

SPECIAL MUNICIPAL COUNCIL MEETING
AGENDA
28 FEBRUARY 2023



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Notice is hereby given, in terms of Section 19(b) of the Local Government: Municipal Systems Act, 32 of 2000 as amended, that a **SPECIAL MEETING** of the **MUNICIPAL COUNCIL** of Knysna Municipality will be held in the Council Chambers on **TUESDAY, 28 FEBRUARY 2023** at **11:00** to consider the business set forth in the attached agenda.

Kennis geskied hiermee as gevolg van Artikel 19(b) van die Plaaslike Regering : Munisipale Stelsels Wet, 32 van 2000, dat 'n **SPESIALE VERGADERING** van die **MUNISIPALE RAAD** van Knysna Munisipaliteit in die Munisipale Raadsaal op **DINSDAG, 28 FEBRUARIE 2023** om **11:00** gehou sal word ten einde sake soos uiteengesit in die aangehegte agenda te oorweeg.

Ibhunga lika**MASIPALA** waseKnysna lazisa ngomthetho okwisolotya 19(b) wenkqubo mgaqo olawula oMasipala, 32 of 2000, njengoko utshintshiwe, **NGENTLANGANISO EKHETHEKILEYO** ye**BHUNGA** lika**MASIPALA** waseKnysna eyakubanjelwa **NGOLWESIBINI, NGOMHLA WE 28 EYOMDUMBA 2023** ngentsimbi ye **11:00** umba iyakuba lushishino oluchazwe kwi-agenda.

CLLR MD SKOSANA

The Speaker
Die Speaker
Usomlomo

MR OP SEBOLA

Municipal Manager
Munisipale Bestuurder
uManejala kaMasipala

Date : 25 February 2023

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1. OPENING AND WELCOMING
2. SILENT PRAYER
3. ATTENDANCE OF MEMBERS
 - 3.1 COUNCILLORS PRESENT
 - 3.2 COUNCILLORS WITH LEAVE
 - 3.3 COUNCILLORS WITHOUT LEAVE
4. NOTING THE PROVISIONS OF SCHEDULE 1 (CODE OF CONDUCT FOR COUNCILLORS) OF THE LOCAL GOVERNMENT MUNICIPAL SYSTEMS ACT, 2000
5. DISCLOSURE OF INTERESTS BY COUNCILLORS

6. **NEW MATTERS SUBMITTED BY THE MUNICIPAL MANAGER**

6.1

SC01/02/23 PUBLIC PARTICIPATION PROCESS – SERVICE LEVEL AGREEMENT REGIONAL WASTE MANAGEMENT FACILITY

REPORT FROM THE DIRECTOR: COMMUNITY SERVICES

PURPOSE OF THE REPORT

The purpose of the report is to seek Council's approval for the commencement of the MFMA Section 33 process for Regional Waste Management Facility Service Level Agreement with the Garden Route District Municipality.

PREVIOUS COUNCIL RESOLUTION

**SM02/04/22 GARDEN ROUTE REGIONAL WASTE MANAGEMENT FACILITY:
PARTICIPATION AS WELL AS FINANCIAL COMMITMENT**

Jan-Willemse de Jager, Chief Financial Officer from the Garden Route District Municipality joined the meeting for this item.

UNANIMOUSLY RECOMMENDED

- [a] *That Knysna Municipal Council rescinds the previous resolution, as set out hereunder, pertaining to the Garden Route Regional Waste Management Facility by means of a Public Private Partnership and commitment for a duration of ten (10) years :*

**"C04/02/2021 RESCISSION OF THE PUBLIC, PRIVATE PARTNERSHIP FOR THE
ESTABLISHMENT OF THE REGIONAL WASTE MANAGEMENT FACILITY**

UNANIMOUSLY RESOLVED

- [a] *That the report and decision made by Garden Route District Municipal Council during a meeting that was held on 10 December 2020 which reads as follows, be noted:*
- [b] *That Council takes note of the progress made regarding the investigation into alternative options and financing methods to ensure the finalisation and implementation of the Garden Route Regional Waste Management Facility;*
- [c] *That Council resolves that the Public, Private Partnership process will not be pursued anymore as an option to implement the Regional Waste Management Facility;*
- [d] *That Council resolves that Averda SA (reserve bidder) is informed in writing that Garden Route District Municipality (GRDM) will not proceed*

with the Public, Private Partnership process as an option to implement a regional waste management facility through a PPP Agreement;

- [e] That Council resolves that the Municipal Manager further explore and implement the option to use own (loan) funding or grant funding (if available) to construct and outsource the operation of the facility by using the applicable prescribed procurement legislation;*
- [f] That Council resolves that a consulting engineer be appointed to assist the Municipal Manager with the compilation of the tender documents for the appointment of a construction company to construct the facility and the appointment of a service provider to operate the facility;*
- [g] That Council resolves to appoint the consulting engineer through a deviation process to ensure that the proper consultant is appointed as indicated in the report;*
- [h] That Council resolves that requests to financially assist with the cost associated with the implementation of the regional waste management facility is submitted to the Department of National Treasury, COGTA and Provincial Treasury.*
- [i] That in view of the above resolution that was taken by the Garden Route District Municipality the Knysna Local Municipal Council pledge its support to the Garden Route District Municipal Council's decisions on the way forward and the methods to be followed as outlined in the GRDM resolution.;*
- [j] That Knysna Municipal Council resolves in principle to support and sufficiently budget for the Garden Route Regional Waste Management Facility service charge for the duration of twenty (20) years, after the processes in Section 33 of the MFMA has been adhered to; and*
- [k] That Council resolves to provisionally include the Garden Route District Municipality Regional Waste Management Facility service charge for Knysna Municipality in the budget for the 2022/23, 2023/24 and 2024/25 financial years (MTREF).*

