



SERVICE LEVEL AGREEMENT

Entered into between

PIXLEY KA SEME DISTRICT MUNICIPALITY (DC 7)

Herein represented by and duly authorised thereto:

MACCOHEN NTSIKHEO JACK
In his capacity as Municipal Manager

and

UMSOBOMVU LOCAL MUNICIPALITY (NC072)

Herein represented by and duly authorised thereto:

Hmasckina Apala
In his capacity as Municipal Manager

In terms of Human Settlements Developments

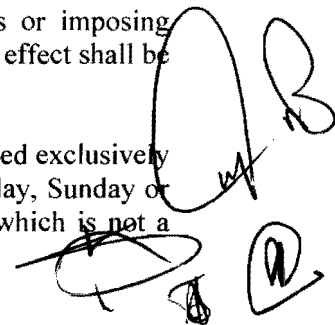
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1. INTERPRETATION

- 1.1. In this agreement:-
- 1.2. clause headings are for convenience and shall not be used in its interpretation;
- 1.3. unless the context clearly indicates a contrary intention, an expression which denotes any one gender includes the other gender, a natural person includes an natural person includes an juristic person and vice, the singular includes the plural and vice versa, and the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings: -
 - 1.3.1 "COGHSTA" means the Northern Cape Department of Co-operative Government, Human Settlements and Traditional Affairs
 - 1.3.2 "DORA" means the Division of Revenue Act (6 of 2011)
 - 1.3.3 "Effective date" means the Signature Date hereof;
 - 1.3.4 "Finance Act" means the Municipal Finance Management Act, Act 56 of 2003 as amended
 - 1.3.5 "Pixley ka Seme" means the Pixley ka Seme District Municipality, a Category C Municipality established in terms of section 12 of the Municipal Structures Act (117 of 1998)
 - 1.3.6 "IDP" means the Integrated Development Plan
 - 1.3.7 "Umsobomvu Local Municipality" means the Umsobomvu Municipality, a Category B Municipality established in terms of section 12 of the Municipal Structures Act (117 of 1998);
 - 1.3.8 "NHNR" means the National Housing Needs Register
 - 1.3.9 "Constitution" means the Constitution of the Republic of South Africa, Act 108 of 1996, as amended
 - 1.3.10 "System Act" means the Municipality Systems Act, 32 of 2000, as amended
 - 1.3.11 "Structures Act" means the Municipal Structures Act, Act 117 of 1998, as amended
 - 1.3.12 "Housing Act" means the Housing Act, Act 107 of 1997, as amended
 - 1.3.13 "IGR" means the intergovernmental Relations Framework Act, 13 of 2005
 - 1.3.14 "Shared Service" means the consolidation of administrative or support functions from Pixley ka Seme District Municipality and Umsobomvu Local Municipality into a single organisational entity whose mission is to provide services as efficiently and effectively as possible
 - 1.3.15 "Signature date" will mean the date on which the last of the parties to this agreement signs this agreement.
- 1.4. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement;
- 1.5. When any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday of public holiday;

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- 1.6. Where figures are referred to in numerals and in words, and if there is any conflict between the two, the words shall prevail;
- 1.7. Expressions defined in this agreement shall bear the same meanings in Schedules or annexure to this agreement which do not themselves contain their own definitions;
- 1.8. Where any term is defined within the context of any particular clause in this agreement, 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 agreement, notwithstanding that, that term has not been defined in this interpretation clause.

2. INTRODUCTION

- 2.1. Pixley ka Seme District Municipality is a district municipality with certain obligations to the Umsobomvu Local Municipality in terms of the provisions of the Constitution, Systems Act, Structures Act, IGR and Finance Act;
- 2.2. Umsobomvu Local Municipality lacks the required capacity to fulfil their mandate with specific reference to housing delivery as provided for in the constitution, Housing Act, Systems Act, Structures Act and Finance Act.
- 2.3. In order for the Umsobomvu Local Municipality to fulfil all their obligations terms with specified reference housing delivery of the Constitution, Housing Act, Systems Act, Structures Act and Finance Act, Pixley ka Seme District Municipality can and is able to assist the said municipality by way of providing the following serviced for the development of Human Settlements in term of this agreement;
 - 2.3.1 **Projects Initiation, planning and design** – identify, assess viable projects, provide capacity support and monitor the execution of the project(s)
 - 2.3.2 **Project/ Program Management and Contract Administration** – draw up a project plan that is linked to the budget. Measure the project activities against the project implementation plan. Review contracts and make recommendations
 - 2.3.3 **Subsidy Administration** – involves the administration of the all subsidy applications, from capturing of application forms to providing feedback on the applicant status
 - 2.3.4 **Quality Assurance** – Inspecting, issuing of payment certificates and assuring the quality of the built product. Ensure the quality of work is in line with the requirements of the National norms and standards, and prescribed specifications
 - 2.3.5 **Housing backlog identification and quantification** – determine the housing backlog, quantify and incorporate into the NHNR
 - 2.3.6 **Capacity development** – the development and transfer of knowledge and skills to individuals responsible for housing delivery in ~~Umtata~~ ^{Umtata} Local Municipality
- 2.4. Towards facilitating the execution of the services as indicated in 2.3 above, the following additional services have been identified:
 - 2.4.1 **Project Management:** Overall management of housing projects within the Umsobomvu Local Municipal area, including the functions cited below:
 - 2.4.2 **Subsidy administration:** Registration and verification of housing subsidy applicants on the HSS Online.

