delivery;

c) Compliance with the regulatory framework;

d) To assist officials in understanding their legal and managerial responsibilities with regards to contract management.

e) The optimization of efficient and sustainable financial wellbeing of the municipality, resulting in lower cost drivers, and

f) Continuous development of effective Management Information Systems, resulting in strategic support and risk preventions.

The existence of a Contract Management Policy is to ensure that no contract procurement of goods and services (excluding land sales or rentals of Karoo Hoogland Local Municipal Assets, which are managed by the Assets & Revenue Department and Admin Department for Rentals), takes place outside of the SCM System.

STATUTORY AND REGULATORY FRAMEWORK FOR MANAGING CONTRACTS

Application and Framework of the Contract Management Policy

All officials and other role players in the Supply Chain Management system of the Karoo Hoogland Local Municipality must implement this Policy in a way that gives effect to:

a) Section 217 of the Constitution;

b) Section 116 of the MFMA;

c) Section 33 of the MFMA;

d) Model SCM Policy;

e) SCM Regulations

f) Framework for Infrastructure Delivery and Procurement Management

g) any other legislation pertaining to SCM.

This Policy applies when the Municipality:

a) Procures goods, services and infrastructure related works;

b) Disposes of goods no longer needed; and

c) Selects service providers and suppliers to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal Systems Act applies.

Adoption, Amendment and Implementation of the Contract Management Policy

The Accounting Officer must:

a) At least annually review the implementation of this Policy; and

b) When the accounting officer considers it necessary, submit proposals for the amendment of this Policy to Council;

c) In terms of section 62(1)(f) (IV) of the Act, take all reasonable steps to ensure that the Contract Management Policy is implemented.

Application of Policy

The policy applies to all transactions per the Supply Chain Management processes and undertaken by the Karoo Hoogland Local Municipality which involves a contract whether explicitly agreed in writing, or implicitly through actions.

Framework for Infrastructure Procurements

The framework for infrastructure procurement outlines the minimum infrastructure procurement policy requirements for municipal planning and implementation. The strategic direction set in the Integrated Development Plan (IDP) informs the framework for infrastructure procurement.

Procurement Gate 8 (PG8)

a) Administer and monitor the contract. (See Annexure A: In order for the administration and contract facilitation, concurrence with Project Stage Deliverables for Stages 5 and 7 must be completed)

b) Minimum Requirements for PG 8:

1. Finance department to:
   - i. Capture contract award data.
   - ii. Manage cash flow projection.
   - iii. Administer contract in accordance with the terms and provisions of the contract.
2. Delivery department to:
   - i. Ensure compliance with contractual requirements.

PG 8 is complete when a delegated person captures the contract Completion/termination data (close out reports and relevant documents), including Payment certificates due.

BASIS FOR BINDING THE MUNICIPALITY IN A CONTRACT

The Supply Chain Management Policy of the municipality gives guidance for procurement of goods and services as per various thresholds determined by the monetary value. The mentioned policy stipulates that procurement of goods and services up to R30 000.00 inclusive of VAT shall be done through written quotations evaluated on the basis of price only. Above R30 000 it should be preferably from the service providers registered in services and on the basis of price and BB BEE. The level of complexity of contract will depend on the nature of services, quality and other special conditions of delivery.

Where the above supply chain processes could not be fulfilled, an authorized deviation with legal and valid reasons by the Municipal Manager also leads to a binding agreement.

It is based on the above approaches that an official of the municipality may enter into a binding agreement between the municipality and the service provider.

Appointment of a service provider without following the above procedures may lead to invalid contracts, and the official involved may be held responsible for financial misconduct and be subjected to Disciplinary action, and the resultant expenditure will be irregular and may be recovered from such official.

Local Government Supply Chain Management Regulations permits the Accounting Officer to ratify minor non-compliances from SCM Policy by Bid Committees and Officials.