BACKGROUND

The loan tender for the funding of R261 Million for the construction of the Regional Waste Management Facility was advertised on 15 May 2022 and closed on 21 June 2022. The Debt Agreement negotiations process between the Garden Route District Municipality (GRDM) and Standard Bank has been concluded and the process in terms of Section 46 of the Municipal Finance Management Act (Act No. 56 of 2003) (MFMA) for long-term debt has also been finalised. The MFMA Section 46 process entail a public participation process, obtaining written comments or representations from National and Provincial Treasury and the submission of a copy of the information statement to Council, twenty-one (21) days prior to the meeting where the debt agreement is to be approved.

The Draft Debt Agreement served before Garden Route District Municipality's (GRDM) Council on Monday 21 November 2022 and public comments were invited through an

advertisement on Thursday 24 November 2022. The Draft Debt Agreement was also sent to Provincial and National Treasury on Thursday 24 November 2022 for comments. The twenty-one (21) day period for comments concluded on 23 December 2022.

A prerequisite of the Debt Agreement with Standard Bank is that Service Level Agreements between the GRDM and each of the participating municipalities be concluded. The requirement of the Service Level Agreements is the consideration of submission received from Provincial Treasury during the MFMA Section 46 process. A draft Service Level Agreement (SLA) was compiled and sent to the participating municipalities and discussed at a meeting held on 07 December 2022. The participating municipalities were provided with sufficient time to submit any comments on the draft SLA which were considered and incorporated accordingly.

The duration of the SLA is for a period of ten (10) years and must therefore comply with the provisions of Section 33 of the MFMA. This entails, 60 days before Council approval, a public participation process; soliciting the views and recommendations of National Treasury, Provincial Treasury, the National Department responsible for Local Government, and Department of Environment, Forestry and Fisheries (DFFE). There is an opportunity for amendments to the SLA after the MFMA Section 33 period for comments and prior to the finalisation and approval by Council for undersigning.

It is envisaged that the contractor will commence with site establishment in May 2023 by which time the SLAs and the Debt Agreement between the GRDM and Standard Bank must be concluded. It is therefore essential that the MFMA Section 33 process commence by 01 March 2023. Any delay in the commencement of the Section 33 process by a municipality will subsequently result in the delay for the commencement of construction of the facility.

RELEVANT LEGISLATION

Section 46 of the Municipal Finance Management Act (Act No. 56 of 2003)
The National Environmental Management Waste Act Act No. 59 of 2008
Integrated Waste Management by-law 2014
All other relevant legislations listed within the draft WMP

FINANCIAL IMPLICATIONS

Not applicable – advertising for public comments.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the report on the Public Participation Process – Service Level Agreement Regional Waste Management Facility, be noted; and
- [b] That Council approves the commencement of the MFMA Section 33 process for Regional Waste Management Facility Service Level Agreement with the Garden Route District Municipality

APPENDIX / ADDENDUM

1. Council Resolutions from the Special Mayoral Committee Meeting minutes 25 April 2022 : SM02/04/22 : Garden Route Regional Waste Management Facility: Participation as well as financial commitment; and

2. Mossel Bay Municipality (MBM) draft SLA comments 15 February 2023

File Number : 9/2/1/5

Execution : Director : Community Services

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Municipal Manager with the compilation of the tender documents for the appointment of a construction company to construct the

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facility and the appointment of a service provider to operate the facility;

[f] That Council resolves to appoint the consulting engineer through a deviation process to ensure that the proper consultant is appointed as indicated in the report;

[g] That Council resolves that requests to financially assist with the cost associated with the implementation of the regional waste management facility is submitted to the Department of National Treasury, COGTA and Provincial Treasury.

[b] That in view of the above resolution that was taken by the Garden Route District Municipality the Knysna Local Municipal Council pledge its support to the Garden Route District Municipal Council's decisions on the way forward and the methods to be followed as outlined in the GRDM resolution.;

- [b] That Knysna Municipal Council resolves in principle to support and sufficiently budget for the Garden Route Regional Waste Management Facility service charge for the duration of twenty (20) years, after the processes in Section 33 of the MFMA has been adhered to; and
- [c] That Council resolves to provisionally include the Garden Route District Municipality Regional Waste Management Facility service charge for Knysna Municipality in the budget for the 2022/23, 2023/24 and 2024/25 financial years (MTREF).

File Number : 9/1/2/5

Execution : Director : Community Services

WASTE DISPOSAL AGREEMENT

entered into between

THE GARDEN ROUTE DISTRICT MUNICIPALITY (GRDM)

and

KNYSNA MUNICIPALITY (KM)

and

MOSSEL BAY MUNICIPALITY (MBM)

and

GEORGE MUNICIPALITY (GM)

and

BITOU MUNICIPALITY (BM)

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1. INTRODUCTION

WHEREAS GRDM 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 GRDM is the owner of Farm 419, Mossel Bay, on which it will operate a regional waste disposal site, and KM, MBM, GM and BM will make use of such a solid waste disposal site and the waste disposal facilities thereon;

AND WHEREAS GRDM intends to establish and construct a Regional Waste Disposal Facility on Farm 419, Mossel Bay and whereas a licence has been granted to the GRDM in terms of the Waste Act under licence number 12/9/11/L1395/9, as per Annexure 'A'.

