

IMPLEMENTATION PROTOCOL

BETWEEN THE

DEPARTMENT OF CO-OPERATIVE GOVERNANCE HUMAN SETTLEMENTS &
TRADITIONAL AFFAIRS
IN NORTHERN CAPE PROVINCE

HEREIN REPRESENTED BY: MR. A. BOTES AS

MEC OF CO-OPERATIVE GOVERNANCE HUMAN SETTLEMENTS & TRADITIONAL
AFFAIRS

AND THE

PIXLEY-KA-SEME DISTRICT MUNICIPALITY

HEREIN REPRESENTED BY: MRS. T.M. KIBI AS

THE EXECUTIVE MAYOR OF PIXLEY-KA-SEME DISTRICT MUNICIPALITY

On

THE ADMINISTRATION OF NATIONAL HOUSING PROGRAMMES

DATE..... 20/01/2017

REV. R. M. KIBI

PREAMBLE

The Parties:

Having regard to the Pixley-Ka-Seme District Municipality's written application to the Northern Cape MEC for Human Settlements to be accredited at Level 2 for the purposes of administering national housing programmes and the issuing of an accreditation compliance certificate,

Recognising the efforts made by the Pixley-Ka-Seme District Municipality to develop sufficient capacity and a sound Municipal Human Settlements Development Plan,

Acknowledging the role played by the Northern Cape Department of Co-operative Governance, Human Settlements and Traditional Affairs in supporting the capacitation of the municipality and monitoring the progress made by the Municipality,

Desiring to ensure the accelerated and effective implementation of national housing programmes resulting in integrated human settlements,

And operating within the legal mandate of the MEC, the MEC is formalising the Level 2 accreditation of the Pixley-Ka-Seme District Municipality, as contemplated in the *National Accreditation Framework for Municipalities to Administer National Housing Programmes (2006)*, through this Implementation Protocol.

Levels of accreditation, i.e.: –

- **LEVEL ONE** Accreditation which will enable the accredited local authority to administer subsidy budget allocation including housing subsidy budgetary allocation across programmes and projects, subsidy fund allocations and project identification; and
- **LEVEL TWO** Accreditation which will enable the accredited local authority to, over and above the functions of Level One Accreditation, being accredited with the function of programme management and administration, which includes project evaluation and approval, contract administration, cash flow projection and management and quality assurance; and

Now therefore the Parties agree as follows:

1. Definitions

For the purpose of this Protocol, unless the context indicates otherwise:

- a. **"National Accreditation Framework"** means the *National Accreditation Framework for Municipalities to Administer National Housing Programmes*, as published from time to time by the Minister of Human Settlements;

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- b. **“the Department”** means the Northern Cape Department of Co-operative Governance, Human Settlements and Traditional affairs a Provincial Department responsible for Human Settlements/Housing;
- c. **“the DORA”** means the applicable Division of Revenue Act, as promulgated annually;
- d. **“the Housing Act”** means the Housing Act, 1997, (Act No 107 of 1997);
- e. **“the IGR Act”** means the Inter Governmental Relations Framework Act, (Act 13 of 2005);
- f. **“the MEC”** means the Member of the Executive Council Responsible for Human Settlements of the Provincial Government of Northern Cape and the Accrediting Authority in terms of this Protocol;
- g. **the “Mayor”** means the Executive Mayor of the Pixley-Ka-Seme District Municipality
- h. **“the Municipality”** means the Pixley-Ka-Seme District Municipality being accredited in terms of this Protocol;
- i. **“the MYHDP”** means the relevant Provincial Multi-Year Housing Development Plan referred to as the **Annual Performance Plan (APP)**;
- j. **“the Housing Sector Plan”** means the Municipal Human Settlements Development Plan;
- k. **“Protocol”** means the agreement set out in this document and the Annexure/s attached hereto.
- l. **“the National Housing Programmes”** means all national housing programmes contained within the National Housing Code, with the exception of individual, relocation and Finance Linked Individual Subsidy programmes¹, the administration of which remains the responsibility of the MEC.
- m. **“the Capacity and Compliance Accreditation Panel”** means the panel appointed by the Minister of Human Settlements to advise and assist the Minister and MECs in the pre-accreditation assessment process for municipalities and in post-accreditation support.

