

TO ALL COUNCILLORS AND DIRECTORS OF THE BREDE VALLEY MUNICIPALITY

NOTICE IS HEREBY GIVEN that a **COUNCIL MEETING** of the Brede Valley Municipality will be held on **TUESDAY, 27 MAY 2025** at **09:00** to consider the matters listed in the following Addendum Agenda.



ALDERMAN F. J. VAN ZYL
THE SPEAKER

27 MAY 2025

ADDENDUM AGENDA

BREDE VALLEY
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7.11 PROPOSED AMENDMENTS TO CONTRACTS IN COMPLIANCE WITH SECTION 116(3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 56 OF 2003 (MFMA)

File No./s: 5/2/5/3 **Responsible Official's:** B. Volschenk/ Wikus Du Plessis

Directorate: Financial Planning/ Municipal Manager

Portfolio: Finance/ Internal Audit

1. PURPOSE

The purpose of this item is to table the reasons for the proposed amendments of four (4) procurement contracts to the Council for consideration and approval in compliance with section 116(3) of the MFMA.

It is proposed that the following four (4) contracts be amended:

1.1 ABSA BANK LIMITED (BV 890/2021 – Acquisition of a R300 million loan)

1.2 NEDBANK LIMITED (BV 955/2022 – Provision of banking service)

1.3 MARSH (Pty) Ltd (BV 954/2022 - Short term insurance services for the period ending 30 June 2025)

1.4 THE INSTITUTE OF INTERNAL AUDITORS SOUTH AFRICA (BVD 659: Renewal of membership fees)

2. LEGAL REQUIREMENTS

Section 116(3) of the MFMA provides as follows:

“(3) A contract or agreement procured through the supply chain management policy of the Municipality or municipal entity may be amended by the parties, but only after -

a) the reasons for the proposed amendment have been tabled in the Council of the Municipality or, in the case of a municipal entity, in the Council of its parent municipality; and

b) The local community-

(i) has been given reasonable notice of the intention to amend the contract or agreement and

(ii) has been invited to submit representations to the Municipality or municipal entity.”

The following three things as set out below must therefore be done before the accounting officer can amend a procurement contract:

- a) The contracts must have been procured through the supply chain management policy of the Municipality.
- b) The reasons for the proposed amendment have been tabled in the Council. And
- c) The local community has been given reasonable notice of the intention to amend the contract or agreement, and they have been invited to submit representations to the Municipality.

3. CONTRACTS PROCURED THROUGH THE SUPPLY CHAIN MANAGEMENT POLICY.

It is confirmed that all the contracts as set out above were procured in compliance with the Municipality supply chain management policy.

It is further confirmed that all applicable contracts above are still active and enforceable and may be amended.

4. THE REASONS FOR THE AMENDMENTS PROPOSED

4.1 Reasons for Proposed Amendments of BV 890/2021: Absa Bank Limited (Acquisition of a R300 million loan)

The contract period for the R300 million loan was for 3 financial years, 2022/2023, 2023/2024 to 2024/2025.

Capital projects were identified that would be financed by the loan. Summary below:

External Loans Capital Projects	Total
Substation Refurbishment	R 24 000 000,00
Increase of the Stetteynskloof Dam Wall	R 120 000 000,00
Alternative Supply – Zwelethemba	R 10 000 000,00
Rawsonville Sewerage Works	R 27 000 000,00
Rawsonville Sewerage Pipeline	R 27 000 000,00
Avian Park Development - Pump Station	R 19 000 000,00
Upgrading Sewerage System - Zwelethemba, Roodewal, Riverview, Avian Park, etc.	R 18 000 000,00
Preloads	R 55 000 000,00
	R 300 000 000,00

The above capital projects may be subject to change, due to Council's re-prioritisation.

R110 million was taken up in 2022/2023 financial year and R74 million in 23/24 financial year.

The balance therefore had to be taken up in this financial year, 2024/2025, in accordance with the contract agreement but one project – extension/ increasing of the dam wall - will not be completed within this financial year.

It is therefore recommended that the agreement with ABSA bank be extended for a period ending 30 June 2026.

4.2 Reasons for the Proposed Amendment of BV 955/2022: Nedbank Limited (Provision of banking service)

Nedbank Limited was appointed as the successful service provider under Tender BV 1108/2024 to deliver banking services for a period not exceeding five years. The integration of banking services with the municipality's financial management systems (e.g., billing, payroll, revenue collection, and reporting) involves complex technical and regulatory configurations. A stable, long-term partnership is essential to ensure continuity, compliance, and the secure handling of public funds.

The initial award was made on 7 April 2025. However, the outcome was challenged by two of the unsuccessful bidders. After considering the objections, the final award was confirmed on 29 April 2025.