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 tended,

- 2.1.1 **Administration Costs** means the reasonable costs required by the GRDM for the proper administration and management of the services for the project term (the Administration Services) calculated at 10% of the aggregate of the cost as per the ringfenced cost centre/(s) as set out in clause 8.2 and 8.3;
- 2.1.2 **Agreement** means this agreement entered into between the KM, MBM, GM, BM and GRDM and includes all annexures hereto;
- 2.1.3 **BM** Means the Bitou Municipality or its successors in title duly established in terms of section 12 and 14 of the Local Government: Municipal Structures Act, 1998
- 2.1.4. **Business Day** means any day of the week excluding Saturdays, Sundays and Public Holidays as determined in terms of the Public Holidays Act
- 2.1.5. **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 Facility required to provide KM, MBM, GM

Commented [J61]: Include: To be revised on an annual basis

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	and BM 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
2.1.6 Charges	means all of the charges as agreed upon between the Parties to be levied by GRDM for the use of the Regional Waste Disposal Facility in terms of clause 8 of this Agreement
2.1.7 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;
2.1.8 Contractual Term	means the period of ten (10) years from the Effective Date;
2.1.9 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;
2.1.10 CPI	means the consumer price index excluding interest on mortgage bonds, for metropolitan and other urban areas (Base 2016=100) published from time to time by Statistics SA in Statistical Release PO141;
2.1.11 Delivery Hours	means the hours from 07h00 in the morning until 16h30 in the evening from Monday to Friday and 07h00 to 14h00 on Saturdays and public holidays when the need arises and on reasonable notice to GRDM, which shall be recorded in the contract entered into between GRDM and the service provider that operates the Regional Waste Disposal Facility. During peak holiday seasons, the weekend hours may be extended by mutual agreement between the Parties
2.1.12 Effective Date	means the date upon which GRDM notifies the other Parties in writing that the construction of the Regional Waste Disposal Facility has been completed and is ready for operation;
2.1.13 Financial Year	means a year commencing on 1 July in the one year and ending on 30 June of the following year;
2.1.14 Fixed Waste	

Commented [Vd8Y2]: MBM contract had a comment that it is recommended at the December and Easter delivery hours be address in contract

Commented [JG3R2]: The definition addresses peak holiday season and when the need arises - December and Easter excluded so as to not limit it to these specific holidays.

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Disposal Costs	means the fixed annual charge levied by GRDM for the use of the Regional Waste Disposal Facility in terms of clauses 8.9 to 8.13 below
2.1.15 Force Majeure	means any event of war, civil commotion, fire, flood, action by any government, pandemics, 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
2.1.16 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
2.1.17 GM	means the George Municipality or its successors in title established in terms of the Local Government: Municipal Structures Act, 1998
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 GRDM 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 and includes hazardous substances, materials or objects within business waste, residue deposits and residue stockpiles as outlined in Schedule 3 of the National Environmental Management: Waste Act, 2008
2.1.20 Monitoring Committee	means the monitoring committee established in terms of clause 6.6 of the License .
2.1.21 KM	means the Knysna Municipality or its successors in title as established in terms of sections 12 and 14 of the Local Government: Municipal Structures Act, 1998
2.1.22 MBM	means the Mossel Bay Municipality or its successors in title established in terms of sections 12 and 14 of the Local Government: Municipal Structures Act, 1998

Commented [VdBY4]: Definition of Household waste deleted

Commented [JG5R4]: This is addressed in the definition of general waste (as per NEM:WA), which includes household waste.

The definition of household waste in the initial draft was incorrect and referred to Health Care Risk Waste.

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2.1.23 Parties	means KM, MBM, GM, BM and GRDM and "Party" refers to one of the Parties as the context may indicate
2.1.24 Licence	means the Waste Management Licence (number 12/9/11/L1395/9) issued to Garden Route District Municipality on 05 February 2014 or as re-issued by any subsequent licence in respect of the Regional Waste Disposal Facility in terms of the Waste Act, annexed hereto and marked as 'A'
2.1.25 Regional Waste Disposal Facility	means the licensed Garden Route Regional Waste Disposal Facility situated on Farm 419, Mossel Bay, which is owned and operated by GRDM
2.1.26 Rehabilitation Contribution	means the portion of the Rehabilitation Costs that will be payable by KM, BM, MBM and GM as set out in clauses 8.14 to 8.18 below
2.1.27 Rehabilitation Costs	means the costs associated with rehabilitating the Regional Waste Disposal Facility
2.1.28 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
2.1.29 Third Parties	means other municipalities and private users contracted by a participating municipality in the Garden Route Regional District to which GRDM grants a right to make use of the Regional Waste Disposal Facility
2.1.30 Waste Act	means the National Environmental Management: Waste Act (Act 59 of 2008) as amended from time to time
2.1.31 Waste Disposal Tariff	means the variable tariff per ton of waste deposited, as indicated in clauses 8.7 and 8.8 below
2.1.32 IDP	means the respective Integrated Development Plans of the Participating LMs and GRDM as contemplated by the Municipal Systems Act and as adopted by the respective councils of the GRDM and Participating Local Municipalities;

3. INTERPRETATION

Commented [VdBY6]: Comment regarding definitions for chipping, cherishing services, financial Model etc definitions has been ignored.
Definitions still not alphabetically arranged.

