

**11.
LONG TERM WASTE DISPOSAL AGREEMENT BETWEEN OVERSTRAND MUNICIPALITY, THE OVERBERG DISTRICT MUNICIPALITY, AND THEEWATERSKLOOF MUNICIPALITY WITH REGARDS TO THE KARWYDESKRAAL REGIONAL LANDFILL SITE**

16/5/4

H Blignaut

(028) 313 5047

Hermanus Administration

15 October 2018

1. Executive Summary

The purpose of this report is to provide the necessary information and motivation with regard to the conclusion of a long term waste disposal agreement between Overstrand Municipality (OM), the Overberg District Municipality (ODM), and Theewaterskloof Municipality (TWK) with regards to the utilization of the Karwyderskraal Regional Landfill Site, to enable Council to take an informed decision when considering the long term agreement in terms of section 33 of the Local Government: Municipal Finance Management Act, 2003 (Act no. 56 of 2003) (MFMA).

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, 2003 (Act 56 of 2003) (MFMA)

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

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

6. Background/Evaluation/Conclusion

Background

The Karwyderskraal Landfill site is situated on Portion 79 (a portion of Portion 1) of the farm Afdaksrivier no. 575, and is owned by the ODM. ODM has the

powers and functions in terms of section 84(1)(e) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as a regional landfill site for the Overberg district.

The Karwyderskraal Landfill site forms an integral component of the solid waste disposal system of OM. All the solid waste generated in the Greater Hermanus, Kleinmond, Bettiesbaai, Pringle Bay and Rooi-Els areas is disposed of at the Karwyderskraal landfill.

As the ODM was not in a financial position to construct a 3rd solid waste disposal cell (Cell 3) on the Karwyderskraal Landfill site when it became necessary to do so, OM raised an external loan and a municipal infrastructure grant for this purpose, and constructed Cell 3, and has successfully operated Cell 3 to date, in terms of a lease agreement with the ODM for the lifespan of Cell 3.

Cell 3 is approaching its capacity and the end of its useful life, and therefore it became necessary to plan for the construction, commissioning and operation of a new waste cell, i.e. Cell 4. OM and ODM could not reach agreement on the way forward with regard to Cell 4, and a Task Team was subsequently appointed in June 2017 by the Western Cape Minister of Environmental Affairs and Development Planning, with the view of concluding an agreement which will be acceptable to all parties involved with regard to the funding, construction, and future operation and use of the Karwyderskraal Landfill Site.

The Department of Environmental Affairs and Development Planning (DEADP)'s Director: Waste Management served as chairperson of the Task Team, with representatives of ODM, OM, TWK, Cape Agulhas Municipality, and Provincial Treasury also serving on the team. Agreement was reached and entered into after consultation with the Executive Mayor and, bearing in mind the provisions of Clause 11 of the agreement, with the other stakeholders by the Municipal Manager on 6 July 2018. The long term Service Level Agreement requires of ODM to develop new Cells as and when required, to ensure uninterrupted landfill disposal capacity to be available to all the users of the facility.

The OM, TWK and Third Parties will make use of the Karwyderskraal Regional Landfill site for the delivery of its general waste for disposal or appropriate diversion as determined by the waste type, and pay the applicable charges as set out in the long term Service Level Agreement.

The duration of the long term Service Level Agreement will be from the effective date (commissioning of Cell 4) until the last day of the useful life of the Regional Landfill, which at this time, and given the current waste volumes disposed there, is estimated to be approximately fifty five (55) years. Commencement of the operation of Cell 4 is anticipated for the first quarter of 2019, i.e. by March 2019.

Evaluation

The long term Service Level Agreement which is the subject of this report is similar in nature as the previous arrangements between these same parties since the commissioning of the Karwyderskraal Regional Landfill site in February 2002.

The only additions to this long term Service Level Agreement are the duration that makes provision for the remaining service life of the regional landfill facility, and the payment of a rehabilitation charge per ton of waste disposed, to make provision for the future rehabilitation costs of the facility.

Disposal charges will be adjusted annually, and shall be aligned to the actual capital and operational costs and the provision for rehabilitation, and will be agreed in writing between the Parties. The long term service level agreement is attached to this report as Annexure A.

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.

The procedures prescribed by section 33 of the MFMA have been duly followed. 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 OM.

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

- An advertisement (refer to Annexure B), inviting comments from the local community and other interested persons was published in the local media and on the municipal web site on 24 August 2018 (i.e. more than 60 days before the Council meeting of 31 October 2018). No comment, input or inquiry was received before the closing date of 25 September 2018, other than from the Director: Waste Management at DEADP.
- An Information Statement (refer to Annexure C) discussing the proposed long term Service Level Agreement was made available to the public from 23 August 2018 on the OM web site.
- The views and recommendations of the following stakeholders have been solicited for 30 days from 23 August 2018 (refer to Annexure D): National Treasury, Provincial Treasury, the Department of Co-operative Governance and Traditional Affairs, Department of Environmental Affairs, and the Provincial Department of Environmental Affairs and Development Planning (DEADP), and the ODM. Comments were received only from the DEADP (refer to Annexure E).

The comments from DEADP comprised of the following:

- The MFMA section 33 documentation have been scrutinized and there is no hesitation in expressing support for the long term Service Level Agreement.

The projected financial implications of the long term Service Level Agreement are illustrated in Annexure F. No adverse effects on future budgets and therefore tariffs are envisaged. The annual cost of the long term Service Level Agreement is estimated at approximately 10% of the total annual Solid Waste expenditure.

Conclusion

The financial calculations indicate that the fact that the long term Service Level Agreement was based on the actual construction and operating costs occurred by the ODM, it would not result in significant annual increases in the Refuse Removal Tariffs of OM. The anticipated annual increases in tariffs are within acceptable limits.

The conclusion of the long term Service Level Agreement is in the interest of OM and its residents and will secure for OM a significant economic financial benefit by eliminating the potential need to dispose of solid waste elsewhere.

7. Financial Implications

Source of Funding: Operating Budget Provision

The estimated financial implications of the long term Service Level Agreement over the estimated remaining useful life of 55 years of the Karwyderskraal Landfill Site are illustrated in Annexure E.

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

	2018/19	2019/20	2020/21
mSCOA Description	OutsrcdServ:Mini Dumping Sites	OutsrcdServ:Mini Dumping Sites	OutsrcdServ:Mini Dumping Sites
mSCOA Cost Account	13640200440000	13640200440000	13640200440000
mSCOA Business Key	20170525078506	20170525078506	20170525078506
Budget Provision (excluding VAT)	R 8 341 890	R 10 751 870	R 11 878 017
Total Estimated Expenditure (excluding VAT)	R 6 294 662	R 6 914 803	R 7 336 059

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

- Annexure A: Long Term Service Level Agreement for Waste Disposal
- Annexure B: MFMA Section 33 Public Notice
- Annexure C: MFMA Section 33 Information Statement
- Annexure D: MFMA Section 33 Letter to Stakeholders
- Annexure E: MFMA Section 33 comments received from DEADP
- Annexure F: Projected financial implications of the long term agreement

RECOMMENDATION TO THE COUNCIL:

1. that Council **takes cognisance** of the response received from the Department of Environmental Affairs and Development Planning to the request for comments, representations, views and recommendations in respect of the long term Waste Disposal Service Level Agreement between Overstrand Municipality, the Overberg District Municipality, and Theewaterskloof Municipality in respect of the Karwyderskraal Regional Landfill Site, in terms of the enabling provisions of Section 33 of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003); and
2. that it be determined that Overstrand Municipality will derive a significant economic financial benefit from the long term Service Level Agreement and entering into the agreement **be confirmed**.