Conditions of Contract

A contract or agreement procured through the Supply Chain Management System of the Municipality must:

a) be in writing;

b) stipulate the terms and conditions of the contract or agreement, which must Provide for:

   i. the termination of the contract or agreement in the case of breach or non- or Underperformance;
   ii. dispute resolution mechanisms to settle disputes between the parties;
   iii. a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years;
   iv. the municipality's liability and indemnity exposure;
   v. Vis Major; and
   vi. any other matters that may be prescribed

The relevant Executive/Senior Manager, with delegated powers from the Municipal Manager, must establish capacity in his/her directorate to assist the accounting officer in carrying out the duties set out in section 116(2) of the MFMA.

Management of Contracts

A. The Accounting Officer and delegated officials must take all reasonable steps to:

   i. Ensure that a contract or agreement procured through the supply chain management policy of the municipality is properly enforced.
   ii. Monitor on a monthly basis the performance of the contractor under the contract or agreement.
   iii. Administer the contract with the necessary competencies and delegations, ensuring effective management of contracts.

B. The Technical Manager must ensure that Project Managers submit suppliers' performance reports to the PMS Manager within five (5) business days after the end of each month.

C. The PMS Manager submits a consolidated report to the relevant Director and Contract Owner within 10 business days after the end of each month for purposes of Section 116(2) (b) of the Act.

D. The PMS Manager submits a consolidated report on the performance of contracts or agreements for purposes of Section 116 (2) (d), to the Accounting Officer within 15 business days of the end of each quarter.

Contract Lifecycle Management

Contract Lifecycle is a back to back process of acquisition to the award of contract. The cycle further entails execution, closure and handover of the project to the relevant official representing the municipality.

The Municipality recognizes the following steps in contract lifecycle management as elaborated below:

1. **Contract requisitioning** – this is the first action of defining the purpose and request
2. **Authoring** – this involves the development of the contract documentation, version control and validation. Legal experts or suitably experienced Officials must be involved in authoring the contract.
3. **Negotiation** – the ability to analyze the versions of contracts and the relevant attachments as influenced by the discussions between the parties to the contract. The Accounting Officer may appoint an Official to assist in the negotiations or may make use of external experts depending on the complexity of the service and contract.
4. **Approval** - routing the contract document and the necessary attachments for review and approval. The Project Manager must approve the draft contract prior to the final version being submitted to the Accounting Officer or his delegate for signature.
5. **Execution** – the process of allowing the contracted service provider to perform duties as outlined in the contract document. The Project Manager must ensure that the performance by the other party is not delayed or impeded in any way where it is within the Municipality's control.
6. **Obligations management** – involves that deliverables are being met and maintain compliance at all times. The Project Manager must ensure that all deliverables are quality assessed and controlled.
7. **Contract amendment/variations** – process of keeping track of original terms in addition to current obligations to deliver on the contract. Where any such amendment is proposed, the Project Manager must prepare a report and motivation accompanying such proposal for the approval of the Contract Owner and the furtherance of complying with clause 4.4.
8. **Audit and reporting** – access to the entire contract for audit tracking, reporting and easy integration with other systems. It is the responsibility of the Project Manager to ensure that a comprehensive file to auditing standards are kept in a safe place and that access to such file is available by authorized personnel.
9. **Renewal** – contract extensions after the expiry dates. The Project Manager must advise the Contract Owner in good time regarding the renewal clauses and the financial implications thereof.

Amendment of Contracts

A. A contract or agreement procured through the supply chain management policy of the municipality may be amended by the parties, in exceptional circumstances in order to mitigate abuse, in perception after the fact, and to prevent financial inefficiencies and negatively influencing financial sustainability.

B. In terms of Section 116(3) of the MFMA, (56 of 2003), amendments (in compliance with SCM procedures), may only be made after the initial, original contract has been signed **and**:

   i. The MFMA requires that the reasons for the proposed amendment must be tabled in the council; and

ii. The local community has been given reasonable notice of the intention to amend the contract or agreement; and

iii. have been invited to submit representations to the municipality.