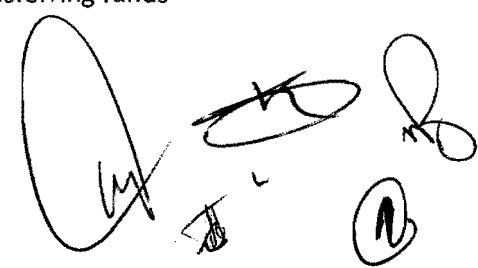
- 2.4.3 Housing Demand – National Housing Needs Register: The conducting of research and field work to assess the number of people in need of housing and transferring it to the NHNR.
 - 2.4.4 Facilitate the integration and alignment of the municipal housing sector plans with the district housing sector plan.
 - 2.4.5 Facilitate the integration and alignment of the housing chapter of the municipalities with the IDP's.
 - 2.4.6 Facilitate the development of integrated sustainable human settlements at the local municipality.
 - 2.4.7 Facilitate in the preparation of a Housing Allocation Policy to enable transparent and fair allocation of houses to the beneficiaries.
 - 2.4.8 Facilitate integration with the district IDP.
 - 2.4.9 Facilitate the process to redress the legacy of apartheid planning and fragmented settlements. Move towards integrated and compact human settlements
 - 2.4.10 Conduct and facilitate Capacity Building and Consumer Education Programmes.
- 2.5 The provision of the services to be provided by Pixley ka Seme District Municipality in terms of this agreement has cost implications which must be addressed and agreed upon; and
- 2.6 The provision of the services to be provided by Pixley ka Seme District Municipality in terms of this agreement creates rights and duties for all the parties to this agreement which must be addressed.

3. PROJECTS

- 3.1 Projects have been included in the Business Plan, which consists of ongoing projects for the current financial year. All medium to long terms projects will be determined by the IDP and DORA allocation for that financial year.

4. REMUNERATION CONSIDERATION

- 4.1 It is specifically recorded by the parties that Umsobomvu Local Municipality will not be liable for any costs to Pixley ka Seme District Municipality for the services to be rendered in terms of this agreement on the basis as set out in the agreement.
- 4.2 All costs for services rendered by Pixley ka Seme District Municipality will be borne by the Northern Cape Department of Co-operative Governance, Human Settlements and Traditional Affairs as stipulated in paragraph 6.3.2 of the Memorandum of Understanding. The Division of Revenue Act (6 of 2011) shall take precedence and should be used as the guideline for the disbursement of funds. All parties should adhere to the provisions of the MFMA and PFMA when transferring funds



5. OBLIGATIONS OF PIXLEY KA SEME

Pixley ka Seme District Municipality shall have the following obligations in terms of this agreement:

- 5.1 To provide employees with the necessary skills to give effect to the provisions of this agreement;
- 5.2 To pay the employees giving effect to this agreement;
- 5.3 To provide motor vehicles, office space, access to information systems, a budget for operational costs and access to other infrastructure to enable its employees to give effect to the provisions of this agreement;
- 5.4 To identify, in writing, to Umsobomvu Local Municipality, the names and qualifications of its employees who will render services in terms of this agreement;
- 5.5 Allow and ensure that its employees have sufficient access to Umsobomvu Local Municipality to give effect to the provisions of this agreement; and
- 5.6 Comply with all statutory obligations in terms of the existing laws of the Republic of South Africa in respect of the services rendered in terms of this agreement.

6. OBLIGATIONS OF UMSOBOMVU LOCAL MUNICIPALITY

Umsobomvu Local Municipality shall have the following obligations in terms of this agreement:

- 6.1 To provide the employees of Pixley ka Seme District Municipality with any information, when requested to do so in writing. Umsobomvu Local Municipality will designate at least three employees and provide all their contact details in writing as employees from whom the information required by Pixley ka Seme District Municipality can be obtained;
- 6.2 To attend all meetings and consultations as requested by the employees of Pixley ka Seme District Municipality in a prompt manner;
- 6.3 To provide, if requested by the employees of Pixley ka Seme, access to office space, information systems and other infrastructure to enable Pixley ka Seme's District Municipality employees to give effect to the provisions of this agreement; and
- 6.4 Comply with all statutory obligations in terms of existing laws of the Republic of South Africa in respect of the services rendered in terms of this agreement.