Commented [JG7R6]: The definitions for chipping & crushing services and the financial model were part of the protocol agreement that was applicable to the PPP process which is no longer being followed.

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- 3.1 Expressions in the singular also denote the plural and vice versa
- 3.2 Words and phrases denoting natural persons refer also to juristic persons and vice versa
- 3.3 Pronouns of any gender include the corresponding pronouns of the other genders
- 3.4 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
- 3.5 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
- 3.6 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
- 3.7 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
- 3.8 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail
- 3.9 Clause headings appear in this Agreement for purposes of reference only and shall not influence the proper interpretation of the subject matter
- 3.10 In the event of a conflict between the clauses as contained in this agreement and the licence issued the terms of the licence will prevail.

4. REPRESENTATION OF THE PARTIES

- 4.1 GRDM warrants and represents to MBM, KM, BM and GM the following:
 - 4.1.1 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).
 - 4.1.1 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
- 4.2 KM, GM, BM and MBM warrant and represent to GRDM the following:
 - 4.2.1 The execution and delivery of this Agreement has been properly and lawfully authorised and this Agreement constitutes legal, valid and binding obligations

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enforceable in accordance with its terms (except as enforceability may be limited by applicable laws).

- 4.2.2 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

5. MONITORING COMMITTEE

- 5.1 A Committee as required in terms of the Licence is hereby established and will include, amongst others, two (2) representatives from each participating Local Municipality which will meet within three (3) months of signing of this agreement.
- 5.2 The Committee's Terms of Reference and code of conduct shall be compiled by the Committee and be submitted to each participating LM's council for approval.
- 5.3 The Terms of Reference must include discussion and consultation on the determination of the tariffs and related activities.

6. DEVELOPMENT OF REGIONAL WASTE MANAGEMENT FACILITY

- 6.1 Responsibilities of GRDM for the duration of the Agreement:
- 6.1.1 Retain ownership of Farm 419, Mossel Bay, for the development, construction and operation of a Regional Waste Disposal Facility.
- 6.1.2 Design and construct the waste disposal facility in conformity with the Waste Act, the Licence and any regulations promulgated thereunder, all applicable codes, permits, bylaws, regulations and other applicable laws, as well as in accordance with Good Engineering Practice.
- 6.1.3 Obtain and maintain all necessary and required statutory authorisations for the handling and disposal of General and Hazardous Waste at the Regional Waste Disposal Facility.
- 6.1.4 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 Garden Route Regional District.

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- 6.1.5 If GRDM chooses to award a contract to a private entity to design and construct the waste disposal facility and/or operate the Regional Waste Disposal Facility, it shall proceed in a diligent, orderly, and prudent manner and shall at all times keep KM, MBM, GM and BM informed of its progress in that process
- 6.1.6 Operate and maintain the Regional Waste Disposal Facility to be capable of receiving and disposing waste from KM, MBM, GM and BM.
- 6.1.7 Operate the Regional Waste Disposal Facility in a manner that will minimise any adverse impact upon residents of the surrounding areas.
- 6.1.8 Accept General and Hazardous Waste from KM, MBM, GM and BM during the Delivery Hours.
- 6.1.9 Allow and encourage the recovery of waste by KM, MBM, GM and BM instead of disposing the waste at the Regional Waste Disposal Facility
- 6.1.10 Comply with all the obligations of the Licence *inter alia* with regards to the construction, the general impact management and operation, the monitoring, record keeping, reporting and auditing requirements.
- 6.2 Responsibilities of KM, MBM, GM and BM for the duration of the Agreement
 - 6.2.1 Ensure that all waste conforms to the Waste Act and any regulations promulgated thereunder, national legislation and the licence conditions of the Regional Waste Disposal Facility.
 - 6.2.2 Ensure that GRDM are provided with the necessary details of vehicles of municipalities and/or their duly appointed contractors that will dispose of waste (i.e. registration number, licence numbers, etc.).
 - 6.2.3 Use all reasonable endeavours to encourage the reduction of waste.
 - 6.2.4 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.

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6.2.5 Waste types or loads that do not conform to the prescriptions as set out above and in the licence conditions of Regional Waste Disposal Facility will not be accepted.

7. OPERATING AGREEMENT

7.1 Parties acknowledge that

7.1.1 GRDM will be contractually bound to a private entity for the operation and management 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 the Regional Waste Disposal Facility.

7.1.2 GRDM's financial obligations in terms of the contracts referred to in clause 7.1.1 can only be met on payment of the charges set out in clause 8 below.

7.2 The Regional Waste Disposal Facility will be operated by GRDM as a ring-fenced cost centre, which 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 GRDM in terms of the construction of Regional Waste Disposal Facility.

7.3 Separate ringfenced cost centres may be created for the various types of waste services if the participating municipalities differs.

8. CHARGES

8.1 When determining the tariffs for Fixed Waste Disposal, Waste disposal and the rehabilitation contribution the cost as per the ringfenced cost centres must be included in the calculations. When calculating the tariff, the cost must exclude depreciation charges whilst it must include the redemption portion of the loan.

