

# **BULK WATER SUPPLY AGREEMENT**

**BETWEEN**

**CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

**AND**

**THEMBISILE HANI LOCAL MUNICIPALITY**

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Bulk Water Supply Contract: CoT and Thembisile Hani Local Municipality.

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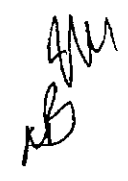
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## SECTION A: INTRODUCTION

### 1. RECORDAL

Whereas the City of Tshwane Metropolitan Municipality (hereinafter the "providing party") and the Thembisile Hani Local Municipality (hereinafter the "receiving party") are responsible for ensuring that all residents within their jurisdictional areas have access to water services in accordance with the Constitution of the Republic of South Africa Act, Act 108 of 1996, the Local Government: Municipal Systems Act, Act 32 of 2000 and the Water Services Act, Act 108 of 1997 and at the effective date are providing water services to the residents and will continue to do.

The parties hereby agree that the City of Tshwane Metropolitan Municipality will provide Thembisile Hani Local Municipality with bulk water, as approved in terms of a Mayoral Committee Resolution dated **07 November 2018** (a copy of which is attached hereto as Annexure C), on the terms and conditions as more fully set out in this contract.

### 2. INTERPRETATION AND PRELIMINARIES

#### 2.1 Unless a contrary intention indicates, words imparting -

2.1.1 the singular include the plural and vice versa;

2.1.2 any one gender include both genders; and

2.1.3 natural persons include created entities (corporate or unincorporated) and the Government.

#### 2.2 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely –

2.2.1 "bulk water supply" means the provision of potable water by the City of Tshwane Metropolitan Municipality to the Thembisile Hani Local Municipality at identified connections;

2.2.2 "Department" means the national Department of Water and Sanitation;

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- 2.2.3 **"Capital expenditure programme"** means the programme of the City of Tshwane Metropolitan Municipality and the Thembisile Hani Local Municipality describing all capital expenditure to be incurred or investments to be made in respect of all immovable assets, including but not limited to pipelines, reservoirs and pumping stations;
- 2.2.4 **"Competent authority"** means collectively the Minister, all spheres of Government, any court of competent jurisdiction or any agency, authority, body or standard setting institution, established or appointed in terms of any regulatory provision to regulate and oversee or regulate or oversee, the activities of the City of Tshwane Metropolitan Municipality or the Thembisile Hani Local Municipality pursuant to this contract or if the context is appropriate any one of them;
- 2.2.5 **"Contract"** means this contract and any annexure or annexures hereto, as well as any subsequent amendment, notation or substitution of this contract and annexure or annexures in accordance with this contract;
- 2.2.6 **"Contract term"** means the period defined in clause 4;
- 2.2.7 **"Connection"** means the equipment installed by the City of Tshwane Metropolitan Municipality or the Thembisile Hani Local Municipality to the existing infrastructure, namely the connection to the existing pipeline, the piping from the connection to the meter installation, the meter installation itself (that is, the meter, meter housing and the upstream and down stream isolation valves) and the 1,5 meters of piping downstream of the outer meter housing, with the length of piping between existing infrastructure and the meter installation limited to the minimum length necessary to ensure –
- a) the proper functioning of the meter; and

- b) the accessibility of the meter installation and non-interference with the infrastructure or adjacent infrastructure;
- 2.2.8 **"Daily peak flow"** means the maximum flow rate, which if maintained evenly over a day, will not exceed the annual average daily demand, multiplied by the agreed peak day factor;
- 2.2.9 **"Hourly peak flow"** means the maximum flow rate required to meet the demand of end consumers area;
- 2.2.10 **"Meter"** means a meter which is used to determine the volume of water provided at the connection on which bulk water supply services charges payable is calculated;
- 2.2.11 **"Minister"** means the Minister of the Department of Water and Sanitation;
- 2.2.12 **"Municipal Manager"** means the Municipal Manager as defined in section 81(1)(a) of Local Government: Municipal Structures Act, Act 117 of 1998;
- 2.2.13 **"Normal growth"** means –
- 2.2.13.1 the agreed growth in demand for water in a financial year or a number of financial years; or
- 2.2.13.2 where the growth in demand for water in a financial year or a number of financial years has not been agreed, the estimated growth in demand for water in a financial year or a number of financial years defined by the City of Tshwane or the Thembisile Hani Local Municipality in their Integrated Development Plans which estimates are based on social and economic development; or
- 2.2.13.3 where the growth in demand for water in a financial year or a number of financial years has not been defined by the City of Tshwane or the Thembisile Hani Local Municipality in their Integrated Development Plans, the

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estimated growth based on the best available information in respect of projected social and economic development within the respective area;

- 2.2.14 **"Party or parties"** means the City of Tshwane Metropolitan Municipality and the Thembisile Hani Local Municipality, individually or collectively, as the context may require;
  - 2.2.15 **"Providing party"** means the party providing the bulk water to the receiving party;
  - 2.2.16 **"Receiving party"** means the party receiving the bulk water from the providing party;
  - 2.2.17 **"Regulatory provisions"** means collectively, the provision of any legislation or any regulation, a notice issued pursuant to such legislation, or a policy directive or notice issued by a competent authority, any or all of which are directly related to the provision of bulk water supply services or the related activities of the City of Tshwane Metropolitan Municipality or the Thembisile Hani Local Municipality, or if the context is appropriate, any one of them;
  - 2.2.18 **"SABS 241"** means the South African Bureau of Standards 241: Specifications for Drinking Water 5<sup>th</sup> edition, as may be amended from time to time;
  - 2.2.19 **"Infrastructure"** means overall bulk water supply infrastructure and equipment including bulk connections;
  - 2.2.20 **"Water services manager"** means the most senior manager responsible for water supply services.
- 2.3 Clause headings in this contract are for the purpose of convenience and shall not be used in interpretation to modify or amplify the terms or any clause of this contract.
- 2.4 If any provision in a definition or the recordal is a substantive provision conferring rights or imposing duties on any party, notwithstanding that it is only

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in the definition or recordal clause, effect shall be given to it as if it were a substantive provision in the operative part of this contract.

- 2.5 When any period of days is prescribed, days shall mean calendar days and the period shall be reckoned exclusively of the first day and inclusively of the last day and shall include any Saturday or Sunday or any public holiday.
- 2.6 Where any term is defined within the context of any particular clause in this contract, the term 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 meaning ascribed to it for all purposes in terms of this contract, notwithstanding that that term has not been defined in this interpretation clause.
- 2.7 Where consent or approval of a party must be obtained or a party is required to consider or renew something in terms of this contract, unless it is specifically provided for otherwise, it will act reasonably and within a reasonable period.
- 2.8 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.9 Expressions defined in this contract shall bear the same meanings in schedules or annexures to this contract that do not themselves contain their own definitions.
- 2.10 The expiration or termination of this contract shall not affect such of the provisions of this contract as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 2.11 General words preceded or followed by words such as "other" or "including" or "particularly" shall not be given a restrictive meaning because they are preceded or followed by a particular example intended to fall within the meaning of the general words.

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### **3. OBJECTIVES OF THE CONTRACT**

Recognising the executive authority of the parties to provide water services within their area of jurisdiction the parties agree that this contract should be concluded to –

- 3.1 formalise and record the current and continued provision of bulk water by the providing party in writing in accordance with the requirements of the Water Services Act, Act 108 of 1997 and this contract; and
- 3.2 provide for the rendering of bulk water supply services in an efficient, equitable, cost effective and sustainable manner; and
- 3.3 set terms that are fair and equitable to the receiving party and the providing party.