RESPONSIBLE OFFICIALS :

**H BLIGNAUT
J VAN TAAK**

TARGET DATE FOR IMPLEMENTATION :

**COMMISSIONING DATE OF
KARWYDERSKRAAL CELL 4,
CURRENTLY ESTIMATED TO
BE 1 MARCH 2019**

WASTE DISPOSAL AGREEMENT

entered into between

THE OVERSTRAND MUNICIPALITY

("Overstrand")

and

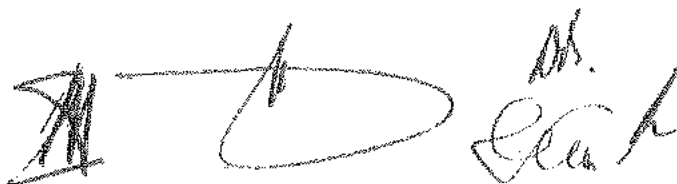
THE THEEWATERSKLOOF MUNICIPALITY

("TWK")

and

THE OVERBERG DISTRICT MUNICIPALITY

("Overberg")



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1. INTRODUCTION

WHEREAS Overberg has the powers and functions in accordance with Section 84(1)(e) of the Local Government: Municipal Structures Act (Act 117 of 1998) for solid waste disposal sites in so far as it relates to:

- the determination of a waste disposal strategy;
- the regulation of waste disposal; and
- the establishment, operation and control of waste disposal sites, bulk waste transfer facilities and waste disposal facilities for more than one local municipality in the district;

AND WHEREAS Overberg is the owner of portion 79 (a portion of portion 1) of the Farm Afdakrivier 575, known as Karwyderskraal on which it operates a regional waste disposal site, and Overstrand, TWK and Third Parties make use of such a solid waste disposal site and the waste disposal facilities thereon;

AND WHEREAS Overberg intends to establish and construct a fourth cell on portion 79 (a portion of portion 1) of the Farm Afdakrivier 575, known as Karwyderskraal;

NOW THEREFORE the Parties hereto agree as follows:

2. DEFINITIONS

2.1 In this Agreement, except in a context indicating that some other meaning is intended,

2.1.1 **"Agreement"** means this agreement entered into between the Overstrand, TWK and Overberg and includes all annexures hereto;

2.1.2 **"Business Day"** means any day of the week excluding Saturdays, Sundays and Public Holidays as determined in terms of the Public Holidays Act;

2.1.3 **"Cell Four"** means the new cell to be established, constructed and operated in the Regional Waste Disposal Facility;

2.1.4 **"Change in law"** means the promulgation, adoption, enactment or change in legislation, which occurs subsequent to the Effective Date and affects the construction, ownership, operation, use or maintenance of the Regional Waste Disposal

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Facility required to provide Overstrand and TWK with the waste disposal services provided for in this Agreement, including by way of example but not by way of limitation, the imposition of any new condition or other change which is first required by such a governmental body after the Effective Date with respect to the granting, issuance, or renewal of any required permit or licence or approval for the provision of the services.

- 2.1.5 **"Charges"** means all of the charges as agreed upon between the Parties to be levied by Overberg for the use of the Regional Waste Disposal Facility in terms of clause 7 of this Agreement;
- 2.1.6 **"Construction Demolition Waste"** means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition and all waste defined as "building and demolition waste" in terms of the Waste Act;
- 2.1.7 **"Contractual Term"** means the period from the Effective Date until the last day of the useful life of the Regional Waste Disposal Facility, which is estimated to be 55 (fifty five) years, calculated from the Effective Date;
- 2.1.8 **"Cover Material"** means clean sand or the material from earthmoving activities with the exclusion of large rocks and boulders exceeding 250mm in length which requires additional handling and treatment other than the normal covering and compaction, excluding reinforced builders rubble;
- 2.1.9 **"CPI"** means the consumer price index increase as determined by Statistics South Africa annually as published on the date of escalation;

- 2.1.10 **"Delivery Hours"** means the hours from 08:00 in the morning until 18:00 in the evening from Monday to Friday which will include public holidays; as well as provision for delivery after hours at reasonable times and on reasonable notice to Overberg, as and when the need arises, which shall be recorded in the contract entered into between Overberg and the service provider that operates the Regional Waste Disposal Facility;
- 2.1.11 **"Effective Date"** means the date upon which Overberg notifies the other Parties in writing that the construction of Cell Four has been completed and is ready for operation;
- 2.1.12 **"Financial Year"** means a year commencing on 1 July in the one year and ending on 30 June of the following year;
- 2.1.13 **"Fixed Waste Disposal Cost"** means the fixed annual charge levied by Overberg for the use of the Regional Waste Disposal Facility in terms of clauses 7.10 to 7.13 below;
- 2.1.14 **"Force Majeure"** means any event of war, civil commotion, fire, flood, action by any government, terrorism, sabotage or embargos, industrial action, strike or labour unrest or any event beyond the reasonable control of the Party affected which directly causes either Party to be unable to comply with all or a material part of its obligations under this Agreement;
- 2.1.15 **"Fruit Waste"** means solid waste deriving from fruits and vegetables that is biodegradable and includes the peel, skin, pulp, seeds and leaves;
- 2.1.16 **"Garden Waste"** means waste generated as a result of normal domestic gardening activities including grass cuttings, leaves, plants, flowers and other similar small and light organic matter and chipped tree branches;

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- 2.1.17 **"General Waste"** means waste that is defined as "general waste" in terms of Schedule 3 of the Waste Act, as amended from time to time;
- 2.1.18 **"Good Engineering Practice"** means those practices, methods and equipment that are generally observed at the time with reference to prudent engineering practice for a waste disposal site and transfer station design, waste collection, handling, processing and disposal operations similar in size and function to those undertaken by Overberg in order to provide the services covered by this Agreement lawfully with safety, dependability, efficiency and economy in compliance with applicable government codes, if any, establishing engineering standards for similar services;
- 2.1.19 **"Hazardous Waste"** means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;
- 2.1.20 **"Health Care Risk Waste"** means that portion of health care waste that is hazardous and includes infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, waste with heavy metals, radioactive waste, and any other health care waste which is defined as hazardous in terms of the Waste Management Series: Document 1: Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste, as published by the Department of Water Affairs and Forestry, now the Department of Water and Sanitation;
- 2.1.21 **"Household"** means a collection of individuals staying on a distinctive property and/or premises regardless of their relationship to one another;

- 2.1.22 **"Industrial Waste"** means waste generated as a result of manufacturing, maintenance, fabricating or dismantling activities, but shall not include Building Waste, General Waste, Hazardous Waste or waste generated by domestic households;
- 2.1.23 **"Karwyderskraal Monitoring Committee"** means the monitoring committee established in terms of clause 9 of the Permit;
- 2.1.24 **"Licensed facility"** means a waste disposal facility that has been issued with a Waste Management Licence required in terms of the Waste Act and any other approval required by law;
- 2.1.25 **"Overberg"** means the Overberg District Municipality or its successors in title;
- 2.1.26 **"Overstrand"** means the Overstrand Municipality or its successors in title;
- 2.1.27 **"Parties"** means Overberg, Overstrand and TWK and "Party" refers to one of the Parties as the context may indicate;
- 2.1.28 **"Permit"** means the permit number 19/2/5/4/E2/8/WL0098/17 issued to Overberg District Municipality on 12 February 2018 or as re-issued by any subsequent permit in respect of the Regional Waste Disposal Facility in terms of section 20 of the Waste Act;
- 2.1.29 **"Recycled Waste"** means waste that has undergone a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material;
- 2.1.30 **"Regional Waste Disposal Facility"** means the licensed Karwyderskraal Sanitary Landfill Site situated on portion 79 (a portion

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of portion 1) of the Farm Afdakrivier 575, known as Karwyderskraal, which is owned and operated by Overberg for the western part of the Overberg;

- 2.1.31 **“Rehabilitation Contribution”** means the portion of the Rehabilitation Costs that will be payable by Overstrand, TWK and Third Parties as set out in clauses 7.14 to 7.20 below;
- 2.1.32 **“Rehabilitation Costs”** means the costs associated with rehabilitating the Regional Waste Disposal Facility;
- 2.1.33 **“Reinforced builders rubble”** means builders rubble still containing reinforced steel and pieces of concrete larger than the size of a brick or exceeding 250mm in length;
- 2.1.34 **“Ring-fenced bank account”** means an arrangement made with a bank whereby money is separated from an ordinary bank account for regulatory or contractual reasons, to be deposited and be earning interest, and where withdrawals of money will be authorised for said regulatory or contractual purposes only;
- 2.1.35 **“Sand”** means soil/earth/sand as acceptable cover material which does not contain any other material and is without rocks and stones;
- 2.1.36 **“Third Parties”** means other municipalities and private users in the Overberg Regional District to which Overberg grants a right to make use of the Regional Waste Disposal Facility;
- 2.1.37 **“TWK”** means the Theewaterskloof Municipality or its successors in title;
- 2.1.38 **“Waste Act”** means the National Environmental Management: Waste Act (Act 59 of 2008) as amended from time to time;

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- 2.1.39 "Waste Disposal
Tariff" means the variable tariff per ton of waste deposited, as indicated in clauses 7.7 to 7.9 below.
- 2.1.40 Expressions in the singular also denote the plural and vice versa;
- 2.1.41 Words and phrases denoting natural persons refer also to juristic persons and vice versa;
- 2.1.42 Pronouns of any gender include the corresponding pronouns of the other genders;
- 2.1.43 The rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the Agreement, shall not apply;
- 2.1.44 Where the day upon or by which any act is required to be performed falls on a day which is not a Business day, then the relevant date for performance shall be the next succeeding Business day;
- 2.4.45 Where any term is defined within the context of any particular clause in this Agreement, the terms so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement in clause 2.1 above;
- 2.1.46 References to a statutory provision include any subordinate legislation made from time to time under that provision and include that provision as modified or re-enacted from time to time;
- 2.1.47 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.2 Clause headings appear in this Agreement for purposes of reference only and shall not influence the proper interpretation of the subject matter.