C. Amendments of contracts where the expansion or variation is not more than (National Treasury Circular 62)

i. 20% (construction related goods, services and/or infrastructure projects), and

ii. 15% (all other goods and/or services) of the original value of the contract, must be submitted directly to the Head of Supply Chain Management Division for approval and further reference to the Bid Committees, and or Chief Financial Officer or Municipal Manager (depending on delegations) committee system for approval.

D. Amendments of contracts where the expansion or variation is more than the threshold prescribed by National Treasury (Circular 62), must be dealt with in terms of the provisions of section 116(3) of the MFMA, and are exempt from this process.

E. Amendments to the contract, without influencing the value or term of the contract, within the scope of the original terms and conditions, may be altered, provided that both parties have consensus on the amendment and the contract amendment is in writing and signed by both parties.

F. No agreement to amend or vary a contract shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties.

G. When an amendment has a budgetary implication for a term longer than 3 (three) years, section 33 of the MFMA will apply to this amendment (Section 116 (3) of the MFMA will be followed with section 33, when amending an existing contract for longer than 3 years).

Procedures for contract amendment

Contract amendment may include change in some elements of scope of work as a result of unforeseen circumstances, change in area of work, or change in the number of units or materials for the benefit of the organization.

A. The Project Manager shall prepare a report to the Technical Manager motivating the need for contract amendment or adjustment.

i. The Motivation will be prepared in a prescribed format with the following Information as mandatory:

1) Current project in brief
2) Project status
3) Contractor performance's summary
4) Project Funding and expenditure to date
5) Proposed amendment (scope, area, associated costs, funding)
6) Reason for amendment contrary to inviting bids for the new scope
7) Benefits arising from the amendment
8) Cost implication and funding of such costs

B. The Head of the Supply Chain Management Division must provide their Written professional opinion of the compliance with the Supply Chain Management Policy as well as the Municipal Finance Management Act. The Technical Manager in whose purview the contract resides and for whom the amendment report has been prepared shall submit the completed report under their signature to the Chief Financial Officer.

C. The CFO will then in turn solicit the approval of such from the Municipal Manager upon the CFO's satisfaction that the report is complete and sufficiently substantiated;

D. Should the Municipal Manager support the proposed amendment the CFO shall prepare an item for the Municipal Council using the motivation provided by the Project Manager and Technical Manager initially. The Head of SCM shall facilitate the notification to the public with regards to the amendment and receive any objections or comments.

E. Once the comments are received, the Head of SCM and the CFO will Advise the Municipal Manager and the Technical Manager concerned.

F. Contract amendment shall require signing of the addendum to the original Contract by all parties to the contract. It should however be noted that amendments should be made in line with the allocated budget as per the approved budget for the project/service. If the amendment requires additional funding, the above process can only resume once funds are confirmed in respect of the work to be done.

G. For MIG funded projects, confirmation must be obtained from the PMU Office with regards to approved funding on the project and procedures for Budget Maintenance must be fulfilled prior to taking the recommended steps for Contract Amendment.

Contract Variation

Contract variation refers to the variation of actual work that needs to be done or the methodology, approach or resources planned to be used in the execution of the project. Contract variation shall be initiated by the appointed contractor after demonstrating the benefits of varying the original contract bills of quantity or other inputs used in the implementation of the contract agreement.

Issues of quality, subsequent maintenance costs and materials and the completion period must be considered prior to agreeing with the variation.

The process shall entail a request letter from the contractor to the Project Manager, and the request shall entail cost and benefits of the variation, financial implications, advantages of the variation and the impact or implications on quality of the product/service at the end of the day.

The variation must be considered by the Contract Owner concerned, and once agreed upon, the Contract Variation Agreements shall be signed by all parties concerned. The Technical Manager shall inform the Chief Financial Officer to assess the impact of the variation on the project for Assets Management and SCM purposes and information.

Where contract variation requires additional funding, not exceeding 20% of the contract value, which is within the approved budget for current and subsequent year for that line item or project, reference will be made to Accounting Officer's guidelines for implementing Supply Chain Management Regulation.