## **SECTION B: APPOINTMENT, SCOPE, DURATION AND REVIEW**

### **4. COMMENCEMENT AND DURATION**

- 4.1 This contract shall commence on **01 September 2023** and shall endure for a period as agreed by the parties.
- 4.2 Notwithstanding the duration of the contract period, the intention of the parties to foster a long-term relationship necessitated by the natural monopoly of the parties in respect of access to bulk water resources and infrastructure is recognised and will inform all future contracts to be negotiated by the parties.

### **5. REVIEW**

- 5.1 Notwithstanding any other provisions in this contract, this contract shall be reviewable at any time during the contract period on the written request of either party.
- 5.2 Any amendments resulting from any review contemplated in this clause shall be reduced to writing and signed by both parties.

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## SECTION C: WATER SUPPLY STANDARDS

### 6. QUANTITY OF WATER AND BULK CONNECTIONS

- 6.1 It is hereby recorded that the providing party will provide, unless the provisions of clause 41 apply, water to to the receiving party as set out in **Annexure A**.
- 6.2 If the receiving party, at any time, requires a new bulk connection, the receiving party must apply in writing for an additional connection in accordance with clause 12.
- 6.3 The providing party must notify in writing the receiving party, at least 14 (fourteen) days in advance, of any planned or unplanned reduction in the quantity of water at any bulk connection in circumstances other than those provided for in clause 11, the reasons therefore, the actions to be implemented to rectify the reduction and the duration of such a reduction, in accordance with the agreed system operating standards.

### 7. WATER QUALITY

- 7.1 The City hereby undertakes to supply Thembisile Hani Local Municipality with a maximum of 16.6 Mega liters of potable water per day during peak times.

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7.2. The City cannot guarantee the volume of water in 7.1 above on a continuous basis. The volume of water to Thembisile Hani Local Municipality is dependent on the capacity of treated water available from the Bronkhorstspuit Water Treatment Plant. ~~Clause cancelled.~~

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~~7.2.~~ 7.2. The providing party, unless the provisions of clause 24 apply, shall provide water that complies with SABS 241 or such other regulations as may apply or any other quality standards agreed upon.

### 8. WATER PRESSURE

The providing party must inform the receiving party timeously of any planned or unplanned reduction or increase in water pressure at any bulk connection, the reasons therefore, and the actions implemented to rectify such reduction or increase and the period thereof in accordance with the system operating standards.

## SECTION D: SYSTEM OPERATING STANDARDS

### 9. NORMAL MAINTENANCE AND REPAIRS

#### 9.1 Interruptions in Supply

9.1.1 The providing party may interrupt the receiving party's supply for the purpose of renewing, testing, examining, repairing, maintaining or rehabilitating the providing party's infrastructure. The providing party shall endeavour to keep interruptions to a minimum.

9.1.2 The providing party shall give 21 (twenty-one) days written notification of its intention to interrupt a supply and the estimated duration of such an interruption. The providing party may proceed with a planned interruption unless the receiving party indicates in writing that the interruption may not take place. Where the receiving party indicates that an interruption may not take place, it must propose alternative dates for such an interruption.

#### 9.2 Bursts and Leaks

9.2.1 The providing party shall repair unexpected bursts in its infrastructure causing a deviation in the agreed quantity, quality, flow rate or pressure within 24 (twenty-four) hours and leaks within 48 (forty-eight) hours.

9.2.2 If it becomes clear that it will not be possible to adhere to the times specified in clause 9.2.1 the providing party shall immediately notify the receiving party.

### 10. METERS

#### 10.1 Accuracy of meters

10.2.1 The providing party shall do all that it can reasonably do to ensure that all its meters are at all times correctly sized and that they operate under optimum conditions.

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10.2.2 the receiving party reserves the right to introduce check meters (owned by the receiving party) as close to the providing party's meters as technically feasible in order to check the accuracy of the providing party's meters.

10.2.3 The parties agree that the maximum levels of acceptable errors on meters to be installed are as set out in the table below. The maximum levels of acceptable errors must be guaranteed by the supplier prior to installation.

Mechanical meters	5 % for flow rates less than $Q_t$ and 2 % for flow rates greater than $Q_t$ .
Differential pressure meters	2% for the measuring range between the minimum and maximum range ( $Q_{min}$ and $Q_s$ )
Electromagnetic flow meters	0.5% for flow velocities of 0.5meters per second to 10 meters per second (in the operational range of the meter) where the velocity is through the restricted section
Ultrasonic flow meters	2% for flow velocities of 0.5 meters per second to 10 meters per second

10.2.4. If a measuring device is –

- (a) a meter to which the regulations relating to meters published under the Trade Metrology Act, 1973, are applicable, the measuring device shall be deemed to be defective if, when tested in accordance with SANS 1529-1, the measuring device is found to have a percentage error in over-registration or under-registration greater than that permitted for a meter in use in terms of SANS 1529-1; or

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- (b) a meter of a size greater than 100 mm in diameter to which SANS 1529-1 is not applicable, the measuring device shall be deemed to be defective if it is found to have a percentage error in over-registration or under-registration greater than 5% at any one of the rates of flow when tested at the following percentages of design maximum rates of flow:
- (i) 75% or more of the design maximum flow;
  - (ii) between 50% and 55% of the design maximum flow; and
  - (iii) between 15% and 20% of the design maximum flow.

### 10.3 Malfunctioning meters

- 10.3.1 In the event of a meter malfunctioning either by way of not registering at all or by registering outside of the agreed levels of accuracy, the providing party must repair or replace the meter within 14 (fourteen) days of the malfunction.
- 10.3.2 The providing party must give notice to the receiving party in the event that the repair or replacement of the meter is likely to take longer than the stated period and indicate the reason or reasons therefore and the period within which the repair or replacement will be completed.
- 10.3.3 If the parties cannot agree on a measuring device where the installation of a temporary meter is impractical, the receiving party's consumption during the period for which no measuring through an agreed device could take place will be determined by the average monthly water consumption over a period of three months after repair or replacement of the meter has been effected.

### 10.4 Meter reading

- 10.4.1 The providing party must read all meters on a monthly basis.
- 10.4.2 The providing party can provide the receiving party with a meter-reading schedule and the receiving party may be present at any meter reading

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## 10.5 Queries

- 10.5.1 The receiving party may query the consumption reflected on an account, where a query is not lodged with the providing party prior to the payment date of an account in accordance with clause 17.7, the receiving party must query the consumption reflected on the account within 60 (sixty) days of receiving the account, subject to clause 17.8.
- 10.5.2 The providing party must investigate the query and, at the request of the receiving party, test the relevant meter or meters within 14 (fourteen) days of a query having been made.
- 10.5.3 The methods of testing must be agreed by the parties. Where the parties fail to reach an agreement either party may refer the matter for resolution in terms of section J of this contract.
- 10.5.4 If a meter is tested and found to be registering outside the agreed accuracy levels, the providing party shall be liable for the cost of testing the meter and shall repair or replace the meter at its own cost.
- 10.5.5 If a meter is tested and found to be registering within the agreed accuracy levels, the receiving party shall be liable for the cost of testing the meter.