8.2 The latest actual results of the cost centres must be included in the calculation of cost reflective tariffs considering the conditions in 8.1

8.3 KM, MBM, GM and BM undertake to pay the applicable Charges including but not limited to GRDM a Fixed Waste Disposal Cost, a variable Waste Disposal Tariff per ton of waste disposed and a Rehabilitation Contribution per ton of waste disposed that is based on cost reflected tariffs for the cost centre/(s) as determined in clause 7.2 and 7.3

8.4 In the event of GRDM 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, KM, MBM, GM and BM will not be held liable for the Waste Disposal Tariff, the Rehabilitation Contribution and the Fixed Waste Disposal Cost

8.5 KM, MBM, GM and BM undertake to pay the full amount invoiced by GRDM within 30 (thirty) days of the day of receipt of a valid invoice and to make all payments directly per electronic funds transfer into GRDM's bank account (s), particulars of which will be furnished by GRDM from time to time

8.6 Disputes will not be accepted as reason for non-payment

Commented [VdBY8]: Portion left out: except in the case where the Municipality questions the correctness of any specific account. In order for a dispute to be registered with the GRDM (see page 10 and 11 MBM contract)

Commented [JG9R8]: @ Nadiema Davids. Was it not agreed to include "Except in the case where the Municipality questions the correctness of any specific account.", and that the Clause 17: Dispute Resolution will then be applicable? Please confirm.

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Waste Disposal Tariff

- 8.7 The Waste Disposal Tariff shall be calculated based on the costs incurred by GRDM in operating the Regional Waste Disposal Facility, including but not limited to fees for contractors, administration cost, audit, water and gas monitoring, weighbridge calibration, maintenance on pipework, maintenance of fences, clearing of alien vegetation, personnel 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. The Rehabilitation Cost will not form part of the operational cost allocation to the users of the service, but will be a separate charge
- 8.8 KM, MBM, GM and BM shall each be liable to pay GRDM a Waste Disposal Tariff in accordance with GRDM's Council's approved tariff listing as reviewed and approved annually in so far as it complies with section 7.1 of this agreement.

Fixed Waste Disposal Cost

- 8.9 The Fixed Waste Disposal Cost is calculated in accordance with GRDM's loan repayment obligations which are to be incurred for the purpose of constructing the Regional Waste Disposal Facility.
- 8.10 The loan repayment terms are a ten (10) year contract with a floating or fixed interest rate as per the final decision by GRDM. Instalments on the loan repayment shall also be adjusted in accordance with any changes to the floating interest rate as stated above if required.
- 8.11 In line with the debt agreement with the Lender, GRDM will, on a monthly basis, invoice the participating municipalities/parties their proportionate contribution, which amount must be paid within thirty (30) days of statement
- 8.12 The Fixed Waste Disposal Cost shall be divided proportionately between KM, MBM, GM and BM based on waste disposal data as per weighbridge records recorded at the facility. The proportion to be repaid by the Parties, will be reviewed on an annual basis and agreed between the Parties. For the first financial year (or part thereof), the following percentages of the repayment instalments is applicable to the Parties, namely
- GM – 42%
- MBM – 33%
- BM – 11%
- KM – 14%
- 8.13 Any change in the Fixed Waste Disposal Cost shall be aligned to any change in the actual loan repayment instalment, which shall be applied to the applicable invoice as soon as there is a change in the floating interest rate.

Rehabilitation Contribution

Commented [VdBY10]: Previous comment ignored: Elaboration on protection of all parties / copy of loan agreement before signature of this agreement as well as the BEC report. Further information relating to the calculation of the percentages in 7.12 is also required. This clause must be in accordance with the relevant interest rate awarded to Standard Bank and which must be to the benefit of all municipalities and negotiated as such.

Commented [JG11R10]: Noted. The Draft Debt Agreement with Standard Bank & BEC report will be distributed to all parties.

The percentages in Clause 8.12 is based on PetroSA disposal records of each municipality. This was agreed upon for the first year whereafter it will be revised on an annual basis based on actual weighbridge data.

The 10-year floating interest rate was the option recommended by all municipalities at a meeting held on 07 July 2022. Standard Bank award was based on this option.

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- 8.14 The Regional Waste Disposal Facility will be required to be rehabilitated at the end of its useful lifespan.
- 8.15 KM, MBM, GM and BM, being the users of the Regional Waste Disposal Facility, shall be liable to contribute based on the agreed proportion towards the Rehabilitation Costs of the Regional Waste Disposal Facility from the Effective Date through payment of the Rehabilitation Contribution in accordance with clauses 8.16 to 8.18 below.
- 8.16 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 the Licence, inclusive of post-closure monitoring. 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
- 8.17 The Rehabilitation Costs and Rehabilitation Contribution shall be reviewed annually, by a duly appointed consulting engineer appointed by GRDM after consultation with KM, MBM, GM and BM, 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.
- 8.18 For the first Financial Year following the Effective Date the Rehabilitation Contribution will be determined once the cost has been determined by duly appointed consulting engineers

9. WEIGHING OF REFUSE

- 9.1 GRDM 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
- 9.2 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. KM, MBM, GM, BM 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