2. Objectives of protocol

2.1. The objectives of this Protocol are:

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- 2.1.1. to formalize the delegation of functions by the MEC in terms of the decision to accredit the Pixley-Ka-Seme District Municipality in terms of Section 10 of the Housing Act to administer all the national housing programmes on its behalf, subject to those conditions which are stipulated in this Protocol;
- 2.1.2. to ensure the capacitation of the Municipality in preparation for it to receive formal assignment of functions to administer national housing programmes;
- 2.1.3. to clarify the respective roles and responsibilities, and
- 2.1.4. to ensure the performance of, the respective parties to this Protocol.

2.2. The Parties agree to act in common pursuit of these objectives, which shall be implemented in accordance with the IGR Act, following the terms and principles of:

- 2.2.1. Co-operative governance;
- 2.2.2. Transparency;
- 2.2.3. Fairness; and
- 2.2.4. Good governance.

3. Parties to the protocol

The Parties to this Protocol are as follows:

- 3.1. the Department of Co-Operative Governance, Human Settlements and Traditional Affairs
- 3.2. the Pixley-Ka-Seme District Municipality.

4. Scope of Accreditation

- 4.1. The MEC hereby delegates Level 2 Accreditation functions to the Municipality, as contemplated by the Accreditation Framework for municipalities to administer National Housing Programmes.
- 4.2. In terms of this accreditation, the Municipality is duly authorised to act on the following:

Level One:

Beneficiary management, Subsidy budget planning and allocation and Priority programme management and administration (delegated functions)

Level Two:

Full programme management and administration of all housing instruments / programmes inclusive of Project evaluation and approval, Contract administration, Subsidy registration, and Quality assurance (in addition to level one delegation)

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5. Roles and responsibilities of the Department of Co-operative Governance, Human Settlements and Traditional Affairs

5.1. The Department is responsible for the following:

- 5.1.1. to approve the province's MYHDP referred to as the APP which must incorporate the Sector Plans of the Municipality;
- 5.1.2. to issue policy directives to the Municipality that are consistent with national housing policy, including the rules applicable to the accredited national housing programmes;
- 5.1.3. to approve Human Settlements projects undertaken by the Municipality;
- 5.1.4. to act as observers in the procurement process for Human Settlements projects;
- 5.1.5. to hold Implementation Forum meetings with relevant provincial sector departments and municipalities to ensure that the Outcome 8 targets are met;
- 5.1.6. to inform the Municipality of the projects approved for the MTEF 2016/2017 – 2018/2019;
- 5.1.7. to provide hands-on support to the Municipality in the development of the Housing Sector Plans;
- 5.1.8. to provide HSS support to the Municipality
- 5.1.9. to ensure both provincial and municipal reporting compliance;
- 5.1.10. to provide administrative support to the Municipality in the performance of its accreditation functions;
- 5.1.11. to annually review the Implementation Protocol
- 5.1.12. to annually review the performance of the municipality against the delivery targets and to advise the MEC of any non-performance on behalf of the Municipality;
- 5.1.13. to take the necessary steps to ensure adequate performance, and if required to withdraw the accreditation given to the Municipality, in terms of S (c) (ii) of the Housing Act;
- 5.1.14. to determine the allocation of funds to the Municipality to perform the accreditation functions;

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5.1.15. to ensure gazetting of funds to accredited municipalities for capacity support and housing projects in terms of schedule 5 grant conditions within the DoRa;

5.1.16. The head of the Department, designated as the accounting officer in terms of section 12(2)(b) of the Housing Act, shall remain the accounting officer in respect of all monies transferred to the Municipality in terms of this Protocol;

6 Roles and responsibilities of the Municipality

6.1 To manage and maintain a well established Housing unit in order to Adminstrate Human Settlements Programmes;

6.2 To demonstrate the capacity to undertake Human Settlements projects;

6.3 To secure funding from the Department for Human Settlements Projects in the MTEF 2016/2017 – 2018/2019;

6.4 To enter into Service Level Agreements with Ubuntu, Umsobomvu, Kareeberg, Renosterberg, Thembelihle, Siyathemba and Siyancuma Municipalities


6.5 In respect of the national housing programmes for which it has been accredited, the Municipality shall undertake the following functions on behalf of the Ubuntu, Umsobomvu, Kareeberg, Renosterberg, Thembelihle, Siyathemba and Siyancuma Municipalities:

6.5.1 subsidy budget planning and allocation, and priority programme management and administration, including:

- National Housing Needs Register
- Development of Housing Sector Plans
- housing subsidy budgetary planning functions across national housing programmes and projects;
- subsidy allocation
- project identification

6.5.2 project management and administration, including:

- project evaluation and approval;
- submission of a project business plan to the Pixley-Ka-Seme Regional office;
- contract administration and management;
- subsidy registration on HSS;
- Beneficiary Administration
 - Beneficiary list must accompany Business Plan
 - Identification
 - application submission
 - physical verification

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- technical quality assurance.
- 6.6. To develop, implement and report on a Housing Consumer Education Programme in line with the provincial annual Performance Plan targets;
- 6.7. Conducting housing needs analysis by collecting information and implementing the National Housing Needs Register system
- 6.8. To ensure the effective exercise of these functions, the Pixley-Ka-Seme District Municipality has the following roles and responsibilities:
- 6.8.1 In terms of relevant guidelines, to prepare, and submit an approved Housing Sector Plan to the Department and to ensure that the Housing Sector Plan is:
- adopted as part of the Municipality's Integrated Development Plan and budget;
 - integrated into the Municipality's Performance Management System;
 - aligned with other strategic planning frameworks of the Municipality, such as the Spatial Development Framework, the Infrastructure Master Plan, the Water Services Development Plan, Informal Settlements Management Plan, the Environmental Management Plan and the Integrated Transport Plan;
- 6.8.2 to put in place the required, or to utilize existing, municipal capacity and systems to perform the accredited functions, including: budget tracking; document management; reporting; project tracking; procedures and operations manual; municipal housing subsidy system; and cash-flow tracking;
- 6.8.3 to assist the municipalities in identifying suitable land for the development of integrated human settlements;
- 6.8.4 to mobilize appropriate resources in order to ensure the development of integrated human settlements
- 6.8.5 to make available at the requirement of the Auditor-General for examination all books, registers and documents in the possession of and under the control of any municipal employee which would facilitate the carrying out of such an audit;
- 6.8.6 in the performance of its accredited functions, carry out the policy directives of the MEC consistent with national housing policy, including the rules of any applicable national housing programme;
- 6.8.7 to report to the MEC on the activities of the Municipality in terms of the approved Housing Sector Plan and in terms of any other requirements stipulated by the MEC;

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- 6.8.8 to report in terms of both the DoRA and the Municipal Finance Management Act (MFMA), 2003 (Act No. 56 of 2003) requirements;
- 6.8.9 to report to the MEC any allegations of fraud or corruption associated with the administration of national housing programmes on behalf of the MEC;
- 6.8.10 to report to the MEC any risks associated with the administration of national housing programmes and to inform the MEC of mitigating actions that have been undertaken by the municipality; and
- 6.8.11 to inform the MEC of any support and capacity requirements for the administration of the national housing programmes.
- 6.9 to provide technical and administrative support to non-accredited municipalities in its district in areas where they lack adequate capacity in terms of human settlements developments
- 6.10 to act as the entry point for human settlements development in its district for non-accredited municipalities.
- 6.11 to enter into service level agreements with non-accredited municipalities in terms of the type and level of support it will provide as contemplated.

7 Roles and responsibilities of other key stakeholders

The Parties recognise the roles and responsibilities of other key stakeholders –

7.1 National and Provincial Treasury to:

- 7.1.1 ensure compliance of the Department in terms of the MFMA and DORA requirements for the Human Settlements Development Grant allocations to the Municipality; and
- 7.1.2 monitor the financial performance of the Municipality and inform the Department of any matters of concern.

7.2 South African Local Government Association to monitor the performance of the Parties to this Protocol and inform the MEC of any matters of concern.