## 10.6 Adjustment and calculation of consumption where meter malfunctions

- 10.6.1 The quantity of water consumed and the bulk water supply charges charged during a period that the meter registered incorrectly shall be adjusted in accordance with the degree of error found, provided that where a check meter has been installed by the receiving party the reading of the receiving party's meter shall be used to determine the quantity of water consumed.
- 10.6.2 Where a test meter was not installed by the receiving party, the period that the meter registered incorrectly will be assumed to be 30 (thirty) days if the actual period is not known and the quantity of

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water consumed, during a period within which a meter was found to be registering outside the agreed accuracy levels, shall be calculated as in accordance with one of the following methods as agreed by the parties -

(a) the average monthly consumption of water during the three months prior to the last registration; or

(b) the average monthly water consumption over a period of three months after repair or replacement of the meter has been effected.

10.6.3 If the parties cannot agree on a method referred to in clause 10.6.2, clause 10.6.2(b) will be used.

10.6.4 The maximum retrospective adjustment period is 3 (three) months.

## **11. EMERGENCIES**

11.1 An incident, event or occurrence will be considered an emergency when there is, in the opinion of either the parties, a substantial variation from -

11.1.1 the agreed quantity, flow rate and pressure for a period longer than 48 (forty-eight) hours;

11.1.2 the agreed quality and such variation constitutes an agreed health risk; or

11.1.3 the agreed repair times referred to in clauses 9.1.2 and 9.2.1 exceeds 48 (forty-eight) hours.

### **11.2 Notification**

11.2.1 The parties shall within 1 (one) hour of becoming aware of an emergency or possible emergency immediately notify the persons identified in Annexure C.

11.2.2 On notification the parties identified in Annexure C must -

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11.2.2.1 confirm that the incident, event or occurrence is an emergency;

11.2.2.2 agree on a process for addressing the emergency; and

11.2.2.3 nominate the persons from each party that will be responsible for addressing the emergency.

11.2.3 The parties agree to immediately inform the other party of any changes to the information reflected in Annexure B.

### 11.3 Communication

All communications in respect of an emergency shall be approved by both parties and jointly undertaken.

### 11.4 Resources

11.4.1 The parties agree to make the necessary resources for addressing the emergency available.

11.4.2 Each party must ensure that maps detailing its infrastructure and area are available at all times.

## **SECTION E: NEW OR INCREASED WATER SUPPLY REQUIREMENTS**

### **12. APPLICATION**

12.1 The receiving party, in its discretion, may apply to the providing party for new or increased bulk water supply requirements on the standard application form of the providing party. An application in terms of this clause must specify when the new or increased supply is required, the required quantity, estimated quantity for future years, flow rate and pressure.

12.2 The providing party will provide the increased bulk water supply requirements if sufficient water is available and within the quantity authorised for abstraction in any relevant license.

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- 12.3 The receiving party may not apply for a new bulk connection within the jurisdictional area of the providing party, without the written approval of the providing party.
- 12.4 If the new or increased water supply requirements require a new, altered or upgraded bulk connection, the providing party may charge the receiving party an installation charge calculated in terms of clause 13, and a bulk service contribution, if applicable.
- 12.5 The receiving party must inform the providing party of any long term planning and demand requirements per metering point to allow the providing party to update its master planning.

### **13. INSTALLATION OF BULK CONNECTION AND RELATED CHARGES**

- 13.1 The providing party shall be responsible for the supply and installation of equipment necessary for the agreed receiving party's bulk connection or connections.
- 13.2 The receiving party shall pay the providing party an installation charge for the bulk connection or connections and a capital contribution charge, where applicable.
- 13.3 Prior to the supply or installation of the bulk connection or connections, the providing party must provide the receiving party with a fixed price quote for the equipment and the installation thereof.
- 13.4 The providing party shall install the bulk connection or connections within a period agreed to between the parties. Where the parties fail to reach an agreement either party may refer the matter for resolution in terms of section J of this contract.

### **14. OWNERSHIP OF CONNECTIONS**

- 14.1 The ownership of the bulk connection or connections vest in the providing party and the providing party is responsible for all maintenance, rehabilitation or modification associated with the equipment and is responsible for insuring such equipment against loss or damage.

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- 14.2 Apart from the downstream isolating valve, the receiving party may not operate or interfere with the bulk connection. Nothing in this clause may be construed as limiting the receiving party's access to the bulk connection for meter-reading purposes.
- 14.3 The receiving party must inform the providing party in the event that it closes the downstream isolating valve for any reason.

## **SECTION F: BULK WATER SUPPLY CHARGES AND PAYMENT**

### **15. PERMISSIBLE CHARGES**

- 15.1 The providing party may impose the following bulk water supply services charges only–
- volume based charges in respect of water consumed;
  - installation charges for new bulk connections determined; and
  - bulk service contribution charges for all new or increased water supply e.g. for new township developments.
- 15.2 The volume of water will be charged according to the applicable Rand Water tariff, including the Water Research Fund levy, plus a 10 % administrative charge.

### **16. BULK SERVICE CONTRIBUTION**

- 16.1 The providing party must charge a new or existing customer, on application for a new or increased water supply, a bulk service contribution for all infrastructure required to provide the customer's required quantity, quality, pressure and flow rate of water.
- 16.2 A bulk service contribution shall constitute the full cost of capital associated with bulk infrastructure and the installation thereof.

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**17. ACCOUNTS FOR PAYMENT OF BULK WATER SUPPLY SERVICES CHARGES**

- 17.1 The providing party must issue accounts to the receiving party at least 30 (thirty) days prior to the last date for payment specified in such account and is payable within 30 (thirty) days of the receipt of the account. Accounts must be paid by the method agreed between the parties. Where the parties cannot reach agreement, accounts must be paid by electronic transfer to the providing party's bank account.
- 17.2 Interest will be levied on arrears at the prevailing prime interest rate.
- 17.3 Accounts will reflect at least –
- 17.3.1 the volume of bulk water supply services provided by the providing party at each bulk connection;
  - 17.3.2 the period addressed in the account;
  - 17.3.3 the applicable charges;
  - 17.3.4 the amount due (excluding value added tax payable);
  - 17.3.5 value added tax;
  - 17.3.6 the arrears, if any;
  - 17.3.7 the interest payable on arrears, if any;
  - 17.3.8 the final date for payment; and
  - 17.3.9 any other information as may be required by law.
- 17.4 The receiving party may query the accuracy of an amount due and payable or an amount paid for bulk water supply services rendered.
- 17.5 Where a query is lodged with the providing party at least 7 (seven) days prior to the payment date of an account and the query is not settled prior to such date, only fifty percent (50%) of the queried amount (the amount of the invoice queried by the receiving party) is payable on the payment date.

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- 17.6 Where a query is not lodged with the providing party prior to the payment date of an account the full amount of the account is payable on the payment date, pending the settlement of the query.
- 17.7 Queries relating to consumption will be settled in accordance with the provisions of clause 10.5. All other queries will be settled by applying the dispute resolution mechanisms provided for in Section J.
- 17.8 On settlement of a query any amount paid in excess of what was due and payable as per the outcome of a query must be refunded to the receiving party together with interest calculated at the same rate imposed by the providing party on arrears and any amount outstanding in respect of what is due and payable as per the outcome of a query must be paid to the providing party together with interest imposed by the providing party on arrears.

#### **18. SPECIAL PAYMENT ARRANGEMENTS**

The parties may agree to the settlement of the receiving party's account in instalments where the receiving party is not able to settle an account in full on the due date.