3. REPRESENTATION OF THE PARTIES

- 3.1 Overberg warrants and represents to Overstrand and TWK the following:
- 3.1.1 The execution and delivery of this Agreement has been properly and lawfully authorised and this Agreement constitutes legal, valid and binding obligations enforceable in accordance with its terms (except as enforceability may be limited by applicable laws).

3.1.2 To the best of its knowledge, there is no pending or threatened litigation or governmental proceedings which would affect its ability to perform its obligations under this Agreement.

3.2 Overstrand and TWK warrant and represent to Overberg the following:

3.2.1 The execution and delivery of this Agreement has been properly and lawfully authorised and this Agreement constitutes legal, valid and binding obligations enforceable in accordance with its terms (except as enforceability may be limited by applicable laws).

3.2.2 To the best of their knowledge, there is no pending or threatened litigation or governmental proceedings, which would affect their ability to perform their obligations under this Agreement.

4. INTERGOVERNMENTAL MONITORING COMMITTEE

4.1 The Parties hereby agree to utilise the Karwyderskraal Monitoring Committee, to fulfil a monitoring and co-ordination function, but not a decision-making function, relating to the landfill activities and functions as set out in this Agreement for the full duration of this Agreement.

4.2 The monitoring committee shall meet according to the permit conditions on a pre-determined date at the Regional Waste Disposal Facility.

5. DEVELOPMENT OF REGIONAL WASTE DISPOSAL FACILITY

5.1 Overberg shall do the following for the duration of the Agreement:

5.1.1 Retain ownership of portion 79 (a portion of portion 1) of the Farm Afdakrivier 575 for the development, construction and operation of a Regional Waste Disposal Facility.

5.1.2 Design and construct the waste disposal facility in conformity with the Waste Act and any regulations promulgated thereunder, all applicable codes, permits, bylaws, regulations and other applicable laws, as well as in accordance with Good Engineering Practice.

5.1.3 Obtain and maintain all necessary and required statutory authorisations for the handling and disposal of General Waste at the Regional Waste Disposal Facility.

5.1.4 Use its best endeavours, within the limitations imposed by legislation and its budget, to proceed with the further development of the Regional Waste Disposal Facility in a diligent, orderly and prudent manner for the municipalities in the Overberg Regional District.

- 5.1.5 If Overberg chooses to award a contract to a private entity to design and construct Cell Four and subsequent cells and/or operate the Regional Waste Disposal Facility, it shall proceed in a diligent, orderly, and prudent manner and shall at all times keep Overstrand and TWK informed of its progress in that process.
- 5.1.6 Operate and maintain the Regional Waste Disposal Facility so as to be capable of receiving and disposing waste from Overstrand and TWK.
- 5.1.7 Operate the Regional Waste Disposal Facility in a manner that will minimise any adverse impact upon residents of the surrounding areas.
- 5.1.8 Accept General Waste from Overstrand and TWK during the Delivery Hours.
- 5.1.9 Allow and encourage the recovery of waste by Overstrand and TWK instead of disposing the waste at the Regional Waste Disposal Facility.
- 5.2 Overstrand and TWK shall do the following for the duration of the Agreement:
- 5.2.1 Ensure that all waste conforms to the Waste Act and any regulations promulgated thereunder, national legislation and the permit conditions of the Regional Waste Disposal Facility.
- 5.2.2 Ensure that all waste that is transported to the Regional Waste Disposal Facility be covered to avoid littering en route.
- 5.2.3 Use all reasonable endeavours to encourage the reduction of waste.
- 5.2.4 All waste shall be of a compactable standard, meaning that it is manageable to be spread and compacted as part of General Waste by the service provider on the landfill and that no additional processing is required.
- 5.2.5 Waste types or loads that do not conform to the prescriptions as set out above and in the permit conditions of Regional Waste Disposal Facility will not be accepted.

6. OPERATING AGREEMENT

6.1 The parties acknowledge that:

- 6.1.1 Overberg will be contractually bound to a private entity for the operation of the Regional Waste Disposal Facility and will be contractually bound to a financial service provider to service the loan granted to fund the establishment and construction of Cell Four.

6.1.2 Overberg's financial obligations in terms of the contracts referred to in clause 6.1.1 can only be met on payment of the charges set out in clause 7 below.

6.2 The Regional Waste Disposal Facility will be operated by Overberg as a ring-fenced economic account, which account will provide for all operational costs (including future rehabilitation and monitoring of the site according to national norms and standards) and which costs will include the costs of servicing any loan taken up by Overberg in terms of the construction of Cell Four. The development of further cells will be incorporated in separate addenda to this Agreement.

7. CHARGES

- 7.1 Overstrand and TWK undertake to pay the applicable Charges to Overberg consisting of a Fixed Waste Disposal Cost, a variable Waste Disposal Tariff per ton of waste disposed and a Rehabilitation Contribution per ton of waste disposed.
- 7.2 Cover material, Garden Waste and Fruit Waste are excluded from the Waste Disposal Tariff and Overberg also need not pay for Cover Material or Garden Waste disposed at the Regional Waste Disposal Facility.
- 7.3 In the event of Overberg being unable to accept or refusing to accept General Waste at the Regional Waste Disposal Facility, save as a consequence of a Force Majeure, in which case clause 14 will be applicable, Overstrand and TWK will not be held liable for the Waste Disposal Tariff, the Rehabilitation Contribution and the Fixed Waste Disposal Cost.
- 7.4 Overstrand and TWK undertake to pay the full amount invoiced by Overberg within 30 (thirty) days of the day of receipt of a valid invoice and to make all payments directly per electronic funds transfer into Overberg's bank account (s), particulars of which will be furnished by Overberg from time to time.
- 7.5 Disputes will not be accepted as reason for non-payment.
- 7.6 Overberg will repay to Overstrand the costs the latter incurred for the design of Cell Four, which costs are R1 164 403.00 (one million one hundred and sixty four thousand four hundred and three rand)(VAT excluded).

Waste Disposal Tariff

- 7.7 The Waste Disposal Tariff shall be calculated based on the costs incurred by Overberg in operating the Regional Waste Disposal Facility, currently Cell Four, including but not limited to fees for contractors, contract administration, external audit, water and gas monitoring, weighbridge calibration, maintenance on pipework, maintenance of fences, clearing of alien vegetation, personnel,

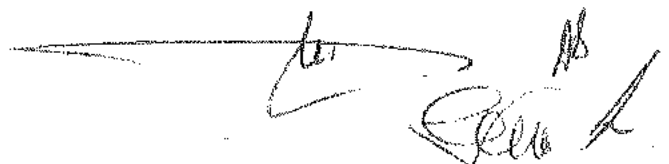
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equipment and site visits. Any costs referred to, inclusive of calculations of apportioned costs, shall be strictly in relation to the operating of the Regional Waste Disposal Facility and shall exclude any costs of a non-cash nature, e.g. depreciation, impairment and provisions. The Rehabilitation Cost will not form part of the operational cost allocation to the users of the service, but will be a separate charge.

- 7.8 Overstrand and TWK shall each be liable to pay Overberg the agreed Waste Disposal Tariff of R88.00 (eighty eight rand) (VAT excluded), per ton of waste deposited for the first year following the Effective Date. For builders rubble, excluding Cover Material, a disposal tariff of R100.00 (one hundred rand) (VAT excluded) will be charged per ton for the first year following the Effective Date.
- 7.9 The Waste Disposal Tariff and disposal tariff for builders' rubble shall be revised annually and formally agreed to in writing by the Parties before the end of November of that Financial Year in accordance with the budget time frames for implementation by 1 July of the subsequent year. If agreement is not reached by 28 February of the subsequent year, or by such alternative date as may be agreed in writing by the Parties, the issue shall be referred to mediation, and if necessary, arbitration, in terms of clause 15 below, in which case the Waste Disposal Tariff for the previous year shall continue to apply pending the outcome thereof.