The municipality intends to initiate a Section 33 process in order to extend the contract period from three to five years. This request is motivated by the practical considerations involved in transitioning to a new banking partner. The implementation process alone typically spans approximately 18 months—constituting half of a three-year contract term—which renders a shorter contract duration inefficient and impractical.

Due to the delay caused by the appeals process, the initiation of the Section 33 process related to Tender BV 1108/2024 was postponed. As a result, the item can only be tabled before Council in August 2025, since the statutory consultation period under Section 33 will conclude in mid-June 2025.

The Proposed Amendment

The proposed amendment to this contract is to:

- a) Extend the current contract for banking services that expires on the 30 June 2025 for a period of three months until 30 September 2025.

4.3 Reasons for the Proposed Amendment of BV 954/2022: Marsh (PTY) Ltd (Short term insurance services for the period ending 30 June 2025)

The municipality issued a public tender for the provision of short-term insurance services for the period 1 July 2025 to 30 June 2028. The tender closed on 30 April 2025, by which time eight (8) submissions had been received. These were evaluated in accordance with the prescribed criteria, including eligibility, compliance, and technical requirements.

All submissions met the initial eligibility criteria and advanced to the technical evaluation stage. During this phase, three (3) submissions were found to be non-responsive due to failure to meet the minimum technical requirements. The remaining submissions were subsequently evaluated against additional requirements. However, material deviations from the tender specifications were identified, rendering all remaining submissions non-responsive.

In light of the above, it is recommended that the current contract with the existing service provider be extended. This will ensure uninterrupted insurance coverage, thereby mitigating potential risk and liability exposure to the municipality. The extension will also provide adequate time to initiate and conclude a compliant supply chain management process for the appointment of a new service provider.

4.4 Reasons for the Proposed amendment of BV 659: The Institute of Internal Auditors South Africa (Renewal of membership fees)

(i) Legislative Framework:

Section 62 of the MFMA requires amongst others, that the accounting officer of a municipality must take all reasonable steps to ensure that the municipality has and maintains effective, efficient and transparent systems of internal audit operating in accordance with any prescribed norms and standards.

Section 165 of the MFMA prescribes the establishment of the internal audit activity including the relevant responsibilities.

MFMA Circular 65 prescribe the following:

"The chief audit executive should preferably possess any the following qualifications:

- *Post graduate degree in Auditing and/or Accounting;*
- *Professional designation such as Certified Internal Auditor and other relevant professional designation.*

The incumbent should preferably possess the following:

- *At least five (5) years in internal audit management; and*
- *Membership of the Institute of Internal Auditors."*

The activities of internal audit must be guided, monitored and supervised at each level of operation to ensure that they are consistently performed in accordance with the International Standards for the Professional Practice of Internal Audit.

BVM approved Internal Audit Charter prescribe: *"to ensure that the internal audit activity is adequately resourced for effective functioning the budget must include the following:*

- *Personnel related expenditure*
- *Capital expenditure and software*
- *Training and development*
- *Institute of internal auditors' membership fees*
- *Quality assurance programs"*

(ii) Professional Body: IIA(SA)

The Institute of Internal Auditors, South Africa (IIASA) have as their mandate to further the profession and in particular the interest of the individuals engaged in that profession while also serving the public interest. Thus, its key activities include:

- To provide members with a set of mandatory Professional Standards either through local development or custodianship of international standards;
- To ensure that members are being held accountable against a Code of Ethics in accordance with a disciplinary code, policy and procedures;
- To provide Career Path Standards, clearly outlining the learning pathway for individuals entering the profession;
- To provide certifications and related examinations;
- To set Continuing Professional Development requirements and monitor adherence thereto.

5. Notice to the Local Community

Section 116(3)(b) oblige that the local community be given reasonable notice of the intention to amend the contract or agreement and that they are invited to submit representations to the Municipality. The sub-section is not prescriptive whether the notice should be given to the local community before the item is tabled in Council or not.

What is, however, unambiguous is that a contract can only be amended after the local community was given reasonable notice of the intention to amend and they have been offered an opportunity to provide input.

The accounting officer can thus use his discretion in this regard. For this reason, all the public notices were already placed on the municipal notice boards, and the website as set out below.

No comments were received from the public on the notices that were already closed for public input.

Three notices are still active and close for public comments in May 2025 and June 2025, respectively. (Refer to table below and Annexure B)

Note that an item only be resubmitted to Council should any comments/representations be received in the matters where the deadline for public comments have not already lapsed.