### **SECTION G: RISK MANAGEMENT**

#### **19. LIMITATION AND DISCONNECTION OF WATER SUPPLY SERVICES**

- 19.1 The providing party must comply with all and any legislation, guidelines and policies of National Government relating to the limitation and disconnection of bulk water supply services. The provisions of clause 19.2 must be applied to the extent that it is consistent with any legislation, guidelines and policies of National Government.
- 19.2 In the event that the receiving party fails to pay its account on the due date the providing party shall –
- 19.2.1 give the receiving party written notice that the account is outstanding and that it intends to reduce the bulk water supply

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services to the receiving party by 20% (twenty per cent) within 30 (thirty) days of such notice if at least 50% (fifty per cent) of the account is not paid within this period or the receiving party fails to enter into an agreement with the providing party for the payment of the account in instalments.

19.2.2 Where a providing party has reduced the bulk water supply services by 20% (twenty per cent) in accordance with clause 19.2.1, it shall again give the receiving party notice in a manner similar to that stated in clause 19.2.1 that the bulk water supply services will be limited by a further 20% (twenty per cent).

19.2.3 The phased reduction in bulk water supply services may, on further notice in a manner similar to that stated in clause 19.2.1, exceed 40%, provided that bulk water supply services shall under no circumstances whatsoever be reduced at the existing bulk connections by a percentage that will limit the provision of basic water supply services to the receiving party's consumers. The parties shall agree on the quantity of water required for basic water supply services. Where the parties fail to reach agreement either party may refer the matter for resolution in terms of section J of this contract.

## **20. LIABILITIES AND INDEMNITIES**

20.1 Subject to terms stated in this contract, the providing party undertakes and assumes the responsibility for the provision of the bulk water supply services at its own technical risk and will be liable to the receiving party for the fulfilment and discharge of its obligations and requirements in respect of providing bulk water supply services with effect from the effective date.

20.2 The providing party shall, with effect from the effective date, take all the requisite precautions for the protection of life and property on and about or in any way connected with the whole or any part of providing bulk water supply services and shall indemnify and not hold the receiving party accountable for any losses, claims, demands, proceedings, damages, costs (including all legal fees), charges and expenses of whatsoever nature in respect of injury or

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health risk to or death of any person or loss of or damage to any part of the bulk water supply services system or any person or property arising from or attributable to any act or omission of the providing party.

**21. INSURANCE**

Each party shall be responsible for the costs of insuring infrastructure and assets owned by it and have its own third party liability insurance.

**22. WARRANTIES**

The parties warrant that –

- 22.1 they are entities duly created pursuant to legislation and have full legal right, and authority to enter into this contract and perform the obligation hereunder;
- 22.2 this contract has been duly authorised and executed and constitutes a legal, valid and binding obligation;
- 22.3 the execution of this contract does not violate any legislation, judgment order, regulation, regulatory provision, right or obligation, or rule of any Court or other authority applicable in relation to them, or the provision of services rendered in terms of this contract.

**SECTION H: BREACH AND VIS MAJOR**

**23. BREACH**

- 23.1 If any party commits a breach of this contract and should the other party wish to claim specific performance or damages or both specific performance and damages from the defaulting party in respect of such breach in addition to any penalty it may apply in terms of this contract, then prior to the latter party exercising such a right, it shall deliver a written notice to the defaulting party notifying it of the breach giving rise to such right and requesting the defaulting party to remedy the breach in question within a period of 20 (twenty) days (or such longer period stipulated in the notice if the breach in question cannot reasonably be remedied by the defaulting party within a 20 (twenty) day

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period), and should the defaulting party fail to remedy the breach within such period then the party giving notice may institute a civil claim for specific performance or damages or both, as the case may be.

- 23.2 If the defaulting party again commits a breach in respect of which the other party has successfully claimed damages or specific performance in terms of clause 23.1, the breach shall be deemed to be a material breach if the party fails to remedy the breach within the 20 (twenty) day notice period given in terms of clause 23.1 and the party shall be entitled to cancel the contract.
- 23.3 Prior to the party evoking any right to terminate this contract in terms of clause 23.2, it shall deliver a further written notice to the defaulting party notifying it of the material breach giving rise to such right and requesting the defaulting party to remedy the breach in question within a further period of 20 (twenty) days (or such longer period stipulated in the notice if the breach in question cannot reasonably be remedied by the defaulting party within a 20 (twenty) day period).
- 23.4 Should the defaulting party fail to remedy the material breach in question within the period reflected in the notice issued in terms of clause 23.3 the contract shall terminate in accordance with clause 26.
- 23.5 Upon any termination of the contract in terms of clause 23.4, the defaulting party shall compensate the party terminating the contract for damages suffered as a result of such termination and all other costs and expenses incurred by the party terminating the contract in connection with or relating to such termination.
- 23.6 For purposes of this clause, damages specifically include but are not limited to,
- 
- 23.6.1 any amount which the receiving party is required to pay in relation to loss or damage suffered by a person to whom the receiving party provides water supply services; or
- 23.6.2 the difference between the revenue lost by the receiving party and all direct and indirect costs that the receiving party would have

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incurred if the breach did not occur as a result of the providing party's failure.

**24. VIS MAJOR**

- 24.1 No party shall be liable for any failure to fulfil its duties and obligations in terms of this contract where such failure is caused by any event, occurrence, circumstance or condition beyond the reasonable control of such party (including, but not limited to *casus fortuitus*, landslides, lightning, earthquakes, tornados, floods, other acts of God, acts of military or third-party civil authorities or public enemies, war blockade, sabotage, fire, explosion, bombing, insurrection, riot or civil disobedience), the occurrence of which could not have been reasonably foreseen and which, despite the exercise of diligent efforts could not have been prevented, limited or minimised, that affects the powers, rights, duties or obligations of the parties under this contract. It is specifically recorded that failure by the National Department of Water and Sanitation to effectively manage their water resources constitutes an event, occurrence, circumstance or condition for purposes of this clause.
- 24.2 The party affected by an event, occurrence, circumstance or condition referred to in clause 24.1 shall promptly notify the other party in writing of the event, occurrence, circumstance or condition and the estimated extent and or duration of such party's inability to perform its duties and obligations.
- 24.3 Upon the cessation of the event, occurrence, circumstance or condition referred to in clause 24.1 the party affected thereby shall notify the other party of such cessation.
- 24.4 If, as a result of the event, occurrence, circumstance or condition referred to in clause 24.1, the performance of a party's duties and obligations is only partially affected, such party shall remain liable for the performance of those duties and obligations not affected by the event, occurrence, circumstance or condition; provided that nothing in this clause shall preclude the operation of the emergency procedure provided for in clause 11.
- 24.5 If an event, occurrence, circumstance or condition referred to in clause 24.1 causes material and unavoidable physical damage or destruction to all or any

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of the parties infrastructure or materially delays or prevents the performance of any duties and obligations in terms of this contract, or interrupts services and continues for more than 90 (ninety) consecutive days after any notification thereof the affected party may initiate the termination of the contract in accordance with clause 26.

## **SECTION I: TERMINATION**

### **25. REASONS FOR TERMINATION**

The termination of this agreement may occur -

- 25.1 at the expiry of the contract term;
- 25.2 if the parties agree thereto in writing;
- 25.3 by reason of an unremedied material breach;
- 25.4 due to vis major; or
- 25.5 the providing party ceases to be a statutory organisation deemed to be established in terms of the Water Services Act, Act 108 of 1997 or the institutional structure of the providing party is changed subsequent to any institutional reform process undertaken by the Minister.

