the users.

The contract is tariff based. The service provider signed an Intent to Amend (refer to Annexure A), confirming his acceptance of the proposed extension of the contract on exactly the same terms and conditions.

Conclusion

The extension of Contract SC878/2010 is essential to ensure continuous service delivery and availability of landfill air space at Gansbaai. The service provider signed an acceptance of the extension of the contract on the same terms and conditions, thereby minimising any risk to Overstrand Municipality. The proposed amendment of the contract will have no adverse financial implication for Council.

7. Financial Implications

Source of Funding: Operating Budget Provision

The estimated financial implication of the amendment of the contract is illustrated in the table below. The estimated amount of the amendment is within the available budget.

YEAR	Budget 2018/2019
SCOA Description	OutsracdServ:Mini Dumping Sites
SCOA Cost Account	13640200440000
SCOA Business Key	20170525078506
Budget Provision	R 8 341 890
Balance Available	R 2 750 906
Total Estimated Maximum Expenditure for Amendment (excluding VAT)	R 796 414

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations**Contract Management Office**

It is confirmed that contract **SC 878/2010** is still active and the proposed extension of the contract is supported. This is the first extension to the existing contract, and a Section 116(3) amendment as required by the MFMA is being followed. The successful amendment of this contract is subject to Council's consent to the proposed amendment of the contract.

10. Annexures

Annexure A: Signed Intent to Amend

Annexure B: MFMA Section 116(3) Public Notice

RECOMMENDATION TO THE COUNCIL:

1. that **cognisance be taken** of the reasons for the proposed amendment of Contract SC878/2010 for the Operation of the Gansbaai Landfill Site and Public Drop-Off Facilities in Greater Gansbaai and Stanford, in terms of the enabling provisions of Section 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 by the closing date of 25 October 2018.

RESPONSIBLE OFFICIAL :

J VAN TAAK

TARGET DATE FOR IMPLEMENTATION :

1 DECEMBER 2018

TARGET DATE TO INFORM APPLICANT :

N/A

TARGET DATE TO INFORM OBJECTOR :

N/A

Annexure A



Enquiries: H Blignaut/J van Taak
Date: 5 October 2018

OFFICE OF THE DIRECTOR:
INFRASTRUCTURE & PLANNING

ADDENDUM – INTENT TO AMEND A CONTRACT

The parties agree to the following intention to amend the existing contract SC878/2010 between Overstrand Municipality and Enviroserv Waste Management (Pty) Ltd for the Operation of the Gansbaai Landfill Site and Drop Offs In Greater Gansbaai and Stanford for Overstrand Municipality, and record that 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 contract, from 30 November 2018 to 28 February 2019, on exactly the same terms and conditions as agreed to in the original contract.



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

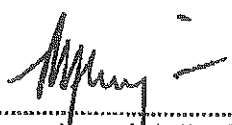
The parties agree that the amendment of the contract is subject to the completion of a Supply Chain Management process, including completing a process as prescribed by section 116(3) of the Municipal Finance Management Act.

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 Bellville on this 5 day of October 2018 in the presence of the undersigned witnesses



WITNESSES:

- 1. 
- 2. 


 Duly authorized, for and on behalf of Enviroserv Waste Management (Pty) Ltd
 Name: AC Posthumus
 Designation: General Manager: Coastal

Thus done and signed at HERMANUS this 15th day of OCTOBER 2018 in the presence of the undersigned witnesses

WITNESSES:

- 1. 
- 2. 