No	Ref no	Service Provider name	Description	Date of Notice and Closing date for Public Comments
1	BV 890/2021	ABSA Bank Limited	Aquisition of a R300 million loan	13 March – 14 April 2025
2	BV 995/2022	Nedbank Limited	Provision of banking service	13 May 2025 – 13 June 2025
3	BV 954/2022	Marsh (Pty) Ltd	Short term insurance services for the period ending 30 June 2025	19 May 2025 – 20 June 2025
4	BVD 659	The Institute of Internal Auditors	Renewal of membership fees	30 April 2025 – 30 May 2025

No	Ref no	Service Provider name	Description	Date of Notice and Closing date for Public Comments
		South Africa		

6. Financial Implications

The proposed contractual amendments have no additional financial implications towards the municipality, other than the fees / costs initially accepted by the municipality. The table below depicts the contract values applicable to each service provider.

The annual membership fees in terms of BVD 659 are budgeted per the normal budgeting process. See a breakdown of the estimated costs for the three-year period, taking into consideration an estimated 7% increase annually.

Please refer to the table below

Ref no	Service Provider name	Description	Period of Amendment Proposed	Contract Value Excluding VAT
BV 890/2021	ABSA Bank Limited	Aquisition of a R300 million loan	1 July 2025 – 30 June 2026	R495,494,010.20 (Total repayment over loan period)
BV 995/2022	Nedbank Limited	Provision of banking service	1 July 2025 – 30 September 2025	R632,263.66
BV 954/2022	Marsh (Pty) Ltd	Short term insurance services for the period ending 30 June 2025	1 July 2025 – 30 June 2026	R13,890,412.17
BVD 659	The Institute of Internal Auditors South Africa	Renewal of membership fees	1 July 2025 – 30 June 2027	R60,782.00

7. Applicable Legislation / Council Policy

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

Circular 57, National Treasury Practise note

Circular 62, National Treasury Practise note

Circular 73 National Treasury Practise note

Circular 102, National Treasury Practice note

Breede Valley Municipality Supply Chain Management Policy, as amended

Breede Valley Municipality Contract Management Framework as part of the SCM Policy, as amended

Section 116 (3) of the Municipal Finance Management Act 56 of 2003 determines as follows—

"A contract or agreement procured through the supply chain management policy of the Municipality or municipal entity may be amended by the parties, **but only after**—

- (a) the reasons for the proposed amendment have been tabled in the Council of the Municipality or, in the case of a municipal entity, in the Council of its parent municipality; and
- (b) the local community—
 - (i) has been given reasonable notice of the intention to amend the contract or agreement; and
 - (ii) has been invited to submit representations to the Municipality or municipal entity."

8. COMMENTS OF DIRECTORS AND LEGAL SERVICES

- **Municipal Manager:** Item supported
- **Director Engineering Services:** Item supported
- **Director PDI Services:** Item supported
- **Chief Financial Officer:** Item supported
- **Director Community Services:** Item supported
- **Director Strategic Support Services:** Noted
- **Senior Manager Legal Services:** Item supported

9. ANNEXURES

- **Annexure A - Intent to amend letters**
- **Annexure B - Proof of Advertisements**

RECOMMENDATION

That in respect of –

The PROPOSED AMENDMENTS TO CONTRACTS IN COMPLIANCE WITH SECTION 116(3) OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 56 OF 2003 (MFMA)

as discussed by Council at the Council meeting held on 27 May 2025:

It is recommended that Council:

1. Note that the contracts proposed to be amended as set out in the table below were procured through the Municipality's Supply Chain Management Policy.
2. To obtain consent in principle that the contracts as set out in the table below be amended as reflected,

No	Ref no	Service Provider name	Description	Period of Amendment Proposed	Conditions or limitations on Amendments
1	BV 890/2021	ABSA Bank Limited	Aquisition of a R300 million loan	1 July 2025 – 30 June 2026	Safe for the period amended, the contract shall be subject to the same conditions as the current contract.
2	BV 995/2022	Nedbank Limited	Provision of banking service	1 July 2024 – 30 September 2025	Safe for the period amended, the contract shall be subject to the same conditions as the current contract.
3	BV 954/2022	Marsh (Pty) Ltd	Short term insurance services for the period ending 30 June 2025	1 July 2025 – 30 June 2026	Safe for the period amended, the contract shall be subject to the same conditions as the current contract.
4	BVD 659	The Institute of Internal Auditors South Africa	Renewal of membership fees	1 July 2025 – 30 June 2027	Safe for the period amended, the contract shall be subject to the same conditions as the current contract.

3. Note that the municipal manager already gave reasonable notice of the intention to amend the contracts or agreements set out in the table of point 2 above to the local community and that they were invited to submit representations.

4. Note that no comments were received by the local community where the period for representations has already lapsed.

5. Resolve that an item only be resubmitted to Council should any comments/representations be received in the matters where the deadline for public comments have not already lapsed.