Fixed Waste Disposal Cost

- 7.10 The Fixed Waste Disposal Cost is calculated in accordance with Overberg's loan repayment obligations which are to be incurred for the purpose of constructing Cell Four. The loan repayment period shall be aligned to the estimated useful life of Cell Four. The remaining estimated useful life will be determined annually during October of that Financial Year. Instalments on the loan repayment shall also be adjusted accordingly.
- 7.11 Payments of the Fixed Waste Disposal Cost shall be aligned to the actual loan repayment instalment due and will be payable by the users of the service 30 (thirty) days prior to actual loan repayment instalment due date and only on receipt of a valid invoice from Overberg with substantiating documents from the financial institution where the loan was obtained.
- 7.12 The Fixed Waste Disposal Cost shall be divided proportionately between Overstrand, TWK and Third Parties based on projected usage of Cell Four and any correction based on the actual usage must be adjusted with subsequent payments annually before the end of September of that Financial Year. For the remainder of the first Financial Year following the Effective Date, the annual Fixed Waste Disposal Cost shall be as follows:



7.12.1 Overstrand shall be liable for R2,325,957.00 (two million three hundred and twenty five thousand nine hundred and fifty seven rand) (VAT excluded); and

7.12.2 TWK shall be liable for R1,251,974.00 (one million two hundred and fifty one thousand nine hundred and seventy four rand) (VAT excluded);

Which amounts will in this instance be regarded as the best estimate only for the purposes of this Agreement.

7.13 Any escalation in the Fixed Waste Disposal Cost shall be aligned to any escalation in the actual loan repayment instalment and shall be reviewed and agreed upon between the Parties annually before the end of November of that Financial Year. If agreement is not reached by 28 February of the subsequent year, or by such alternative date as may be agreed by the Parties in writing, then the issue shall be referred to mediation, and if necessary, arbitration, in terms of clause 15 below, in which case the Fixed Waste Disposal Cost for the previous year shall continue to apply pending the outcome thereof.

Rehabilitation Contribution

7.14 The Regional Waste Disposal Facility will be required to be rehabilitated at the end of its useful lifespan.

7.15 Overstrand, TWK and Third Parties, being the users of the Regional Waste Disposal Facility, shall be liable proportionately to contribute towards the Rehabilitation Costs of the Regional Waste Disposal Facility from the Effective Date through payment of the Rehabilitation Contribution in accordance with clauses 7.16 to 7.20 below.

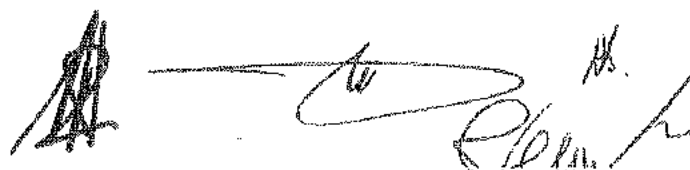
7.16 The Rehabilitation Contribution shall be deposited into a dedicated ring-fenced bank account, kept by the holder of the Permit for the rehabilitation in terms of the conditions contained in paragraph 13 of the Permit, inclusive of post-closure monitoring only of the Regional Waste Disposal Facility as specified in the Permit conditions. The total interest generated in respect of the funds must be retained in the dedicated ring-fenced bank account. Withdrawals from this ring-fenced account shall be for the purpose of rehabilitation expenses only and must at all times be in accordance with written certification of the amount and the requirement for incurring expenditure in compliance with the conditions of the Permit, by the appointed consulting engineer. Overstrand, TWK and Third Parties shall be notified in writing of, and supplied with a copy of such written certification by the appointed consulting engineer, which must be agreed upon in writing between the Parties, prior to the withdrawal of funds from this ring-fenced bank account.

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- 7.17 In the instance of any surplus provision available in the dedicated ring-fenced bank account at the end of the useful lifespan of the Regional Waste Disposal Facility, over and above the total expense required for rehabilitation as certified in writing by the appointed consulting engineer at that date, such surplus must be apportioned in accordance with the contributions received over the total period and be paid out within 60 (sixty) days after said written certification, to Overstrand, TWK and Third Parties who paid Rehabilitation Contributions during the useful lifespan of the Regional Waste Disposal Facility.
- 7.18 In the instance of termination of the Agreement or permanent suspension of the Permit of the holder thereof for the utilisation of the Regional Waste Disposal Facility between the Overstrand, TWK and Third Parties, the final certification and pay-out of any surplus funding must be treated as the end of the useful lifespan of the Regional Waste Disposal Facility.
- 7.19 The Rehabilitation Costs and Rehabilitation Contribution shall be reviewed annually, by a duly appointed consulting engineer appointed by Overberg after consultation with Overstrand and TWK, before the end of November of that Financial Year in accordance with the budget time frames, for implementation by 1 July of the subsequent year. The Rehabilitation Costs and Rehabilitation Contribution will be adjusted in accordance with the determination of the duly appointed consulting engineer as agreed upon between the Parties in writing.
- 7.20 For the remainder of the first Financial Year following the Effective Date the Rehabilitation Contribution will be R13.53 (thirteen rand and fifty three cents) (VAT excluded) per ton of waste deposited.

8. WEIGHING OF REFUSE

- 8.1 Overberg shall establish and maintain a weighbridge at the Regional Waste Disposal Facility, which weighbridge will be used to weigh a loaded vehicle delivering waste, and after having disposed of its contents at the Regional Waste Disposal Facility, the unloaded vehicle thereafter being weighed again, the difference constituting the amount of waste so disposed of.
- 8.2 Deliveries shall be recorded separately. Unless otherwise agreed, each incoming and outgoing vehicle shall be weighed with gross weight, time and truck identification indicated on a weigh record. Overberg, Overstrand, TWK, and Third Parties and the driver of each vehicle shall receive a copy of the weigh ticket, which shall include at least the following information:
- Date and time of delivery
 - Vehicle identification number
 - Driver information
 - Tons delivered



- Load description as per pre-determined category.

Overberg shall retain all weigh tickets until audited by the Parties' external auditors. The weigh tickets shall be used by the Parties as a basis for the calculations required herein and shall be verified at least annually.

- 8.3 Should Overstrand and/or TWK dispute the tonnage as reflected in the weighbridge calculation it will be investigated by Overberg and its decision, with reasons therefore, shall be given to Overstrand and TWK within 10 (ten) Business Days after receipt of the dispute.
- 8.4 Should Overstrand and/or TWK not be satisfied with the decision or the reasons given, it may resort to the provisions of clause 15.
- 8.5 Overstrand and TWK shall have the right to inspect the weighbridge and weigh records at any time subject to reasonable notice being given of such envisaged inspection.
- 8.6 Overberg shall, at its own cost, have the weighbridge calibrated at least once every two years by the supplier thereof or other competent and authorised authority and provide Overstrand and/or TWK with a certified copy of the findings.
- 8.7 In the event of it being found that the weighbridge was malfunctioning to the extent that it was inaccurate by more than 10% (ten per cent), Overberg will have the weighbridge repaired as soon as reasonably possible. During the period the weighbridge is being repaired, the weight of the material will be determined by means of the average of similar loads received.
- 8.8 Any deviation exceeding 10% (ten per cent) will result in accounts previously rendered and the tonnages registered to be adjusted retrospectively for the two months prior to the weighbridge being calibrated after malfunctioning.
- 8.9 In the event of a power failure or where the electricity supply is delayed by the supplier, the weight of the material will be determined by means of the average of similar loads received.

9. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.

10. CHANGE IN LAW

If, after the Effective Date, as a direct result of a Change in Law, Overberg shall incur an increase in the cost of construction, operation or maintenance of the Regional Waste Disposal Facility to be utilised by Overstrand, TWK and Third Parties, related solely to a Change in Law, then the Charges contemplated in clause 7 will be

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increased accordingly in consultation with Overstrand and TWK to ensure that Overberg is able to recover the additional costs. The increase shall be effective on the beginning of the next Financial Year after the Change of Law comes into effect. Overberg shall provide Overstrand and TWK with evidence of the additional costs incurred or to be incurred as a result of the Change in Law. Should any of the Parties dispute the increase in the Charges, that dispute shall be dealt with in terms of the provisions of clause 15 of this Agreement.

11. DURATION OF AGREEMENT

11.1 This Agreement shall commence on the Effective Date and shall endure for the whole Contractual Term, subject to the successful compliance with the statutory requirements set out in Section 33 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) within a period of 6 (six) months from date of signature of this Agreement by the last signatory.

11.2 Should any one or all of the Parties not be able to successfully complete the abovementioned statutory requirements within the time period afforded, or any extended period as agreed upon in writing between the Parties, this Agreement shall lapse, in which case no party will have a claim against the other Party, save for the claim of Overstrand from Overberg for the repayment of the costs incurred for the design of Cell Four as mentioned in clause 7.6 above.