### **26. TERMINATION PROCESS**

- 26.1 Termination shall be initiated by a notice from either party who has the right to deliver such notice in accordance with clauses 23 and 24, or 6 (six) months prior to the expiry of the contract term, or on the date agreed.
- 26.2 When termination is initiated in terms of clause 26.1 the providing party must within 2 (two) months of receiving a notice from the receiving party notify the receiving party.
- 26.3 This notice referred to in clause 26.1 sets in motion a transitional phase. During the transitional phase the providing party shall continue to provide bulk

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water supply services in accordance with this contract until such time as the process referred to in clause 26.3 is completed and any outcome thereof has been reduced to writing as an amendment to this contract, which contract only terminates on the fulfilment of all obligations in terms of such an amendment.

## **SECTION J: DISPUTE RESOLUTION**

### **27. DISPUTE RESOLUTION**

- 27.1 Should any difference or questions at any time arise between the parties as to the construction, meaning or effect of this contract or the rights or obligations of the parties hereunder, or should the parties fail to agree upon any matter (hereinafter referred to as "the dispute"), the parties shall resolve the dispute in accordance with this section, unless an alternative process for resolving a specific type of dispute has been provided for elsewhere in this contract.
- 27.2 The parties irrevocably consent to comply with the provisions of this clause and neither party shall be entitled to withdraw from or claim at any such proceedings that it is not bound by these provisions or by any ruling or procedure laid down in terms of such provisions. The parties agree that they shall not commence any litigation procedures in respect of a dispute arising in terms of this contract save where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction on reasonable grounds.
- 27.3 No dispute arising from this contract shall entitle the other party to discontinue or suspend the execution of any of its powers, rights, duties or obligations in terms of this contract, pending the settlement of the dispute, unless specifically provided for elsewhere in this contract.

### **28. NEGOTIATION**

The Municipal Managers of the parties shall deal with any dispute between the parties. The said representatives shall endeavour to settle the matter amicably through a process of negotiation. Failing the settlement of the dispute between the parties by negotiation within a period of 7 (seven) working days, any of the

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parties may submit the dispute to mediation. All statements or representations made during the negotiation process shall be made without prejudice.

## **29. MEDIATION**

- 29.1 Each party shall submit a list with three names of knowledgeable persons, with expertise relating to the particular field in which the dispute arose, as potential mediators from which one mediator shall be selected by agreement between the parties. Should the parties fail to reach agreement on the choice of the mediator within 5 (five) working days from the day on which it has become apparent that the matter can not be settled through negotiation, any of the parties may request the Arbitration Foundation of South Africa to appoint a mediator.
- 29.2 The mediator shall in his sole discretion determine the form of representations to be made, provided that in making this determination, the mediator shall consult the disputing parties and may be guided by their common reasonable desire on the form in which the said representations are to be made. All representations by the parties shall be made without prejudice.
- 29.3 The mediator shall within a period of 10 (ten) working days after receipt of the representations of the parties endeavour to facilitate an agreement between them or determine a procedure or framework within which they can negotiate to resolve the dispute or difference. All representations by the parties shall be made without prejudice.
- 29.4 Any such negotiated agreement shall be in writing, signed by both parties and be binding on the parties. Failing agreement between the parties the dispute shall be resolved by the submission thereof to arbitration.
- 29.5 The parties agree to contribute equally to the cost of the mediator and each party shall bear any other costs separately regardless of the outcome of the mediation.

## **30. ARBITRATION**

- 30.1 The arbitration proceedings shall be held at a convenient location as agreed to by the parties.

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Bulk Water Supply Contract: CoT and Thembisile Hani Local Municipality.

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- 30.2 The only persons present at the arbitration shall be the legal representatives and a maximum of two other representatives of each of the parties to the dispute.
- 30.3 The proceedings shall be in terms of the Arbitration Act, Act 42 of 1965 (as amended) subject to the provisions of clause 30.5.
- 30.4 The arbitrator shall be, an independent person agreed to by the parties. Should the parties fail to agree on the arbitrator within 5 (five) working days after having submitted the matter to arbitration, an arbitrator shall be appointed at the request of any party to the dispute by the Arbitration Foundation of South Africa.
- 30.5 The arbitrator appointed shall not be obliged to follow the strict principles of law in determining the dispute, but shall be entitled, in his sole discretion to determine the dispute with due reference to the equities prevailing in respect of the dispute. The arbitrator shall have the power to give default judgment if any party fails to make submissions on due date or fails to appear at the arbitration, provided that reasonable notice has been given to parties to make their submissions or appearances.
- 30.6 The parties irrevocably agree and undertake that any award or order or whatsoever made by the arbitrator shall be final and binding upon them and may at the option of either party be made an order of any division of the High Court of South Africa to which jurisdiction the parties are subject. The parties hereby exclude all rights of appeal, which might otherwise be conferred upon them by law.
- 30.7 This clause shall not prevent any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 30.8 Each party shall bear its own arbitration costs.

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## SECTION K: GENERAL

### 31. PREVENTION OF CORRUPT ACTION

31.1 For purposes of this clause "corrupt action" shall have the meaning assigned thereto in the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 and shall specifically also include --

31.1.1 giving or accepting any undue payment, bribe, gift, gratuity or any other undue benefit in exchange for performing or forbearing to perform any action in connection with a contract; and

31.1.2 solicitation, offering, participation, conspiracy and attempt to bring about the circumstances mentioned above.

31.2 Each party undertakes to identify corrupt action and to take all reasonable steps to prevent either party, its employees, its sub-contractors its agents or anybody under its control from involvement in corrupt action.

### 32. CONFIDENTIALITY AND PUBLICITY

32.1 For the purposes of this clause, "confidential information" means any knowledge, information or know-how relating to a party's business, systems, customers, property, assets or affairs which has been or is disclosed, communicated, delivered or has come to the knowledge of the other party under or in connection with this contract.

32.2 Neither party may disclose any confidential information of the other party, without the prior written approval of the other party or require, assist or permit any person to have access to, or use, disclose or reproduce any confidential information of the other party, other than confidential information -

32.2.1 reasonably required by an employee, contractor or consultant of a party to enable that party to exercise its rights or perform its obligations under this contract; or

32.2.2 a party is required by legislation to disclose; or

- 32.2.3 a party is required to disclose in dispute resolution or court proceedings.
- 32.3 If a party is required or compelled to disclose confidential information of the other party it must –
- 32.3.1 immediately give written notice of that fact to the other party; and
- 32.3.2 take reasonable measures to ensure that the confidentiality of the information is protected.
- 32.4 A party must not make any public statement relating to this contract unless -
- 32.4.1 the other party has previously agreed to the form and content of the statement; or
- 32.4.2 the statement is required to be made by legislation and the other party was consulted in respect of the public statement to be made.
- 32.5 This clause survives the termination of this contract.

**33. ASSIGNMENT, TRANSFER, CESSION AND DELEGATION**

No party shall be entitled to assign, transfer, cede or delegate any of its rights and obligations in terms of this contract without the prior written consent of the other party.

**34. SUB-CONTRACTING**

The parties may sub-contract its powers, rights, duties and obligations in terms of this contract. The appointment of any sub-contractor shall not release the parties of their duties or obligations in terms of this contract or in any way affect their responsibility in respect of fulfilling such duties and obligations.