GRDM 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

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- 9.3 Should KM, MBM, GM and/or BM dispute the tonnage as reflected in the weighbridge calculation it will be investigated by GRDM and its decision, with reasons therefore, shall be given to KM, MBM, GM and BM within 10 (ten) Business Days after receipt of the dispute
- 9.4 Should KM, MBM, GM and/or BM not be satisfied with the decision or the reasons given, it may resort to the provisions of clause 17
- 9.5 KM, MBM, GM and BM shall have the right to inspect the weighbridge and weigh records at any time subject to reasonable written notice being given of such envisaged inspection
- 9.6 GRDM shall, at its own cost, have the weighbridge calibrated at least once every year by the supplier thereof or other competent and authorised authority and provide KM, MBM, GM and/or BM with a certified copy of the findings
- 9.7 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), GRDM 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
- 9.8 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
- 9.9 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
- 10. WASTE OWNERSHIP**
- Provided that the Municipal Waste delivered by the Municipality to the Garden Route Regional Waste Management Facility complies with the conditions of the Licence, ownership and risk of the waste shall pass to the GRDM upon delivery thereof at the Facility.
- 11. GOVERNING LAW**
- This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa
- 12. CHANGE IN LAW**
- If, after the Effective Date, as a direct result of a Change in Law, GRDM shall incur an increase in the cost of construction, operation or maintenance of the Regional Waste Disposal Facility to be utilised by KM, MBM, GM and BM, related solely to a Change in Law, then the Charges, contemplated in clause 8 will be increased accordingly in consultation with KM, MBM, GM and BM to ensure that GRDM 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. GRDM shall provide KM, MBM, GM and BM 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 17 of this Agreement
- 13. DURATION OF AGREEMENT**

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13.1 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.

13.2 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 Standard Bank from GRDM for the repayment of the costs incurred for the construction of the Regional Waste Disposal Facility as mentioned in clause 7.6 above.

Commented [JG12]: To be amended

14. VARIATIONS AND AMENDMENT

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

14.2 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.

14.3 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.

14.4 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.

14.5 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.

Commented [VdBY13]: Comment ignored: Provision should be made that the other parties may proceed with the agreement even if one of the parties cancel. Clarity should be provided with regard to the financial implications should one of the parties withdraw from the agreement.

15. NOTICE AND DOMICILIA

15.1 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:

15.1.1 KM

Address:

Tel:

Fax:

Email:

Commented [JG14R13]: This is a huge risk to GRDM.

If one of the municipalities withdraws from the project then financial viability is questionable.

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15.1.2 **GM**

Address: York Street, George, 6530

Tel:

Fax:

Email:

15.1.3 **MBM**

Address: 101 Marsh Street, Mossel Bay, 6500

Tel: 044 606 5000

Fax:

Email:

15.1.4 **BM**

Address:

Tel:

Fax:

Email:

15.1.5 **GRDM**

Address: 54 York Street, George, 6530

Tel: 044 803 1354

Fax:

Email: records@gardenroute.gov.za

15.2 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.

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

15.4 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:-

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

15.4.2 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

15.4.3 By hand during normal business hours at the time of delivery

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15.4.4 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

16. FORCE MAJEURE

16.1 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

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

16.2.1 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

16.2.2 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

16.3 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

16.4 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 15.2.1, 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)

16.5 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

16.6 If, following the issue of any notice referred to in clause 15.4 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

16.7 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

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17 DISPUTE RESOLUTION

- 17.1 This Agreement shall be governed by and constructed in accordance with the laws of the Republic of South Africa
- 17.2 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
- 17.3 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
- 17.4 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
- 17.5 Such arbitration shall be held in George 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:
- 17.5.1 the Arbitrator who shall act as an expert, shall have the absolute discretion to determine the procedure to be adopted
- 17.5.2 it being agreed the intention, if possible, the arbitration shall be held and concluded within 20 (twenty) Business Days after it has been demanded
- 17.6 Save as otherwise specifically provided in this Agreement, the Arbitrator shall be, if the question in dispute is
- 17.6.1 primarily an accounting matter - an independent accountant of not less than 10 (ten) years' standing, as may be agreed upon between the Parties:
- 17.6.2 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
- 17.6.3 any other matter - an independent and suitably qualified person, as may be agreed upon between the Parties
- 17.7 If any agreement cannot be reached on whether the question in dispute falls under clauses 17.6.1 or 17.6.2 or 17.6.3 above or upon a particular arbitrator in terms of clause 17.6 within 5 (five) Business Days after the arbitration has been demanded, then the President for the time being of the Legal Practice Council of the Western Cape, shall determine whether the questions in dispute falls under clauses 17.6.1, 17.6.2 or 17.6.3 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 17.5.2

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- 17.8 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
- 17.9 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.
- 17.10 Nothing herein prohibits any party to obtain urgent relief in a Court of Law. Urgent procedures and/or procedures calling for an interdict and/or motions proceeding/s will not be subject to arbitration. The arbitration clause is inserted to allow for a speedy conclusion of the merits of dispute, but the parties are under no obligation to refer a matter to arbitration.

18. SEVERABILITY

- 18.1 Clause 17 is severable from the rest of the Agreement and shall therefore remain in effect even if this Agreement is terminated
- 18.2 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.

19. BREACH

- 19.1 Subject to clause 17 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
- 19.2 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
- 19.3 If such breach is not remedied by the date and to the extent, as stipulated in the notice of breach, the aggrieved Party may:
- 19.3.1 cancel this Agreement and claim damages
- 19.3.2 avail itself of any other remedy available in law
- 19.4 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

20. TERMINATION OR CANCELLATION OF AGREEMENT

- 20.1 The termination and/or cancellation of this Agreement may occur –
- 20.1.1 at the expiry of the Contractual Term of this Agreement
- 20.1.2 by mutual written consent
- 20.1.3 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.