12. VARIATIONS AND AMENDMENTS

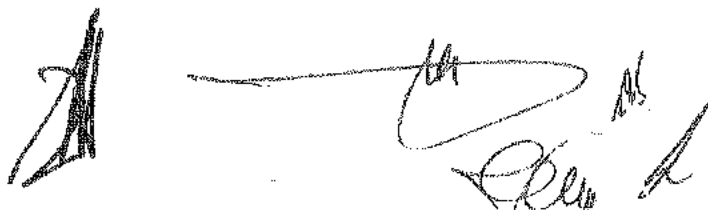
12.1 The Parties acknowledge that this Agreement contains the entire agreement between them.

12.2 No variation, alteration, cancellation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by all Parties to this Agreement or their duly authorised representatives.

12.3 No indulgence, leniency or extension of time which any Party ("the Grantor") may grant or show to any other Party, shall in any way prejudice the Grantor or preclude the Grantor from exercising any of its rights in the future.

12.4 The Parties consent to the non-exclusive jurisdiction of the High Court of South Africa, Western Cape Local Division, for any proceedings arising out of or in connection with this Agreement.

12.5 Except as provided for elsewhere in this Agreement, a Party may not cede any or all of that Party's rights or delegate any or all of that Party's obligations under this Agreement without the prior written consent of the other Parties, which consent will not be unreasonably withheld.

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13. NOTICE AND DOMICILIUM

13.1 The Parties hereto respectively choose *domicilium citandi et executandi* ("*domicilium*") for the purpose of all payments to be made, any notices, demands, process or communications intended for either Party and for all purposes of and in connection with this Agreement, as follows:

13.1.1 Overstrand:

Address: 1 MAGNOLIA STREET, HERMANUS, 7200
 Tel: (028) 313 8000
 Fax: (028) 313 2093
 Email: enquiries@overstrand.gov.za

13.1.2 Theewaterskloof

Address: 6 PLEIN STREET, CALEDON, 7230
 Tel: (028) 214 3300
 Fax: (028) 214 1289
 Email: twkmun@twk.org.za

13.1.3 Overberg:

Address: 26 LONG STREET, BREDASDORP, 7280
 Tel: (028) 425 1157
 Fax: (028) 425 1014
 Email: info@odm.org.za

13.2 The Parties shall be entitled to change their *domicilium* from time to time, provided that any new *domicilium* selected by it shall be situated in the Republic of South Africa, shall be an address other than a box number, and any such change shall only be effective upon receipt of notice in writing by the other party of such change.

13.3 All notices, communications or processes in terms of this Agreement shall be in writing.

13.4 Any notice, communication or any process addressed by one of the Parties to the other shall be deemed to have been sufficiently served and/ or delivered upon the Party:-

13.4.1 By registered mail on the 5th (fifth) Business day after posting;

13.4.2 By fax or electronic mail on the date of fax transmission or e-mail to the mentioned number or email address if transmitted prior to 13h00 failing which, it shall be deemed to have been received on the first normal Business Day following date of transmission

13.4.3 By hand during normal business hours at the time of delivery.

13.5 The above clauses will not be so construed as to oust the service procedures, specifically those of personal service as depicted in any applicable legislation of the Republic of South Africa.

14. FORCE MAJEURE

14.1 As a result of a Force Majeure event, the Party claiming relief shall be relieved from liability under this Agreement to the extent that by reason of the Force Majeure event it is not able to perform all or a material part of its obligations under this Agreement.

14.2 Where a Party is (or claims to be) affected by an event of Force Majeure:

14.2.1 it shall take all reasonable steps to mitigate the consequences of such an event upon the performance of its obligations under this Agreement, resume performance of its obligations affected by the event of Force Majeure as soon as practicable and use all reasonable endeavours to remedy its failure to perform; and


14.2.2 it shall not be relieved from liability under this Agreement to the extent that it is not able to perform, or had not in fact performed, its obligations under this Agreement due to its failure to comply with its obligations under this Agreement.

14.3 The Party claiming relief shall serve written notice on the other Party within 10 (ten) Business Days of it becoming aware of the relevant event of Force Majeure. Such initial notice shall give sufficient details to identify the particular event claimed to be an event of Force Majeure.

14.4 A subsequent written notice shall be served by the Party claiming relief on the other Party within a further 10 (ten) Business Days which shall contain such relevant information relating to the failure to perform (or delay in performing) as is available, including (without limitation) the effect of the event of Force Majeure on the ability of the Party to perform, the action being taken in accordance with clause 14.2.1, the date of the occurrence of the event of Force Majeure and an estimate of the period of time required to overcome it (and/or its effects).

14.5 The Party claiming relief shall notify the other as soon as the consequences of the event of Force Majeure have ceased and when performance of its affected obligations can be resumed.

14.6 If, following the issue of any notice referred to in clause 14.4 the Party claiming relief receives or becomes aware of any further information relating to the event of Force Majeure (and/or any failure to perform), it shall submit such further information to the other Party as soon as reasonably possible.



14.7 The Parties shall endeavour to agree to any modifications to this Agreement which may be equitable having regard to the nature of an event or events of Force Majeure, failing which this agreement shall terminate.

15. DISPUTE RESOLUTION

15.1 This Agreement shall be governed by and constructed in accordance with the laws of the Republic of South Africa.

15.2 In the event of any dispute arising from this Agreement, the Parties shall make every effort to settle such dispute amicably, including the initiation of direct negotiations with senior management, representatives or negotiations through an intermediary.

15.3 Should a dispute between the parties, despite such mediation, remain unresolved for a period of 30 (thirty) days after being so referred, either of the aforementioned Parties may declare such dispute a formal intergovernmental dispute by notifying the other Party of such declaration in writing, in accordance with section 41 of the Intergovernmental Relations Framework Act (Act 13 of 2005) to settle the dispute, the costs to be borne by the Parties involved equally.

15.4 In accordance with the section 42(2) of the Intergovernmental Relations Framework Act (Act 13 of 2005) the parties agree that the dispute shall be submitted to and decided by arbitration on notice given by either Party to the other Party or Parties in terms of this clause.

15.5 Such arbitration shall be held in Cape Town or such other place as may be agreed to between the Parties in accordance with the provisions of the Arbitration Act (Act 42 of 1965), save that:

15.5.1 the Arbitrator who shall act as an expert, shall have the absolute discretion to determine the procedure to be adopted,

15.5.2 it being agreed the intention, if possible, the arbitration shall be held and concluded within 20 (twenty) Business Days after it has been demanded.

15.6 Save as otherwise specifically provided in this Agreement, the Arbitrator shall be, if the question in dispute is:

15.6.1 primarily an accounting matter – an independent accountant of not less than 10 (ten) years' standing, as may be agreed upon between the Parties;

15.6.2 primarily a legal matter – a practising advocate or attorney of not less than 10 (ten) years' standing, as may be agreed upon between the Parties;

15.6.3 any other matter – an independent and suitably qualified person, as may be agreed upon between the Parties.

15.7 If any agreement cannot be reached on whether the question in dispute falls under clauses 15.6.1 or 15.6.2 or 15.6.3 above or upon a particular arbitrator in terms of clause 15.6 within 5 (five) Business Days after the arbitration has been demanded, then the President for the time being of the Law Society of the Western Cape, shall determine whether the questions in dispute falls under clauses 15.6.1, 15.6.2 or 15.6.3 and nominate the arbitrator in terms of the relevant sub-clause within 5 (five) Business Days after the Parties have failed to agree, so that the arbitration can be held and concluded as soon as possible within the 20 (twenty) Business Days referred to in clause 15.5.2.

15.8 This clause shall constitute each Party's irrevocable consent to the arbitration proceedings, and no Party shall be entitled to withdraw here from or to claim at such arbitration proceedings that it is not bound by this clause.

15.9 Each of the Parties hereby irrevocably agrees that the decision of the Arbitrator in the arbitration proceedings shall be final and binding on each of them, will be carried into effect; and can be made an order of any Court to whose jurisdiction the Parties are subject.

16. SEVERABILITY

16.1 Clause 15 is severable from the rest of the Agreement and shall therefore remain in effect even if this Agreement is terminated.

16.2 In the event of any condition or provision of the Agreement being held to be invalid or unenforceable, the rest of the Agreement remains intact, enforceable, valid and binding.

17. BREACH

17.1 Subject to clause 15 above, in the event that a Party to this Agreement fails to comply with any provisions of this Agreement, the other Party ("the aggrieved party") shall furnish such Party with a notice of breach.

17.2 The aggrieved Party shall afford the other Party a 7 (seven) Business Days period in the notice of breach, clearly setting out the nature and extent of the breach, to remedy such breach.