7.3 Ubuntu, Umsobomvu, Kareeberg, Renosterberg, Thembelihle, Siyathemba and Siyancuma Municipalities to implement human settlements projects in their areas of jurisdiction in accordance with the signed Service Level Agreements

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- 7.4 Department of Water Affairs to support the development of human settlements in terms of water and sanitation.
- 7.5 Department of Co-Operative Governance to support the development of human settlements in terms of Outcome 9.
- 7.6 Department of Rural Development and Land Reform to support the development of human settlements in terms of acquisition and land use management.
- 7.7 Department of Energy to support the development of human settlements in terms of energy provision.
- 7.8 Department of Economic Development and Tourism to align the development of human settlements to economic opportunities.
- 7.9 Department of Human Settlements to support the development of human settlements by providing a sound regulatory framework.
- 7.10 National Home Builders Registration Council to support the development of human settlements in terms of quality assurance in line with the Consumers Protection Measures Act (Act 17 of 2007)
- 7.11 Housing Development Agency to support the development of human settlements in terms of the acquisition of land and landed properties.
- 7.12 Construction Industries Development Board to support the development of human settlements in terms of procurement principles and procedures.

8 Workplan, Reporting, Monitoring and Evaluation

- 8.1 The Parties agree to the Housing Sector Plan attached as **Annexure A**. The Housing Sector Plan is reviewed annually.
- 8.2 In accordance with the Housing Sector Plan, the Parties agree on the Municipality's annual Human Settlements work plan, which is contained in the Municipality's Level 2 Accreditation Business Plan and annual budget of the Municipality.
- 8.3 The Municipality's Level 2 Accreditation Business Plan is attached as **Annexure B**.
- 8.4 The proposed work flow process is attached as **Annexure C**.

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9 Key Performance Indicators

The Parties agree to the following strategic objective annual targets for 2016/2017 to 2018/2019, to assist in monitoring the effectiveness of implementing of this Protocol:

Strategic objective	2016/2017	2017/2018	2018/2019
Enhanced institutional capability for effective co-ordination of spatial investment decisions	600	700	800
Adequate housing and improved quality living environment	1537	1635	1700
Transfer of property	8173	9300	9192

- The Department of COGHSTA, to provide funding to accredited municipalities in the form of housing subsidies and operational costs.
- Equitable subsidy allocations from the national housing subsidy budget to accredited municipalities.
- Funding to be done on a formula based allocation to accredited municipalities within the MTEF period.
- For level 1 and 2 the department will hold allocated dedicated funds and disburse against performance.
- Where the municipality will not be able to utilise its subsidy budget in a particular year, the projected unutilised portion of funds shall be reallocated to other programmes or municipality.

10. Operational Costs

- 10.1 Operational funding will be provided through the operational capital expenditure. (OPSCAP)
- 10.2 The Budget allocated for 2016/2017 is R720 000.00 which will be used for the following items:
 - 10.2.1 Attending Capacity Development Courses
 - 10.2.2 Claiming of Subsistence and travelling allowances when attending meetings and workshops relating to accreditation
 - 10.2.3 Training relating to Human Settlements
 - 10.2.4 Undertake a capacity audit of the housing unit
- 10.3 The accreditation fee will be for the accreditation linked (delegated) functions only and not for other functions which will form part of the municipalities normal responsibilities.
- 10.4 The District Municipality will issue a compliance certificate to the department with regard to the expenditure of the capacity funding.

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11. Contributing resources

11.1 The Parties

11.2 agree to contribute the following resources:

11.2.1 The Department:

- Sector Plan Support
- Capacity support in terms of an Accreditation Unit and Regional Office

11.2.2 The Municipality:

- Manage and maintain a Housing Unit
- Provide Technical and Administrative support to the seven local municipalities

12. Managing the Protocol

The Parties undertake to establish the following institutional mechanisms, including their composition and functions, for the effective management and implementation of this Protocol:

12.1 The Municipality will establish a cross-sectoral Human Settlements Committee in terms of S 79 or 80 of the Municipal Systems Act reporting to the Council or Executive Mayor respectively.

12.2 The Municipality will utilise its existing committees to provide oversight into the Human Settlements functions.

12.3 The Municipality will utilise its existing units to monitor and evaluate the performance into the Human Settlements functions.

13. Good faith and reasonableness

In their dealings with each other for purposes of this Protocol, the Parties:

13.1 agree to act in common pursuit in accordance with the IGR Act,

13.2 undertake to act in good faith and reasonably; and

13.3 warrant that they shall not do anything or shall refrain from doing anything that might prejudice or detract from the powers or functions of each other.

14. Dispute resolution

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14.1 Any disagreement or dispute arising between the Parties with regard to implementation, application, interpretation or breach of this Protocol shall be settled as follows:

14.1.1 The Parties must take all reasonable steps to settle any such difference or dispute through consultation and negotiation.