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

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

20.2.2 not affect the continuing rights and obligations of the parties to this agreement.

11. ALIGNMENT OF LEGISLATION

11.1. Section 41(1)(h) of the Constitution and section 5(c) of IFRA requires the spheres of government and organs of state to coordinate their actions and to align their legislation to act as a coherent government in reaching the goal of providing effective municipal services.

11.2. In pursuance of this instructions the Participating LMs must take steps to amend their respective waste management by-laws where such by-laws do not align with the national legislative assignment of the waste disposal function to the GRDM in terms of section 84(1)(e) of the Structures Act.

11.3. In doing so the Participating LMs must align their respective waste management by-laws with each other and the GRDM Waste Management By-Law.

11.4. Any portion of a Participating LM waste by-law not aligned with the assignment described in sub-clause 11.3, shall after the Service Commencement Date be unenforceable.

Commented [VdBY15]: It is unclear if all parties have complied with this.

Commented [VdBY16R15]: This paragraph has now been deleted.

Commented [JG17R15]: This is Clause was applicable to the protocol agreement for the PPP process / agreement.

The District Municipality

SIGNED AT _____ ON THIS _____ DAY OF _____ 2023

Signature:

MONDE GIVEN STRATU
MUNICIPAL MANAGER

AS WITNESSES:

1. _____

2. _____

Knysna Municipality

SIGNED AT _____ ON THIS _____ DAY OF _____ 2023

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Signature: _____

MUNICIPAL MANAGER

AS WITNESSES:

1. _____

2. _____

Mossel Bay Municipality

SIGNED AT _____ ON THIS _____ DAY OF _____ 2023

Signature: _____

MUNICIPAL MANAGER

AS WITNESSES:

1. _____

2. _____

George Municipality

SIGNED AT _____ ON THIS _____ DAY OF _____ 2023

Signature: _____

MUNICIPAL MANAGER

AS WITNESSES:

1. _____

2. _____

Bitou Municipality

SIGNED AT _____ ON THIS _____ DAY OF _____ 2023

Signature: _____

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MUNICIPAL MANAGER

AS WITNESSES:

1. _____
2. _____

6.2

SC02/02/23 GRANT TO SUPPORT THE GREATER KNYSNA FOOD SECURITY FORUM

REPORT FROM THE DIRECTOR : COMMUNITY SERVICES

PURPOSE OF THE REPORT

To provide a report to the Municipal Council which places particular emphasis on the outcomes of the Council Workshop held on 24 February 2023 as well as the associated processes that will be followed in respect of the Food Security Project for the Greater Knysna Municipal Area.

PREVIOUS RESOLUTION

M16/06/22 GRANT TO SUPPORT THE GREATER KNYSNA FOOD SECURITY FORUM

UNANIMOUSLY RESOLVED

That the report on the funding for the Greater Knysna Food Security Forum from the Garden Route District Municipality received from the Director Corporate Services be referred to a Council workshop and thereafter a report be submitted to the Corporate Services Committee Meeting for consideration.

File Number:

*Execution: Acting Municipal Manager
 Acting Director: Corporate Services
 Manager Public Participation*

BACKGROUND

The Knysna Municipality was one of the beneficiaries of the Joint District and Metro Approach Grant as per Gazette 8351, published in December 2021. The Knysna Municipality received an amount of R1 000 000 from Western Cape Government through the Garden Route District Municipality towards the end of 2021/2022 financial year.

On 26 August 2022, the Knysna Municipality submitted a roll-over application for the R 1 000 000 to the Western Cape Provincial Treasury through the Garden Route District Municipality which was subsequently approved.

DISCUSSION

It must be noted that the Council Workshop held on 24 February 2023 is as a result of the abovementioned Council resolution. Since the latter, an administrative decision was made that the coordination as well as the implementation of the Food Security Project would be best located in the Community Services Directorate more specifically under the Parks and Recreation Unit. Furthermore, that an internal Project Steering Committee was established, consisting of the Community Services Directorate (Director and the Parks and Recreation Unit), Corporate Services Directorate (Public Participation Unit), Planning and Economic

Development Directorate (Local Economic Development Unit) and the Community Development Workers' Regional Office to provide the necessary advisory support in the implementation of the project.

Although various reports related to the Food Security Project were previously submitted through the relevant Portfolio Committee up to the Municipal Council level, a decision was made that given the available time before the end of the financial year as well as the fact that the funds received were already rolled-over from the previous financial year, it was essential for a report on the outcomes of the abovementioned Workshop to be urgently prepared and submitted for Council's endorsement before the actual commencement of the project.

HIGHLIGHTS OF THE PRESENTATION

A presentation was given by Ms K. Curtis from Green Hearted, which was identified as a Lead Organisation through the Greater Knysna Food Security Forum to assist with funding applications such as the abovementioned grant received by Knysna Municipality. Green Hearted will serve as the implementing agent for the Knysna Food Security Project. The presentation covered *inter alia*:

- That project is aimed at benefiting 100% unemployed and indigent people - 80% must be youth of which 55% must be women.
- Skills development and transfer will benefit gardeners/workers, local community growers, parents and existing staff as well children from schools and crèches.
- Fresh produce will benefit school children, crèche children, elderly, pensioners and the hungry.
- The funds will be divided into two; namely: 33% (R 333 040.00) goes towards employment which will be done internally by the Municipality using the unemployment database and stipends will be at EPWP rates.
67% (R666 960.00) goes towards the implementation of the project by Green Hearted.