**35. NOTICES AND DOMICILIUM CITANDI ET EXECUTANDI**

- 35.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this contract, whether in respect of court process, notices or other

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documents or communications of whatsoever nature (including the exercise of any option), the following addresses –

**35.1.1 THEMBISILE HANI LOCAL MUNICIPALITY**

Physical: Stand No. 24  
Kwagaafontein C  
Empumalanga  
0458

Postal: Private Bag X 4041  
Empumalanga.  
0458

**35.1.2 CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

Physical: Office of the City Manager  
Block D  
2<sup>nd</sup> Floor  
Tshwane House  
320 Madiba Street  
PRETORIA  
0002

Postal: P.O. Box 440  
PRETORIA  
0001

35.2 Any submission, notice, communication or information required or permitted to be given and any obligation to submit to, notify or inform a party in terms of this contract shall, unless specifically provided for otherwise, be valid and effective only if in writing and shall be delivered by hand, transmitted by facsimile or sent by prepaid registered post.

35.3 A notice shall be deemed to have been received:

- 35.3.1 14 (fourteen) days after posting, if posted by registered post to the party's address in terms of clause 35.1;
- 35.3.2 on delivery, if delivered to a responsible person during normal business hours at the party's physical address in terms of clause 35.1;
- 35.3.3 on despatch, if sent to the Party's facsimile number and confirmed by registered letter posted no later than the next Business Day following the dispatch.
- 35.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be adequate written notice or communication to it notwithstanding that it was not sent to or delivered to its chosen *domicilium citandi et executandi*.
- 35.5 Either party may change its address for purposes of this clause to another address by notice in writing in terms of clause 35.2 to the other party, such address being effective on receipt by the addressee of such written notice. A notice shall be necessary in respect of a new or changed facsimile number.

**36. WHOLE AGREEMENT, NO AMENDMENT**

- 36.1 This contract including the annexures constitutes the whole contract between parties relating to the subject matter hereof and supersedes, all previous contracts or arrangements, whether oral or written, between the parties. No representations, warranties or other terms and conditions of whatever nature not contained or recorded herein shall be binding on either party.
- 36.2 No amendment or consensual cancellation of this contract or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this contract and no settlement of any disputes arising under this contract and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this contract or of any agreement, bill of exchange or other document issued pursuant to or in terms of this contract shall be binding unless recorded in a written document

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signed by the parties. Any such extension, waiver or relaxation or suspension, which is so given or made, shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

36.3 No extension of time or waiver or relaxation of any of the provisions or terms of this contract, bill of exchange or other document issued or executed pursuant to or in terms of this contract, shall operate as an estoppel against any party in respect of its rights under this contract, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with this contract.

36.4 To the extent permissible by law, no party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract or whether it was negligent or not.

### **37. FAILURE TO REACH AGREEMENT**

Where it is specified in this contract that certain matters are to be agreed between the parties, failure to reach agreement in respect of such matter will not affect the validity and enforceability of the whole or any part of this contract and were the parties fail to reach an agreement either party may refer the matter for resolution in terms of section J of this contract.

### **38. LEGISLATIVE AND REGULATORY CHANGES**

Any provisions of this contract which may become inconsistent with legislation due to amendments to that legislation shall be deemed, insofar as possible, to be amended accordingly, provided that, where such legislative amendments render any provisions illegal, invalid, unenforceable or ineffective, the parties shall renegotiate such provisions in good faith, having due regard to such amendments and to the principles contained herein. If any provision cannot be renegotiated it shall be treated *pro non scripto* and severed from the balance of this contract, without invalidating the remaining provisions of this contract or affecting the validity or enforceability of such provisions.

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**39. LIABILITY FOR EXPENSES**

Each party must pay its own expenses incurred in negotiating and executing this contract.

**40. RELATIONSHIP BETWEEN PARTIES**

Nothing in this contract creates a relationship of partnership, principal and agent or trustee and beneficiary between the parties.

**41. CONSENT TO JURISDICTION**

The parties agree that any legal action or proceeding arising out of any proceedings in terms of arbitration or in respect of any interdict or urgent relief in terms thereof may be brought in the High Court of the Transvaal Provincial Division and irrevocably submit to the exclusive jurisdiction of such court. The parties irrevocably waive any objection they may now or hereafter have that such action or proceeding has been brought in an inconvenient forum.

**42. PRESERVATION OF THE POWERS AND DUTIES OF THE RECEIVING PARTY**

Nothing in this contract shall curtail the statutory powers of the receiving party in its capacity as the water services authority as provided for in the Water Services Act.

**43. SUPREMACY OF THIS CONTRACT**

In the event that any provision of any other agreement entered into between the parties, conflicts with the provisions of this contract, the provisions of this Contract shall prevail.

**44. CONTRACT NOT BINDING ON SUCCESSORS-IN-TITLE**

This contract shall not be binding on any successor in title of the parties.

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**45. MUTUAL COOPERATION AND GOOD FAITH**

The parties shall in their dealings with each other display the utmost good faith, consult each other from time to time with regard to any assistance or advice which they may require in connection with fulfilling any of its obligations in terms of this contract and undertake to do all such things, perform all necessary acts and procure the taking of all necessary steps and sign all such other documents that may be necessary or incidental or conducive to give effect to the intention and the terms and conditions of the contract.

**46. COUNTERPARTS**

This contract, together with its annexures, may be executed in several counterparts, each of which shall together constitute one and the same document.

**47. GOVERNING LAW**

This contract shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa, provided that in the event of a conflict between or inconsistency in the laws applicable in the various provinces of the Republic of South Africa, the law as interpreted and applied in the Gauteng Province shall prevail.

**48. ANNEXURES**

The following annexure form part of this contract –

- 48.1 **Annexure A** - Recordal of bulk water supply connections provided by the parties
- 48.2 **Annexure B** - Contact Persons in case of emergencies
- 48.3 **Annexure C** - Mayoral Committee Resolution of the providing party


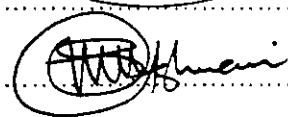
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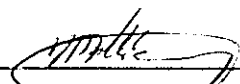
IN WITNESS WHEREOF, the parties have executed this contract on this 8th DAY  
OF December 2023 AT Mthembomhle (Krugersdorp).

WITNESSES:

I. -

II.

  
.....  
  
.....


  
Mr/Ms- Denisani Tjale : Deon Mkhongo  
For and on behalf of **THEMBISILE HANI LOCAL**  
**MUNICIPALITY**, and duly authorised thereto.

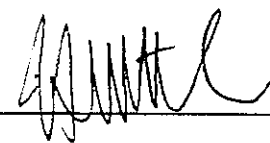
IN WITNESS WHEREOF, the parties have executed this contract on this 7 DAY  
OF November 2023 AT Pretoria.

WITNESSES:

I.

II.

  
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.....