17.3 If such breach is not remedied by the date and to the extent, as stipulated in the notice of breach, the aggrieved Party may:

17.3.1 cancel this Agreement and claim damages;

17.3.2 enforce specific performance and claim damages; or

17.3.3 avail itself of any other remedy available in law.

17.4 In the event of breach of this Agreement, the defaulting Party undertakes to pay all attorney-and-client costs plus VAT, collection commission and tracing costs plus VAT which the aggrieved Party may incur in enforcing or cancelling of this Agreement.

18. TERMINATION OR CANCELLATION OF AGREEMENT

18.1 The termination and/or cancellation of this Agreement may occur-

18.1.1 at the expiry of the Contractual Term of this Agreement;

18.1.2 if the Parties agree thereto in writing;

18.1.3 due to a Force Majeure in terms of clause 14 above resulting in a Party not being able to perform a material part of its obligations under this Agreement.

18.2 Save as otherwise expressly provided in this Agreement termination and/or cancellation of this Agreement shall:

18.2.1 be without prejudice to any accrued rights and obligations under this Agreement as at the date of termination; and

18.2.2 not affect the continuing rights and obligations of the Parties to this Agreement.

THUS DONE AND SIGNED ON THIS THE 6th DAY OF July 2018
in Acornhoek.

WITNESSES:

- 1. [Signature]
- 2. [Signature]

[Signature]
FOR AND ON BEHALF OF THE
OVERSEAS MUNICIPALITY, WHO
WARRANTS BY THIS SIGNATURE THAT
HE IS DULY AUTHORISED THERETO

[Signature] [Signature]

THIS DONE AND SIGNED ON THIS THE 06 DAY OF July 2018

in HERMANUS

WITNESSES:

1. [Signature]

2. [Signature]

[Signature]

FOR AND ON BEHALF OF THE THEEWATERSKLOOF MUNICIPALITY, WHO WARRANTS BY THIS SIGNATURE THAT HE/SHE IS DULY AUTHORISED THERETO

THIS DONE AND SIGNED ON THIS THE 6 DAY OF July 2018

in HERMANUS

WITNESSES:

1. [Signature]

2. [Signature]

[Signature]

FOR AND ON BEHALF OF THE OVERBERG DISTRICT MUNICIPALITY, WHO WARRANTS BY THIS SIGNATURE THAT HE IS DULY AUTHORISED THERETO

[Signature]

[Signature]



NOTICE/KENNISGEWING/ISAZISO

Long term service level agreement between Overstrand Local Municipality, Theewaterskloof Local Municipality and the Overberg District Municipality for the use of the regional landfill site situated on a portion of Portion 79 (a portion of Portion 1) of the farm Afdakrivier 575, giving effect to the Local Government: Municipal Finance Management Act (MFMA), Act No. 56 of 2003: Section 33.

The Overstrand Local Municipality, in terms of the provisions of Section 33 of the MFMA, hereby makes it public that Overstrand and Theewaterskloof local Municipalities concluded a service level agreement with the Overberg District Municipality for the long term use of the regional landfill site situated on a portion of Portion 79 (a portion of Portion 1) of the farm Afdakrivier 575, thereby entering into a long term service level agreement, for an estimated period of 55 years from the date of commissioning of cell 4 of the landfill site, subject to approval from Council in terms of Section 33 of the MFMA.

The service level agreement and an information statement summarising the Municipality's obligations in terms of the service level agreement can be inspected at the Municipality's head and satellite offices and libraries during official office hours or accessed on the Municipality's official web-site www.overstrand.gov.za, from 23 August 2018.

The contract will be considered by the Municipal Council of the Overstrand Local Municipality at the Council meeting to be held on 31 October 2018 at the Municipal Offices 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 long term service level agreement. Such comments or representations must be submitted by not later than Tuesday, 25 September 2018 at 12:00.

Comments or representations must be submitted in a sealed envelope clearly endorsed "Long term service level agreement for the landfill site on a portion of Portion 79 of the farm Afdakrivier 575" 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 H Bignaut, Tel: 028 313 5047 and e-mail: hbignaut@overstrand.gov.za.

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: Infrastructure and Planning or a person designated by him to transcribe that person's comments or representations.

C.Groenewald
Municipal Manager

Langtermyn diensoreenkoms tussen Overstrand plaaslike Munisipaliteit, Theewaterskloof plaaslike Munisipaliteit en die Overberg Distriksmunisipaliteit vir die gebruik van die strook-stortingssterrein geleë op 'n gedeelte van Gedeelte 79 (n gedeelte van Gedeelte 1) van die plaas Afdakrivier 575, in nakoming van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur (MFMA), Wet Nr. 56 van 2003: Artikel 33

Ooreenkomstig die bepalinge van artikel 33 van die MFMA, gee Overstrand plaaslike Munisipaliteit hiermee kennis dat hy en Theewaterskloof plaaslike Munisipaliteit 'n dienskontrak met die Overberg Distriksmunisipaliteit gesluit het vir die langtermyn gebruik van die streek-stortingssterrein geleë op 'n gedeelte van Gedeelte 79 (n gedeelte van Gedeelte 1) van die plaas Afdakrivier 575, vir 'n beraamde periode van 55 jaar vanaf die datum van ingebruikneming van sel 4 van die stortsterrein, onderworpe aan goedkeuring deur die Raad ingevolge artikel 33 van die MFMA.

Die dienskontrak en die inligtingstuk wat die Munisipaliteit se verpligtinge ten opsigte van die ooreenkoms vervat, kan by die Munisipaliteit se hoof-en satellietkantore en biblioteke gedurende amptelike kantoorure geïnspekteer word of besigtig word op die amptelike webblad van die Munisipaliteit by www.overstrand.gov.za vanaf 23 Augustus 2018.

Die ooreenkoms sal vir oorweging voor die Raad van die Overstrand Plaaslike Munisipaliteit dien by die Raadsvergadering gehou te word op 31 Oktober 2018 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 genooi word om kommentaar of vertoë oor die langtermyn dienskontrak in te dien. Hierdie kommentaar of vertoë moet teen nie later nie as Dinsdag, 25 September 2018 om 12:00 ingedien word.

Kommentaar of vertoë moet ingedien word in 'n verseelde koever, duidelik gemerk "Langtermyn dienskontrak vir die stortsterrein op 'n gedeelte van Gedeelte 79 van die plaas Afdakrivier 575" en geplaas word in tenderbus nr. 7.

Afsele voorleggings moet geadresseer word aan:

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

Navrae kan gerig word aan Mnr H Bignaut, Tel: 028 313 5047 en e-pos: hbignaut@overstrand.gov.za

Persone wat liggaamlik gestremd is of nie kan lees of skryf nie, maar aan die proses wil deelneem, kan gedurende kantoorure die Munisipale Kantore in Magnolielaan, Hermanus besoek, waar die Direkteur: Infrastruktuur en Beplanning of 'n persoon deur hom aangewys daardie persoon sal help om die kommentaar of vertoë neer te skryf.

C.Groenewald
Munisipale Bestuurder

Isivumelwano senqanaba lenkonzo yexesha elide phakathi koMasipala weNgingqi iOverstrand, uMasipala we Ngingqi iTheewaterskloof noMasipala weSithili iOverberg sokusebenzisa indawo yengingqi yokuhlala inkunkuma ekwisabelo seSabelo 79 (isabelo seSabelo 1) sefama Afdakrivier 575 ngokwamimiselo kaMasipala weNgingqi: Umthetho wokulawula ezemali kaMasipala onguNombolo 56 ka2003: iCandelo 33.

UMasipala weNgingqi wase-Overstrand, ngemimiselo yemibandela yeCandelo 33 kaMasipala weNgingqi: Umthetho wokulawula ezemali kaMasipala onguNombolo 56 ka2003, upapasha ukuba uMasipala wase-Overstrand uqokumele isivumelwano senqanaba lenkonzo yexesha elide noMasipala weSithili iOverberg sokusebenzisa indawo yengingqi yokuhlala inkunkuma ixesha elide ekwisabelo seSabelo 79 (isabelo seSabelo 1) sefama Afdakrivier 575 angene kwisivumelwano sexesha elide, kangange xesha elibude liyiminyaka eyi 55 ukusukela kumhla woku iseli 4 yendawo yokuhlala inkunkuma, kuxhomekeke kwimvume yeBhunga ngokwemiqathango yeCandelo 33 yeMFMA.