14.1.2 If the difference remains unresolved, then the parties refer the disagreement or dispute in writing to the MEC.

14.1.3 The MEC will then appoint the Accreditation Capacity and Compliance Assessment Panel to act as a mediator to attempt to resolve the matter in consultation with the Parties.

14.1.4 If the Parties fail to reach agreement, the MEC for Co-operative Governance, Human Settlements and Traditional Affairs, must nominate an arbitrator.

14.1.5 The arbitrator must conduct the arbitration in a manner that the arbitrator considers appropriate in order to determine the matter fairly and quickly, but must deal with the substantial merits with a minimum of legal formality.

14.1.6 The arbitrator's determination is final and binding on the Parties.

14.1.7 The Parties to the disagreement/dispute must share the costs of the arbitration equally.

14.1.8 If a Party is not satisfied with the determination of the arbitrator, Chapter 4 of the Intergovernmental Relations Act will apply to settle a dispute.

14.2 The Arbitration Act, 1965 (Act 42 of 1965) does not apply to settle disputes.

15. Confidentiality

15.1 Any Party shall treat information furnished by another Party for purposes of the execution of this Protocol, as confidential.

15.2 Subject to this clause, the Party(ies) so furnished with information shall not disclose such information to another person without the prior written consent of the other Party and shall take reasonable steps to ensure that such information is not disclosed to another person.

16. Duration, execution and amending the protocol

16.1 This Protocol will commence on the date of its signing and will remain in effect for a period of three years linked to the Medium Term Expenditure Framework of the Municipality.

- 16.2 A decision regarding an extension or amendment to the Protocol will be made in terms of a performance assessment of the Municipality in terms of the Sector Plan and budget. This performance assessment may be conducted during or at the end of the three-year implementation period of the Protocol.
- 16.3 If a Municipality has demonstrated its capacity to administer national housing programmes effectively, then Level 3, assignment of the functions must be considered by the MEC.
- 16.4 If the Municipality has failed to perform satisfactorily, then remedial action will be implemented in line with the Accreditation Framework.
- 16.5 This Protocol including the Annexure/s attached hereto constitutes the whole agreement between the Parties relating to the subject matter of this Protocol. There are no other conditions, representations, whether oral or written and whether expressed or implied, applicable to this Protocol, save for those contained in this Protocol.
- 16.6 No amendment, alteration, addition or variation of this Protocol shall be of any force or effect unless reduced to writing and signed by the Parties. Such changes shall be incorporated as an Addendum to this Protocol.

17. Domicilium

- 17.1 The Parties choose the physical addresses set out hereunder as their domicilia citandi et executandi for all purposes under this Protocol:

Name of Party: **Mr. A. Botes**

MEC: Co-operative Governance, Human Settlements and Traditional Affairs
Northern Cape

Physical address: 9 Cecil Sussman Road
Kimberley 8300

Name of Party: **Mrs. T.M. Kibi**

Executive Mayor: Pixley-Ka-Seme District Municipality

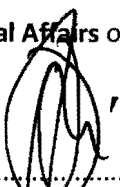
Physical address: Culvert Road, Industria
De Aar, 7000

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17.2 Notice of change of address must be given in writing, by the Party concerned and delivered by registered mail to the other Parties.

18 SIGNATORIES THE PROTOCOL

18.1 Thus done and signed by **Mr. A. Botes** in his capacity as the Member of the **Northern Cape Provincial Executive** responsible for **Co-operative Governance, Human Settlements and Traditional Affairs** on this.....2.....day of.....MARCH 2017.....

SIGNED..........


NAME A. BOTES.....

DEPARTMENT: **Co-operative Governance, Human Settlements and Traditional Affairs**

As Witnesses:
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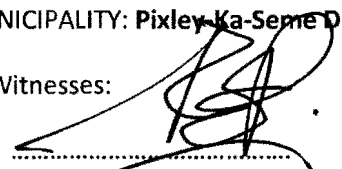
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18.2 Thus done and signed by **Mrs. T.M. Kibi** of the **Pixley-Ka-Seme District Municipality** in his capacity as the **Executive Mayor** duly authorized on this.....20.....day of.....January 2017.....

SIGNED..........

NAME Miriam T. Kibi.....

MUNICIPALITY: **Pixley-Ka-Seme District Municipality**

As Witnesses:
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