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

Annexure B

NOTICE/KENNISGEWING/ISAZISO		
<p>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 CONTRACT SC878/2010 WITH ENVIROSERV WASTE MANAGEMENT (PTY) LTD FOR THE OPERATION OF THE GANSBAAI LANDFILL SITE AND DROP OFFS IN GREATER GANSBAAI AND STANFORD.</p>	<p>KENNISGEWING INGEVOLGE ARTIKEL 116(3) VAN DIE WET OP PLAASLIKE REGERING: MUNISIPALE FINANSIËLE BESTUUR, 2003 (WET 56 VAN 2003) VIR DIE VOORGESTELDE WYSIGING VAN DIE BESTAANDE OOREENKOMS MET ENVIROSERV WASTE MANAGEMENT (EDMS) BPK VIR DIE BEDRYF VAN DIE GANSBAAI VASTE AFVAL STORTINGSTERREIN EN AFLAAPLEKKE IN GROTER GANSBAAI EN STANFORD.</p>	<p>ISAZISO NGOKWECANDELO-116(3) KARTHULUMENTE WENGINQI: UMTHETHO WOLAWULO MALI KAMASIPALA, NO.56 WANGO-2003 UPHAKAMISA UKWANDISA, ISIVUMELWANO ESIMIYO SENTENGO SOKUSETYENZISWA KWEGANSBAAI LANDFILL SITE KWISIXEKO SEGANSBAAI NE-STANFORD SC878/2010 KUNYE NOMNINKONZO U-ENVIROSERVE WASTE MANAGEMENT (PTY) LTD.</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 extend the existing contract with Enviroserve Waste Management (Pty) Ltd, for the operation of the Gansbaai landfill site and Drop-Offs in Greater Gansbaai and Stanford for a period of three months, effectively from 1 December 2018 to 28 February 2019.</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 Thursday, 25 October 2018 at 12:00.</p> <p>Comments or representations must be submitted in a sealed envelope clearly endorsed "SC878A/2010: COMMENTS ON NOTICE OF AMENDMENT OF EXISTING AGREEMENT FOR THE OPERATION OF THE GANSBAAI LANDFILL" and be deposited in tender box no. 7.</p> <p>All submissions must be addressed to:</p> <p>The Municipal Manager Tender box no 7 Overstrand Municipality Magnolia Avenue Hermanus 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, Hermanus where a staff member will assist that person to transcribe that person's comments or representations.</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 Enviroserve Waste Management (Edms) Bpk, vir die bedryf van die Gansbaai stortingssterrein en aflaaiplekke in Groter Gansbaai en Stanford te verleng vir 'n verdere periode van drie maande, effektief vanaf 1 Desember 2018 tot 28 Februarie 2019.</p> <p>Kennis geskied verder ingevolge artikel 21 en 21A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), dat die plaaslike gemeenskap en geaffekteerde partye genooi word om kommentaar of vertoë oor die voorgestelde wysiging van die ooreenkoms aan die Munisipaliteit te lewer. Hierdie kommentaar of vertoë moet teen nie later nie as Donderdag, 25 Oktober 2018 om 12:00 ingedien word.</p> <p>Alle kommentare of vertoë moet ingedien word in 'n verseëelde kovert, duidelik gemerk "SC878A/2010: KOMMENTAAR OP KENNISGEWING VAN WYSIGING VAN BESTAANDE OOREENKOMS VIR DIE BEDRYF VAN DIE GANSBAAI STORTTERREIN" en geplaas word in Tenderbus nr. 7.</p> <p>Alle voorleggings moet geadresseer word aan:</p> <p>Die Munisipale Bestuurder Tenderbus nr. 7 Munisipaliteit Overstrand Magnoliaalaan Hermanus 7200</p> <p>Personne wat liggaamlik gestremd is of nie kan lees of skryf nie, maar aan die proses wil deelneem, kan gedurende kantoortore na die Munisipale Kantore, Magnoliaalaan, Hermanus kom, waar 'n personeelid hulle sal help om die kommentaar of vertoë neer te skryf.</p>	<p>Ngokugunyaziswa licandelo 116 (3)(a) no (b) lomithetho kaRhulumente wengingqi, umthetho wolawulo mali kamasipala ka2003 (umthetho we56 ka2003), uMasipala weNgingqi yase-Overstrand vazisa ngeenjongozawo zokwandisa isivumelwano sentengo esimiyi solawulo nokutyenziswa kweGansbaai Landfill Site SC878/2010 phakathi komasipala nosomashishini uEnviroserve Waste Management (PTY) Ltd kwingingqi embaxa yaseGansbaai neStanford. Umasipala uceba ukwandisa esivumelwana ngenyanga ezintathu, usukela ngomhla 01 December 2018 uyakutsho nge 28 February 2019.</p> <p>Ngokugunyaziswa ngakumbi licandelo 21 no 21A lomithetho kaRhulumente weNgingqi: uMithetho weNkqubo zoMasipala, 2000 (Mithetho 32 ka2000) uMasipala umema abantu basekuhlaleni nabanye abantu abachaphazelekayo ukuba bathumele izimvo zabo okanye izinto abazibhalileyo ngokumayela nokulungiswa kwesi sivumelwano siphakanyiswayo. Ezo zimvo okanye izinto abazibhalileyo kufuneka zingeniswe ngo Lwesine, 25 October 2018 ngentsimbi yeshumi elinesibini (12)</p> <p>Izimvo okanye izinto ezibhalileyo mazitakwe kwimvulophu elywinweyo ephalwe ngokucacileyo "SC878A/2010: IZIMVO KWISAZISO SOKULUNGISWA KWESIVUMELWANO ESIMISWEYO SOLAWULO NOKUSETYENZISWA KWE-GANSBAAI LANDFILL SITE KWISITHILE SAGEGANSBAAI NESTANFORD zifakwe kwi Bhokisi yeZiniki-maxabiso no. 7.</p> <p>Zonke imbalelwano mazithunyelwe ku:</p> <p>Umphathi kaMasipala Bhokisi yeZiniki-maxabiso no 7 UMasipala weNgingqi yase-Overstrand Magnolia Avenue Hermanus 7200</p> <p>Abantu abakhubazekileyo kunye nabantu abangakwaziyo ukubhala kodwa bengangqwenela ukuthatha inxaxheba kulomba, bayacelwa baye kwiOfisi zika Masipala eMagnolia Avenue. eHermanus apho kukho umntu ozokubanceda ngokubhala izimvo okanye iziphakamiso zabo.</p>
<p>C Groenewald Municipal Manager</p>	<p>C Groenewald Munisipale Bestuurder</p>	<p>C Groenewald UManejala kaMasipala</p>