  
Mr Johann Mettler: City Manager for and on behalf of  
**CITY OF TSHWANE METROPOLITAN MUNICIPALITY**,  
and duly authorised thereto.

  
w.m

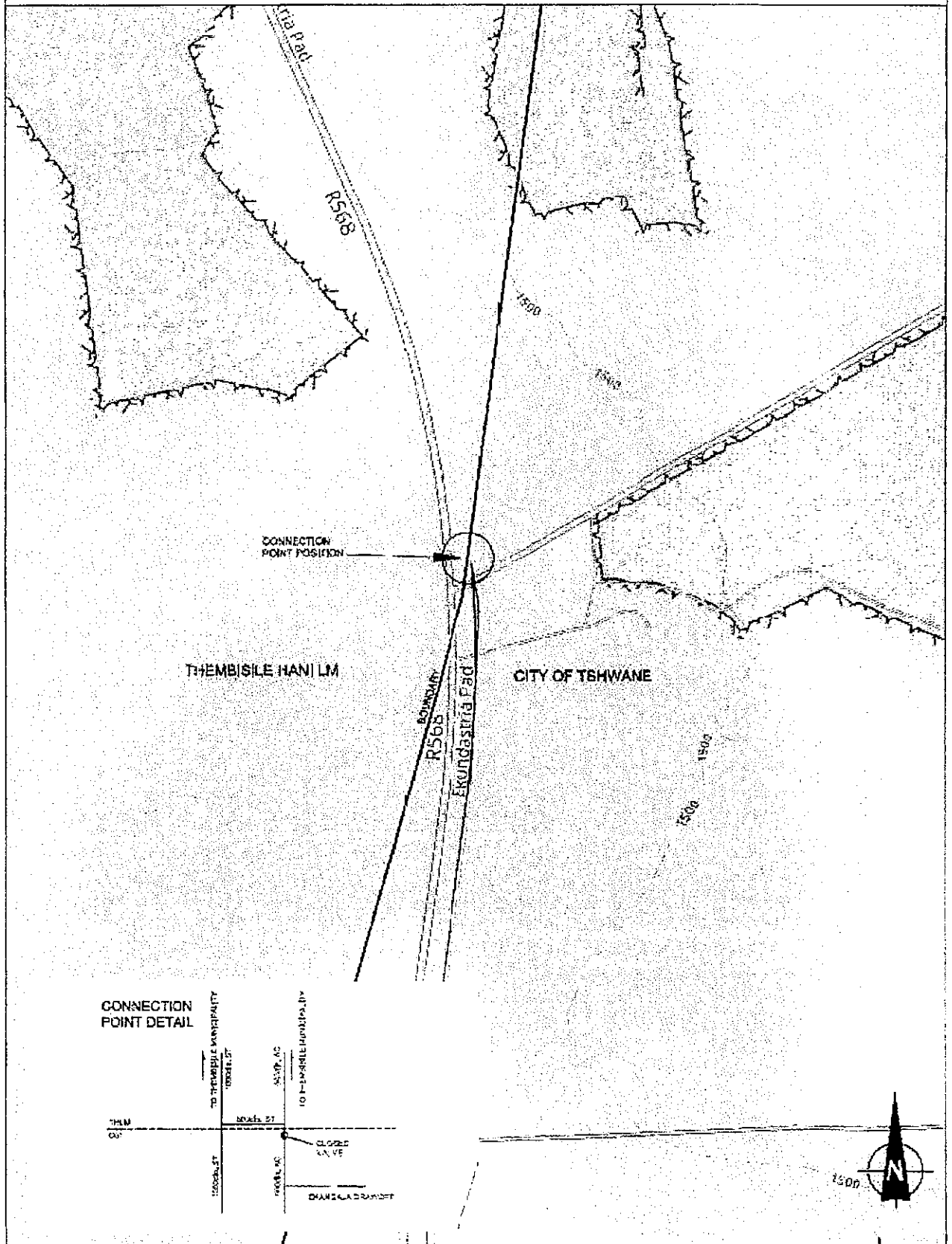
ANNEXURE A

RECORDAL OF BULK WATER SUPPLY CONNECTIONS PROVIDED BY THE  
PROVIDING PARTY TO THE RECEIVING PARTY

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# ANNEXURE A

## RECORDAL OF BULK WATER SUPPLY CONNECTION



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ANNEXURE B:

CONTACT PERSONS IN CASE OF EMERGENCIES

Incident, event or occurrence relating to:	RECEIVING PARTY	PROVIDING PARTY
Interruptions in water supply	Networks Manager or, where not available, Operations Executive	Director: Bulk Water Services or, where not available, Acting Director Bulk Water Services
Water quality variances	Operations Support Manager or, where not available, Operations Executive	Deputy Director: Operations or, where not available, Acting Deputy Director: Operations.

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**ANNEXURE C:**

**MAYORAL COMMITTEE RESOLUTION OF THE PROVIDING PARTY**

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ANNEXURE B

Reference No 82773/1  
Stephens Notoane (3773)  
MAYORAL COMMITTEE: 7 November 2018



**2.3.1 UTILITY SERVICES DEPARTMENT  
NEW BULK WATER SERVICES AGREEMENTS BETWEEN THE CITY OF  
TSHWANE AND NEIGHBOURING MUNICIPALITIES  
(From the Executive Committee: 22 October 2018)**

**1. PURPOSE**

The purpose of the report is to obtain approval to enter into new bulk water supply and sewage collection agreements with neighbouring municipalities to which and from who the City of Tshwane (CoT) provide and receive bulk water services.

**2. STRATEGIC PILLARS**

Strategic Objective 1: Provide sustainable services infrastructure and human settlements.

Strategic Objective 4: Promote good governance and active citizenry.

Strategic Objective 5: Improve financial sustainability.

**3. BACKGROUND**

**Bulk Water Supply**

The CoT supplies bulk water to the Madibeng Local Municipality, Moretele Local Municipality, Thembisile Hani Local Municipality and Johannesburg Water from the CoT's bulk water network through various connection points on the borders between the CoT and the neighbouring municipalities. Johannesburg Water supplies bulk water from their northern water supply network to the Northview Estate located within Tshwane on the border between the two municipalities. Bulk water contracts were entered into between the CoT and Moretele Local Municipality in June 2003, between Rand Water and the Madibeng Local Municipality in June 2004, between the former Town Council of Bronkhorstspuit and the former Government of Kwandebele in April 1991 and between the former Southern Pretoria Metropolitan Substructure and the former Midrand/Rabie Ridge/Ivory Park Metropolitan Substructure during June 1995. An addendum to the Southern Pretoria Metropolitan Substructure and the former Midrand/Rabie Ridge/Ivory Park Metropolitan Substructure agreement for the provision of bulk water from Johannesburg to the Northview estate was entered into between the CoT and JW during December 2013.

In the meetings held between representatives from the CoT, the *Department of Co-operative Governance and Traditional Affairs (DCGTA)*, DCGTA proposed that revised agreements, based on the model bulk water agreement developed by the South African Local Government Association (SALGA), the South African Association for Water Utilities (SAAWU) and the Department of Water and Sanitation, be entered into between the CoT and its neighbouring municipalities. A

#### 4.4 City of Johannesburg and Johannesburg Water

##### 4.4.1 Water Supply

An agreement was entered into between the former Southern Pretoria Metropolitan Substructure and the former Midrand/ Rabie Ridge/ Ivory Park Metropolitan Substructure for the provision of potable water from the water supply system of the former Southern Pretoria Metropolitan Substructure to the Pretoriusrand supply area situated partly within the Midrand area. The agreement was signed by the former Midrand/Rabie Ridge/Ivory Park Metropolitan Substructure on 27 June 1995 and by the former Southern Pretoria Metropolitan Substructure. The agreement was entered into for an indefinite period, with the provision for a notice period should the agreement have to be terminated. The area provided from the CoT's bulk infrastructure is currently managed by Johannesburg Water. The current volume of water supplied to the area is approximately 2,5 Mega litres per day.

