



BERGRIVIER MUNICIPALITY

REPORT BY THE DIRECTOR: TECHNICAL SERVICES

INFORMATION STATEMENT

WATER MONITORING COMMITTEE: WATER CONCESSION AGREEMENT AND MUNICIPAL FINANCE MANAGEMENT ACT: SECTION 33

PURPOSE OF THE REPORT

The purpose of this report is to seek comments to allow Council to engage with the West Coast District Municipality (Operator) to perform the Water Concession Function for the three (3) partaking Local Municipalities (Grantor) for a period of 10 (ten) years, from 1 July 2025 to 30 June 2035 with the option to extend for another 10 years.

BACKGROUND AND INFORMATION STATEMENT

Since the inception of the Withoogte Water Scheme as well as other smaller Water Purification Schemes, the Water Services Authority status was allocated to the West Coast Divisional Council, Weskus Regional Services Council, and the West Coast District Municipality.

Six (6) years ago the then National Minister of COGTA (Co-operative Government and Traditional Leaders) transferred the Water Services Authority status to the current 3 (three) participating Local Municipalities with both the rights of Water Services Authority and Water Distributor. This position forced the Local Municipalities mentioned to engage with the West Coast District Municipality in delivering the Bulk Water Service(s).

Simultaneously the relevant Assets were transferred from the West Coast District Municipality to the relevant Local Municipalities in terms of the Municipal Asset Transfer Regulations, 2008.

DISCUSSION

Since the transfer of the Assets and the Water Services Authority status, the following to be highlighted:

- The Local Municipalities indicated that due to a lacking capacity that the West Coast District Municipality continues providing the services as an Operator in terms of the International Financial Reporting Interpretation Committee (IFRIC) Standard 12, titled “Service Concession Arrangements”; and
- The Local Municipalities to record the Financial Information in terms of General Recognized Accounting Practices (GRAP) Standard 32, titled “Service Concession Arrangements Grantor”.

Since the transfer mentioned, the West Coast District Municipality within a pool of expertise provided a diligent-, professional- and cost-effective service (operator) to the three (3) partaking Local Municipalities (grantor).

Further since the mentioned transfer, the contractual commitment was based on annual consideration and renewal – all parties expressed the need to engage on a long-term contract, namely 10 years.

The legislative vehicle for such an agreement is highlighted and facilitated by Section 33 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

The column titled “MFMA Section 33” process highlight actions to be taken.

Numbering	Stipulation	Action
(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-	• Principal agreement/Council Resolution to be table to relevant municipalities February 2025 (Bergrivier, Saldanha, Swartland & West Coast)
(1) (a)	the municipal manager, at least 60 days before the meeting of the municipal council at which	• The target date for approval to be MTREF June 2025 (part of final budget submission)

	the contract is (i) to be approved-	<ul style="list-style-type: none"> • Final submission for approval 60 days before MTREF June 2025
(1)(a)(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;	<ul style="list-style-type: none"> • (aa) Made Public = Council Resolution • (bb) Recommendation 3
1(a)(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;	<ul style="list-style-type: none"> • Recommendation 2
1(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	<ul style="list-style-type: none"> • Financial arrangements part of contract (i) & (ii) • Recommendation 2 (iv) • Recommendation 3 (iii)

	department responsible for local government and any national department referred to in paragraph (a)(ii)(cc)	
1(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.	Not applicable
(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.	<ul style="list-style-type: none"> • Not applicable
(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	<ul style="list-style-type: none"> • Recommendation 4

	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.	• Not applicable

MFMA Section 33

LEGISLATIVE CONTEXT

Local Government: Municipal Finance Management Act (MFMA), 2003 (Act 56 of 2003).

FINANCIAL IMPLICATION

The Financial Implication for both the partaking three (3) Local Municipalities (Grantor) and the Financial Implication for the West Coast District Municipality (Operator) must be covered in the proposed 10(ten) year agreement, including set of tariffs and Administrative/Management Fee. Contract inclusive of the Financial Implication (Section 33(1)(b)(i) & (ii) to be incorporated as part of recommendation 2 & 3.

- a. The total administrative fee which the District Municipality is entitled to charge in respect of the provision of the services will be an amount not more than 6,5% percent of the operational costs which the District Municipality incurs in providing the services and such fee shall be included in the tariff charged.
- b. Bergrivier Municipality has in its draft annual Budget 2025/2026 (as well as its MTREF (3) expenditure plan) made provision for these services, as required by the MFMA. The contract value is estimated to be in the region of R13,200 000.00 million for the duration of the contract. The correct value can only be determine once the water service is delivered, and the costing is done per annum. It is difficult to make an estimation due to the fact that the water consumption is not controlled by the Bergrivier Municipality, but by the Consumers

RECOMMENDATIONS

1. That the proposed long-term contract of period 1 July 2025 – 30 June 2035 in principle be approved by the four (4) Municipalities) (Bergrivier, Swartland, Saldanha Bay & West Coast)
2. That the intention of the contract be forwarded to Provincial Treasury, National Treasury & National Department of Local Government (Section 33(1)(b)(iv)) by the the four (4) Municipalities) (Bergrivier, Swartland, Saldanha Bay & West Coast)
3. That comments be solicited from the community in terms of the proposed long-term contract (Section 33(1)(b)(iii) by the four (4) Municipalities) (Bergrivier, Swartland, Saldanha Bay & West Coast)
4. That information and received submissions be tabled to the various Councils (Bergrivier, Swartland, Saldanha Bay & West Coast) in terms of Section 33(a)(1)