Although specific sites for the project were pointed out in the presentation, it was agreed that the actual commencement of the project will be preceded by consultations and confirmations with various Ward Councillors. It can be assumed from the deliberations during the Workshop that the Food Security Project presentation was well received by all as it was expressed that a possibility of internal funding should be considered as part of the next financial year's budget to top-up any available funding from external funding. The overall purpose being to expand the project and thereby benefit as many locals as possible.

FINANCIAL IMPLICATIONS

R 1 000 000.00 provided for in the 2022/2023 Budget.

RELEVANT LEGISLATION

Transfer Payment Agreement between Garden Route District Municipality and Knysna Local Municipality

RECOMMENDATIONS OF THE MUNICIPAL MANAGER

- [a] That the report on the grant funding for the Greater Knysna Food Security Forum from the Garden Route District Municipality received from the Director : Community Services be noted;

- [b] That it be noted that a draft Memorandum of Understanding is currently being refined by the Administration and upon its finalisation will be entered into between the Knysna Municipality and Green Hearted to serve as a monitoring and evaluation tool in the implementation of the Food Security Project; and
- [c] That a commitment be made towards providing an internal budget in the 2023/2024 financial year and future financial years to augment any available external funding for the Food Security Project.

File Number : 9/2/1/5

Execution : Director : Community Services

Acting Manager : Parks & Recreation

6.3

SC03/02/23 ADJUSTMENTS BUDGET – 2022/2023 (FEBRUARY 2023)

REPORT FROM THE ACTING DIRECTOR : FINANCIAL SERVICES

PURPOSE OF THE REPORT

To present to the Municipal Council the Adjustments Budget Report for the 2022/2023 financial year for consideration.

BACKGROUND

Section 28(1) of the Municipal Finance Management Act (MFMA) determines that a municipality may revise an approved annual budget through an adjustments budget.

Section 28(4) of the MFMA determines that only the Executive Mayor may table an adjustments budget in the municipal council.

Regulation 23(1) of the Municipal Budget and Reporting Regulations determines that an adjustments budget may be tabled in the municipal council at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year.

DISCUSSION

Council resolved, at a Council meeting held on 30 January 2023, that the Acting Municipal Manager and Directors compile an Adjustments Budget for the 2022/2023 financial year, based on the findings contained in the Section 72 Mid-Year Budget Assessment Report.

Consider the recommendations of the in-Year Monitoring Assessment of the Provincial Treasury on the Roll-over adjustments budget.

A detailed analysis of the current and prior year financial performance necessitated the re-calculation of the operating and capital budgets.

FINANCIAL IMPLICATIONS

The financial implications are detailed in the 2022/2023 Adjustments Budget Report attached as Annexure A.

RELEVANT LEGISLATION

Section 28 of the Municipal Finance Management Act; and
Regulation 23 of the Municipal Budget and Reporting Regulations.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the total revenue of R 1,115,259,113 be increased by R 13,978,18 (2%) to R 1,135,237,295 for the 2022/2023 financial year as presented in Table 1 of the Adjustments Budget Report;
- [b] That the operating expenditure of R 1,070,272,443 be increased by R 8,327,105 (1%) to R 1,078,599,548 for the 2022/2023 financial year as presented in Table 2 of the Adjustments Budget Report;
- [c] That the total surplus of R 44,986,670 (capital grants included) be increased by R 11,651,077 (26%) to R 56,637,747 for the 2022-2023 financial year as presented in Table 3 of the Adjustments Budget Report;
- [d] That the capital expenditure of R 124,222,425 approved by Council in August 2022 be decreased by R 3,011,287 (2.0%) to R 121,211,138 as presented in Table 4 of the 2022/2024 Adjustments Budget Report;
- [e] That the capital expenditure of R 121,211,138 be funded from the following sources as presented in Table 5 of the 2022/2023 Adjustments Budget Report :
 - (i) National and Provincial Government Grants (R 54,361,086);
 - (ii) External loans (R 61,640,038);
 - (iii) Capital Replacement Reserve (R 5,210,014);
- [f] That Council takes note that no taxes and tariffs are affected by the approval of this revised adjustments budget;
- [h] That Schedules B1 to B10, attached as Appendix C to the 2022/2023 Adjustments Budget Report, be approved by Council;
- [i] That the Service Delivery Budget Implementation Plan (SDBIP) be adjusted accordingly;
- [k] That the Adjustments Budget Report for 2022/2023 be submitted to the National and the Western Cape Provincial Treasury; and
- [l] That the Adjustments Budget Report for 2022/2023 be published on the municipal website and relevant print media.

APPENDIX / ADDENDUM

Annexure A : Adjustments Budget Report (February 2023) *(to be circulated separately)*

File Number : 9/1/2/10

Execution : Acting Director : Financial Services

7. **CONSIDERATION OF MOTIONS**

None

8. **CONSIDERATION OF QUESTIONS**

None

9. **CONSIDERATION OF MOTIONS OF EXIGENCY**

None

10. **IN COMMITTEE ITEMS**

None

11. **ADJOURNMENT**

-oOo-