The request shall be approved by the Accounting Officer on recommendation of the Chief Financial Officer.

Procedures for Contract Variation

Activity	Responsible person
The contractor or service provider shall propose variation order to the Project Manager responsible and overseeing the contractor, with a full cost-benefit analysis, financial implications, future maintenance costs and availability of parts/materials	Contractor/Service provider
The Project Manager shall consider the request and present such to the Technical Manager responsible to obtain concurrence	Project Manager
The concurrence shall be presented to the Budget and Treasury Office (CFO) with all the inputs received thus far for recommendation to approve to the Accounting Officer	Technical Manager /CFO
The Technical Manager and CFO shall submit the variation to the Accounting Officer for approval	Technical Manager /CFO
The Service Provider shall be informed of the acceptance of the variation and all necessary documents shall be signed and filed	Project Manager
The Accounting Officer shall submit the approved contract variation order to municipal council for noting	Municipal Manager

Contract Contingencies

A contingency clause is a provision in the contract that requires a specific event or action to take place for a contract to be considered valid. A contingency clause should clearly outline what the condition is, how the condition is to be fulfilled and which party is responsible for it.

In construction contracts, contingencies are those unforeseen conditions experienced during contract execution. These conditions need to be dealt with to enable the contractor to proceed with executing the scope of work as per the agreement.

The contingency is brought to the attention of the Project Manager responsible for that work, and upon assessment agree that the circumstances are indeed a contingency. A recommendation to proceed with work aimed at resolving the contingency shall be made by the Project Manager and approved by the relevant Technical Manager.

The approval shall be in writing, and once signed off by all partiės, it shall be communicated to the Chief Financial Officer to ensure that the correct budget/line item is used for the processing of invoices against the contingency budget as per the signed agreement.

Contingency fees are normally set at a percentage not exceeding 10% of the project costs as per the bidding document.

Where contingencies are expected to exceed 10% or the contract terms conditions, the CFO must be notified so as to provide professional advice on the process which must be followed in this regard.

Contract budget adjustment

Projects whose costs are not time bound like consultancy services and similar advisory services executed through use of human resources to execute and budgeted for in the capital budget, can only be adjusted by way of council resolution, through an adjustment budget or through adhering to MFMA Section 29 – Unforeseen and unavoidable expenditure.

A differentiation should be made between project budgets overrun or over-expenditure and additional funding required as a result of contract value as per the winning bid price offer. In cases of projects funded under capital budget, the following process must be followed:

Where the amount that the project is awarded for exceeds the budget – Capital	
Confirmation of funding of project	Chief Financial Offer
Successful bidder price exceeds the budget	Negotiate scope reduction to align award amount with available funds
Successful bidder price exceeds the budget	An award can only be made once there is confirmation that the quoted price is fully funded in either current year's budget, or will be funded through an adjustment budget or in the following year's budget.
Where the project is overspending	
Oversee project implementation against project plan which is addendum to the Service Level Agreement entered into	Project Manager
Monitor claims against BoQ or project costing as per MBD3.1	Project Manager
Query any claims that exceed BoQ as per tender documents upon receipt of invoices	Project Manager
Obtain clarification from Contractor/Consultants on claims/quote variations, and the impact of the variation on entire project budget/costs	Project Manager
If clarification is satisfactory, report in writing to Budget and Treasury Office (CFO) the implications of the variances	Technical Manager
Approval of invoice for payment	CFO
Perform project budget forecast	Technical Manager and CFO
Advise CFO on projections and for noting for budget adjustment	Executive Technical Manager

MAINTENANCE AND CONTRACT ADMINISTRATION

a) Contract administration includes all administrative duties associated with a contract once it is adjudicated and implemented.

b) No rights in terms of an awarded contract will accrue before the SCM appeal period and/or appeal has been finalized.

c) The contract should be signed by all parties concerned (The relevant official should also ensure that the suppliers have the delegated powers to sign and amend the contractual agreement).

d) The contract will only be enforceable after all the signatures of the relevant parties are