Isivumelwano senqanaba lenkonzo lesivumelwano senkonzo nenxelo yolwazi esishwankathala izibophelelo zikaMasipala ngokwemiqathango yesivumelwano senqanaba lenkonzo singahluwa kwi-ofisi eyintloko kaMasipala nakwi ofisi ezingamaseyena kwakunye namathala eencwadi ngeeyure zokusebenza zezi ofisi nala mathala eencwadi. Esi sivumelwano siphakanyiswayo kunye neenkukacha siyafumaneka nakwi website esemthethweni yakwa Masipala enu-www.overstrand.gov.za ukususela nge 23 ka Agasti 2018.

Esi sivumelwano siya kuqwalaselwa liBhunga likaMasipala efikaMasipala weNgingqi iOverstrand ibanjelwa eHermanus ngomhla we 31 Okthobha 2018 kwiOfisi zikaMasipala eHermanus ngo 12:00.

Isaziso sinikwa ngokwemiqathango ye Candelo 21 no 21A kaMasipala weNgingqi: Umthetho wokuziphatha koMasipala, 2000 (umthetho 32 ka2000) ukuba abantu abasuka ekuhlaleni nabanye abantu abachaphazelekayo bayamenywa ukuba bafake izimvo zabo okanye izinto abazibhalileyo kuMasipala mayelana nesivumelwano senqanaba lenkonzo sexesha elide. Oko kwenziwa phambi ngolwesibini, 25 Septemba 2018 ngo 12:00.

Izimvo ezibhalileyo mazifakwe kwimvulophu etywiniweyo ebhalwe ngokucacileyo, "Isivumelwano senqanaba lenkonzo sexesha elide sendawo yokuhlala inkunkuma kwisabelo esikwisabelo 79 sefama Afdakrivier 575" zifakwe kwi Bhokisi ye Ziniki-maxabiso no. 7.

Zonke iziphakamiselo mazithonyelwe ku:
Umphathi kaMasipala
Bhokisi yeZiniki-maxabiso no. 7
UMasipala weNgingqi yase-Overstrand
Magnolia Avenue
Hermanus
7200

Imibuzo ingathonyelwa ku Mnu. H Bignaut, Umxeba: 028 313 5047 ne-ineyili: hbignaut@overstrand.gov.za

Abantu abakhubazekileyo okanye abangakwaziyo ukubhala nokufunda abangwenela ukuthatha imxaxheba kutengubo bangandwendwela iOfisi zikaMasipala eMagnolia Avenue, eHermanus ngexesha lokusebenza apho bayakuncedwa nguMlawuli: Infrastruktasha noCwangciso okanye umntu okethwe nguye ukuba ababhale izimvo zabo.

C.Groenewald
UManejela kaMasipala



Annexure C 1/2

MFMA INFORMATION STATEMENT

LONG TERM SERVICE LEVEL AGREEMENT W.R.T. THE USE OF THE KARWYDERSKRAAL REGIONAL LANDFILL SITE, SITUATED ON A PORTION OF PORTION 79 OF THE FARM AFDAKSRIEVER NO. 575

1. OBJECTIVE

Overstrand Municipality has made public the planned implementation of a long term Service Level Agreement between itself, Theewaterskloof Municipality, and the Overberg District Municipality with respect to the use of the Karwyderskraal Regional Landfill site, situated on a portion of Portion 79 of the farm Afdakrivier No 575, subject to approval by the respective Municipal Councils in terms of Section 33 of the Local Government Municipal Finance Management Act, Act no 56 of 2003 (MFMA).

Because the actual period of the long term Service Level Agreement would be the remaining lifespan of the landfill, and that will be more than three (3) years, the Municipalities have to comply with Section 33 of the MFMA.

The objective of this Information Statement is to inform the community and other interested parties of the long term Service Level Agreement.

2. INVITATION

The local community and other interested parties are invited to submit comments or representations in respect of the long term Service Level Agreement to the respective Municipalities.

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 long term Service Level Agreement to the Overstrand Municipality before 12:00 on Tuesday, 25 September 2018, in a sealed envelope clearly endorsed "Long term Service Level Agreement w.r.t. the use of the Karwyderskraal Regional Landfill site, situated on a portion of a Portion 79 of the farm Afdakrivier no 575" 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 Hanré Bignaut at e-mail address: hblignaut@overstrand.gov.za

Any person who wishes to submit comments or representations in respect of the long term Service Level Agreement and who cannot write will be assisted by the Director: Infrastructure and Planning or a person designated by him at the Overstrand Civic Centre, Magnolia Avenue, Hermanus, up to 12:00 on Tuesday, 25 September 2018.

4. PROJECT BACKGROUND

The Overberg District Municipality obtained an operating permit in terms of the Environment Conservation Act (Act 73 of 1989) and developed the Karwyderskraal Regional Landfill site to serve as a regional waste disposal facility for the general waste

generated in the region. The site has a long term capacity up to approximately 2072 and the disposal area is developed cell by cell. Each cell is designed and constructed with a short to medium term capacity, e.g. Cell 4 that is currently under construction has a design capacity of 523,000m³ which under current conditions, will reach capacity in approximately eight years, at which time the construction of Cell 5 must be completed. The long term Service Level Agreement requires of Overberg District Municipality to develop new Cells as and when required, to ensure an uninterrupted landfill disposal capacity.

The Overstrand Municipality, Theewaterskloof Municipality and Third Parties will use the Karwyderskraal Regional Landfill site for the delivery of its general waste for disposal or appropriate diversion as determined by the waste type and pay the applicable charges as set out in the long term Service Level Agreement.

The duration of the long term Service Level Agreement will be from the effective date until the last day of the useful life of the Regional Landfill, which at this time, and given the current waste volumes disposed there, is estimated to be approximately fifty five (55) years. The Service Level Agreement will commence on the effective date, which is the day of commencement of operation of Cell 4 that is currently under construction. Commencement of the operation of Cell 4 is anticipated for the first quarter of 2019.

5. LONG TERM SERVICE LEVEL AGREEMENT

The long term Service Level Agreement which is the subject of this public and other stakeholder participation process is similar in nature as the previous arrangements between these same parties since the commissioning of the Karwyderskraal Regional Landfill site in February 2002.

The only additions to this long term Service Level Agreement are the duration that makes provision for the remaining service life of the regional landfill facility and the payment of a rehabilitation charge per ton of waste disposed, to make provision for the future rehabilitation costs of the facility.

Disposal charges will be adjusted annually, and shall be aligned to the actual capital and operational costs and the provision for rehabilitation, and agreed in writing between the Parties.

6. NEXT STEPS

Members of the local communities and other interested persons are invited to submit to the respective Municipalities their comments or representations in respect of the long term Service Level Agreement as set out above.

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

The long term Service Level Agreement and all comments and views received will be presented to the respective Municipal Councils for final approval.



Navrae:
Enquiries: H Blignaut

Tel. No: 028 313 5047

Verwysing:
Reference: Karwyderskraal

Datum:
Date: 23 August 2018

KANTOOR VAN DIE MUNISIPALE BESTUURDER
OFFICE OF THE MUNICIPAL MANAGER

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

LONG TERM SERVICE LEVEL AGREEMENT W.R.T. THE USE OF THE KARWYDERSKRAAL REGIONAL LANDFILL SITE, SITUATED ON A PORTION OF PORTION 79 OF THE FARM AFDAKSRIVIER NO. 575: NOTICE IN TERMS OF SECTION 33 OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

In terms of Section 33 of the Local Government: Municipal Finance Management Act, Act no. 56 of 2003 (MFMA), the submission of your views and recommendations is hereby invited in respect of the long term service level agreement (SLA) between Overstrand Local Municipality, Theewaterskloof Local Municipality, and the Overberg District Municipality, with regard to the use of the Karwyderskraal Regional Landfill Site. The SLA is to come into effect once the new cell 4 of the landfill site is commissioned, which is expected to be 1 March 2019.

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: Service Level Agreement
3. Annexure C: Advertisement inviting the local community and interested stakeholders to submit representations on the long term SLA.

In terms of Section 33(1)(a) of the MFMA you are hereby notified of the entering into a SLA by Overstrand Municipality which will impose a financial obligation beyond the three years covered in the budgets for the 2018/2019 to 2020/21 financial years.

Please express your views and recommendation(s), if any, to the undersigned on or before 25 September 2018, in order for my Council to take all representations into account for decision making, giving effect to Section 33(1)(b)(i-iv) of the MFMA.

Yours sincerely

**D ARRISON
ACTING MUNICIPAL MANAGER**

Annexure E. 1/1



BETTER TOGETHER

Eddie Hanekom
 Directorate: Waste Management
 5th Floor, Atterbury House, 9 Riebeeck Street, Cape Town
 8001
 Tell: (021) 483 2728
 Fax: (021) 483 4425

REFERENCE: 19/1/R

Municipal Manager
 Overstrand Municipality
 PO Box 20
HERMANUS
 7200

Attention: Mr. Christo Roets

RE: Karwyderskraal Landfill: Proposed Long term Contract between ODM, OM & TWK municipalities: NOTICE IN TERMS OF SECTION 33 OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Your email dated 28 August 2018, regarding the above, refers.