##### 4.4.2 Sewage Collection

The following agreements to collect, convey and treat sewage were entered into between the respective municipalities since 1989:

- 4.4.2.1 An agreement between the former Midrand Metropolitan Substructure for the construction of the Samrand Outfall Sewerage System in 1986 and the subsequent collection of sewage by the former Town Council of Centurion to accommodate effluent emanating from developments within the Midrand area. The agreement was signed by the former Midrand Metropolitan Substructure on 12 April 1996 and the former Town Council of Centurion on 6 May 1986.
- 4.4.2.2 An agreement, which commenced on 1 July 1989, between the former Town Council of Midrand and the former Town Council of Centurion to connect the Noordwyk Sewerage System, situated within the Northern areas of Johannesburg, to the Rietspruit Outfall Sewer in Centurion. Both parties signed the agreement in December 1989.
- 4.4.4.3 An agreement entered into between the former town Council of Centurion, the former Town Council of Midrand and the North Rand Training Centre in terms of which the former town Council of Centurion agreed to receive and treat sewage effluent of two properties belonging to the North Rand Training Centre. The properties could not be connected to the Midrand sewerage system owing to the topography of the area. The agreement was signed on behalf of the North Rand Training Centre on 28 January 1992 and by the former Town Councils of Midrand and Centurion on 4 and 12 May 1992 respectively.

The CoT treats approximately between 5 and 7 Mega litres of sewage received from the Johannesburg area per day at the CoT's Sunderland Ridge Waste Water Treatment Works.

#### 4.5 Exit Strategies for Bulk Water Supply from the CoT

During June 2014 neighbouring municipalities, to which the CoT provide bulk water services, were requested to submit exit plans on how to reduce the bulk water supplied to them by the CoT and possible plans on how to become independent from the water supplied by the CoT. The respective municipalities submitted exit

#### Section C: Water Supply Standards

- Provides for the rights and obligations of the parties in respect of service standards.
- Service standards provided for are quantity, quality, flow rate (annual average daily demand and daily and hourly peak flow demands) and water pressure.

#### Section D: System Operating Standards

- Provides for the processes and procedures that must be followed by the relevant parties in respect of normal maintenance and repairs, droughts, emergency situations and the maintenance, accuracy, testing, malfunctioning, installation, reading and queries in respect of meters used for billing purposes by the CoT.

#### Section E: New or Increased Water Supply Requirements

- Provides for applications for additional or increased water supply to the municipalities. It also addresses the ownership of customer connections and the installation (including associated charges to be imposed by the CoT) thereof.
- Any new connections required by the respective municipalities shall be evaluated by the Water and Sanitation Division prior to approval and will be included in the contract as an annexure.

#### Section F: Bulk Water Supply Charges and Payment

- States the different charges that may be imposed by the CoT and regulates payment of such charges.
- The tariff for the bulk water supplied will be in terms of Item 6. of the CoT's 2017/18 Water Supply Tariff Structure, as approved by Council on 25 May 2017.
- Special provisions for a deviation and the setting of charges by the CoT are provided for.
- Provisions for querying charges by the CoT are provided for.

#### Section G: Risk Management

- In terms of this section the CoT is compelled to comply with all legislation, guidelines and policies of National Government relating to the limitation and disconnection of bulk water supply services.
- Sets out the process to be followed by the CoT where it intends to limit water services provided to the municipalities. Water services may be reduced to below 40% of full supply provided that services may not be limited to a percentage that will limit the provision of basic water supply services to the municipalities' consumers.
- Addresses matters such as permits, licenses, liabilities, indemnities, insurance, guarantees and warranties. These provisions are standard provisions provided for in most agreements.

## **5. COMMENTS OF THE STAKEHOLDER DEPARTMENTS**

### **5.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER**

Cognizance is taken of the contents of the report.

It is recommended in the report that the Group Head: Utility Services Department in conjunction with the Group Head: Group Legal and Secretariat Services be authorised to finalise the bulk water services agreements and that the City Manager be authorised to sign the agreements on behalf of the City of Tshwane.

Furthermore, it is recommended that the City Manager be authorised to approve Addendums to the agreements for increased volumes of bulk water or sewage to the respective neighbouring municipalities as and when required.

The comments of the Group Legal Counsel should indicate whether this request is in line with the requirements of existing policies, guidelines, financial by-laws and applicable legislation.

It is indicated in the report that bulk water will be provided to the municipalities in terms of the City of Tshwane's approved water tariff structure and that the current rate is R8,39 (Excl. VAT) per Kilolitre as approved for water supplied to other municipalities. It should be noted that the correct water tariff is R9.20 for 2017/18 financial year. The tariff for the collection, conveyance and treatment of sewage will be based on the approved rate for the operational cost for providing the services at the Sunderland Ridge WWTW and is currently R2.928 (Excl VAT) per Kilolitre.

Section 7 of the Municipal Finance Management Act 2003, (Act 56 of 2003) reads, *inter alia*, as follows:

"(2) All money received by a municipality must be paid into its bank account or accounts, and this must be done promptly and in accordance with this Chapter and any requirements that may be prescribed."

The Group Head: Utility Services Department must ensure that the agreement stipulates the correct tariffs and that the city receive all income due on time.

### **5.2 COMMENTS OF THE GROUP HEAD: GROUP LEGAL AND SECRETARIAT SERVICES**

#### **NEW BULK WATER SERVICES AGREEMENTS BETWEEN THE CITY OF TSHWANE AND NEIGHBOURING MUNICIPALITIES**

The purpose of the report is to obtain approval from Mayoral Committee to enter into new bulk water supply and sewage collection agreements with neighbouring municipalities to which and from who the City of Tshwane (CoT) provide and receive bulk water services.

Section 51 of the Local Government: Municipal Systems Act 32 of 2000 places a duty on the Municipality within its administration and financial capacity to establish and organize its administration in a manner that would enable the Municipality to amongst others, be performance orientated and focused on the objects of local

- The new bulk water services agreements to be entered into between the CoT and neighbouring municipalities must be forwarded to our Contract Management Division for vetting, prior to signatures by the City Manager;
- The report and its Annexures be referred to the Mayoral Committee and the City Manager for their attention, approval and cognisance.

## 6. IMPLICATIONS

### 6.1 HUMAN RESOURCES

The new bulk water provision and sewage collection agreements to be entered into between the CoT and neighbouring municipalities will have no additional requirements on the human resources of the CoT.

### 6.2 FINANCES

Bulk water will be provided to the municipalities in terms of the CoT's approved water tariff structure. The current rate is, R8,39 (Excl. VAT) per Kilolitre as approved for water supplied to other municipalities. The tariff for the collection, conveyance and treatment of sewage will be based on the approved rate for the operational cost for providing the services at the Sunderland Ridge WWTW and is currently R2.928 (Excl VAT) per Kilolitre.

### 6.3 CONSTITUTIONAL AND LEGAL FACTORS

In accordance with the Constitution of the Republic of South Africa, the Local Government: Municipal Structures Act, Act 117 of 1998, the Local Government: Municipal Systems Act, Act 32 of 2000 as amended and the Water Services Act, Act 108 of 1997, municipalities are responsible for ensuring that all residents within their jurisdictional area have access to water services.

### 6.4 COMMUNICATION

The content of the agreements and the volume of water to be supplied and sewage to be purified by the CoT will be negotiated with the respective municipalities. Communication will occur on a frequent basis to ensure that the bulk services are provided in terms of the agreements. The agreements also provides for a contract management committee to be established to ensure sufficient and proper communication in managing the agreements.

### 6.5 PREVIOUS COUNCIL OR MAYORAL COMMITTEE RESOLUTIONS

None.

## 7. CONCLUSION

In terms of legislation municipalities are responsible for the provision of water services to all residents within their respective areas of jurisdiction. The CoT's neighbouring municipalities, Madibeng Local Municipality, Moretele Local Municipality, Thembisile Hani Local Municipality and the City of Johannesburg need to obtain bulk water from the CoT due to the location of the water sources or bulk suppliers outside their areas of jurisdiction. The same applies for sewage to be