I have scrutinised the documentation attached to your email in respect of the long-term service level agreement (SLA) between Theewaterskloof Local Municipality, Overstrand Local Municipality, and the Overberg District Municipality, regarding the use of the Karwyderskraal Regional Landfill Site and I have no hesitation in expressing my support for the long-term service level agreement.

EDDIE HANEKOM
DIRECTOR WASTE MANAGEMENT
DATE: 31-08-2018



**LONG TERM SERVICE LEVEL AGREEMENT W.R.T. THE USE OF THE
KARWYDERSKRAAL REGIONAL LANDFILL SITE, SITUATED ON A PORTION OF
PORTION 79 OF THE FARM AFDAKSRIVIER NO. 575**

FINANCIAL IMPACT STATEMENT

1. OBJECTIVE

Overstrand Municipality has made public its long term Service Level Agreement with the Overberg District Municipality with respect to the use of the Karwyderskraal Regional Landfill site, situated on a portion of Portion 79 of the farm Afdakrivier No 575, subject to approval by the respective Municipal Councils in terms of Section 33 of the Local Government Municipal Finance Management Act, Act no 56 of 2003 (MFMA).

Because the actual period of the long term Service Level Agreement would be the remaining lifespan of the landfill and that will be more than three (3) years, the Municipalities have to comply with Section 33 of the MFMA.

The objective of this Financial Impact Statement is to quantify the financial implications on Overstrand Municipality over the full duration of the Service Level Agreement.

2. ASSUMPTIONS

The following assumptions have been made to inform the financial calculations and any deviations from these assumptions may influence the financial implications.

- The remaining life of Karwyderskraal Landfill is estimated at 55 years.
- The annual growth in waste volumes to be disposed is 3%.
- The annual growth in number of households is 2%.
- The escalation of construction cost is 6% per annum.
- The escalation of operating tariffs is 6% per annum.
- The escalation of the rehabilitation tariff is 6% per annum.
- The escalation of the municipal refuse removal tariff (excluding the disposal portion thereof) is 6% per annum.
- A new cell will be constructed every eight years.
- The conditions of the future external loans taken up by Overberg District Municipality remains the same as the current loan.
- Any major infrastructure maintenance cost other than the normal maintenance will be dealt with on an ad hoc basis by the Parties to the Service Level Agreement and is therefore excluded from the financial calculations.
- The calculations are based on the commencement date of Cell 4 being 1 March 2019.

3. FINANCIAL IMPLICATIONS

The future Refuse Removal Tariffs were calculated by escalating the "other" costs in the tariff by 6% per annum and adding the disposal cost at Karwyderskraal.

The table below indicates that the annual increases in the Refuse Removal Tariff are within acceptable limits, even with new cells established every eight years. Year 0 (2017/2018) represents the situation where Overstrand Municipality has still been operating Cell 3 at Karwyderskraal for the full financial year.

Financial Year		Estimated Annual Disposal Cost at Karwyderskraal	Total Disposal cost per Tonne (Opex plus Capex)	Estimated Monthly Refuse Removal Tariff	% Increase in Refuse Removal Tariff
Year 0	2017/2018	4,483,000.00	111.54	154.31	n/a
Year 1	2018/2019	6,294,661.51	152.06	164.39	6.5%
Year 2	2019/2020	6,914,803.31	162.17	177.05	7.7%
Year 3	2020/2021	7,336,059.41	167.04	187.39	5.8%
Year 4	2021/2022	7,795,986.81	172.34	198.36	5.9%
Year 5	2022/2023	8,298,135.54	178.10	210.01	5.9%
Year 6	2023/2024	8,846,381.53	184.34	222.37	5.9%
Year 7	2024/2025	9,444,956.51	191.08	235.49	5.9%
Year 8	2025/2026	10,098,480.66	198.35	249.41	5.9%
Year 9	2026/2027	12,794,500.99	243.98	267.74	7.4%
Year 10	2027/2028	13,573,519.59	251.30	283.35	5.8%
Year 11	2028/2029	14,424,052.09	259.27	299.92	5.8%
Year 12	2029/2030	15,352,663.47	267.92	317.50	5.9%
Year 13	2030/2031	16,366,521.38	277.30	336.17	5.9%
Year 14	2031/2032	17,473,451.45	287.43	355.97	5.9%
Year 15	2032/2033	18,681,997.70	298.36	377.00	5.9%
Year 16	2033/2034	20,001,488.49	310.13	399.31	5.9%
Year 17	2034/2035	25,114,374.51	378.06	428.61	7.3%
Year 18	2035/2036	26,687,243.47	390.04	453.63	5.8%
Year 19	2036/2037	28,404,501.81	403.04	480.19	5.9%
Year 20	2037/2038	30,279,404.46	417.13	508.37	5.9%
Year 21	2038/2039	32,326,423.18	432.36	538.29	5.9%
Year 22	2039/2040	34,561,358.21	448.79	570.05	5.9%
Year 23	2040/2041	37,001,460.29	466.48	603.75	5.9%
Year 24	2041/2042	39,665,563.73	485.50	639.53	5.9%
Year 25	2042/2043	49,376,511.44	586.76	686.39	7.3%
Year 26	2043/2044	52,552,195.31	606.31	726.50	5.8%
Year 27	2044/2045	56,019,406.97	627.49	769.08	5.9%
Year 28	2045/2046	59,804,908.65	650.38	814.29	5.9%
Year 29	2046/2047	63,937,919.38	675.07	862.27	5.9%
Year 30	2047/2048	68,450,340.50	701.67	913.20	5.9%
Year 31	2048/2049	73,377,001.88	730.26	967.26	5.9%
Year 32	2049/2050	78,755,930.78	760.96	1,024.64	5.9%
Year 33	2050/2051	97,228,769.58	912.09	1,099.60	7.3%
Year 34	2051/2052	103,640,599.34	943.92	1,163.95	5.9%
Year 35	2052/2053	110,641,035.08	978.33	1,232.27	5.9%
Year 36	2053/2054	118,284,110.82	1,015.45	1,304.80	5.9%
Year 37	2054/2055	126,628,820.91	1,055.42	1,381.79	5.9%
Year 38	2055/2056	135,739,575.38	1,098.41	1,463.51	5.9%
Year 39	2056/2057	145,686,697.12	1,144.56	1,550.25	5.9%
Year 40	2057/2058	156,546,964.63	1,194.06	1,642.33	5.9%
Year 41	2058/2059	191,743,899.71	1,419.93	1,762.29	7.3%
Year 42	2059/2060	204,689,634.42	1,471.65	1,865.58	5.9%

Financial Year		Estimated Annual Disposal Cost at Karwyderskraal	Total Disposal cost per Tonne (Opex plus Capex)	Estimated Monthly Refuse Removal Tariff	% Increase in Refuse Removal Tariff
Year 43	2060/2061	218,823,787.58	1,527.44	1,975.23	5.9%
Year 44	2061/2062	234,255,455.99	1,587.53	2,091.65	5.9%
Year 45	2062/2063	251,103,751.57	1,652.15	2,215.23	5.9%
Year 46	2063/2064	269,498,720.68	1,721.53	2,346.43	5.9%
Year 47	2064/2065	289,582,347.95	1,795.95	2,485.69	5.9%
Year 48	2065/2066	311,509,652.21	1,875.67	2,633.52	5.9%
Year 49	2066/2067	378,682,898.24	2,213.72	2,825.58	7.3%
Year 50	2067/2068	404,820,842.21	2,297.59	2,991.44	5.9%
Year 51	2068/2069	433,358,249.44	2,387.92	3,167.54	5.9%
Year 52	2069/2070	464,515,390.66	2,485.05	3,354.50	5.9%
Year 53	2070/2071	498,532,757.44	2,589.36	3,552.99	5.9%
Year 54	2071/2072	535,672,918.49	2,701.22	3,763.71	5.9%
Year 55	2072/2073	576,222,546.32	2,821.07	3,987.41	5.9%

Note: Figures in bold are actual figures.

4. CONCLUSION

The financial calculations indicate that the fact that the long term Service Level Agreement was based on the actual construction and operating costs incurred by the Overberg District Municipality, would not result in significant annual increases in the Refuse Removal Tariffs of Overstrand Municipality. The anticipated annual increases in the monthly tariff are within acceptable limits.