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7. DURATION AND CANCELLATION OF AGREEMENT

- 7.1 This agreement will commence on the effective date and shall endure until such time as one of the parties to cancel this agreement for whatsoever reason;
- 7.2 Apart from the right to cancel the agreement in the event of breach as contained in clause 12 hereof, Pixley ka Seme District Municipality can also cancel this agreement by giving 2 (TWO) years written notice to Umsobomvu Local Municipality of its intention to do so;
- 7.3 Apart from the right to cancellation as contained in clause 12 hereof, Umsobomvu Local Municipality can also cancel this agreement by giving 2 (TWO) financial years written notice to Pixley ka Seme District Municipality of its intention to do so, subject to the provision that Umsobomvu Local Municipality will not have the right, apart from the right to cancellation as contained in clause 12 hereof, to give notice to Pixley ka Seme District Municipality to cancel this agreement within the first 2 (TWO) financial years from the effective date.

8. POSITION AFTER CANCELLATION

- 8.1 In the event of this agreement being cancelled, all information in the possession of Pixley ka Seme District Municipality or its employees belonging to Umsobomvu Local Municipality will be returned within 30 (THIRTY) days after cancellation;
- 8.2 In the event of this agreement being cancelled, all monies due and payable in terms of this agreement by to Pixley ka Seme District Municipality will be due and payable immediately; and
- 8.3 In the event of this agreement being cancelled, Pixley ka Seme District Municipality and its employees will not be required or held responsible by or COGHSTA to complete any services being rendered in terms of this agreement.

9. LOSSES AND LIABILITIES

Umsobomvu Local Municipality hereby indemnifies Pixley ka Seme District Municipality in respect of all liability and damages that might arise in respect of the actions of the employees of Pixley ka Seme District Municipality for services rendered or to be rendered in terms of this agreement in the event of the employees of Umsobomvu Local Municipality not fulfilling their duties in terms of this agreement or existing law.

10. ASSIGNMENT

Neither party shall be entitled to cede its rights and delegate its obligations in terms of this agreement without the prior written consent of the other.

11. PUBLICITY AND ANNOUNCEMENT

No party shall make any announcement or, generally approve any publicity concerning the contents of this agreement unless or until both parties have approved the announcement, provided that if either party is obliged to issue any announcement in terms of the requirements of any regulatory body or by law, the contents of the announcement shall be subject to the prior approval of such relevant body.

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12. BREACH

Should either party commit a breach of any provision of this agreement and fail to remedy such within 14 (fourteen) days after receiving written notice from the other party requiring it to do so, then the party aggrieved by such breach shall be entitled, without prejudice to its other rights in law, to cancel this agreement or to claim specific performance of all of the defaulting party's obligations, in either event without prejudice to the aggrieved party's rights to claim damages.

13. ARBITRATION AND DISPUTE RESOLUTION

13.1 Any dispute between the parties hereto relating to any of the provisions of this agreement shall be settled within the provisions of the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005).

13.2 Any dispute between the parties hereto relating to any of the provisions or the interpretation of the agreement, shall be submitted to mediation before a single mediator who shall be an expert in the field of the dispute, agreed to by both parties, within seven (7) days of the date of declaration of a dispute, and failing agreement nominated for this purpose by the President of the Kimberley Bar Council. The mediator shall receive written submissions from both parties and shall be entitled to call for oral evidence if he so requires. The mediation shall be conducted in an informal manner with a view to being completed within fourteen (14) days of the appointment of the mediator. The costs of the mediator shall be borne by both parties in equal shares.


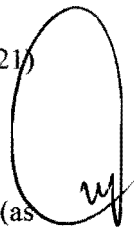
The decision of the mediator shall be recorded in writing, although the mediator shall not be required to set out the reasons for reaching his decision. Should either party be dissatisfied with the decision of the mediator, then the dispute shall be submitted to and decided by arbitration to be held at Kimberley, and such arbitration:

Shall be conducted in a summary manner, on the basis that it shall not be necessary to observe or carry out either the usual formalities or procedures relating to pleadings or discovery or the strict rules of evidence; and

Shall commence immediately and with a view to its being completed within twenty-one (21) business days after it is demanded; and

Shall be held under the provisions of the Arbitration Act of the Republic of South Africa (as amended from time to time) except insofar as the provisions of this arbitration clause shall apply.

13.2 The arbitrator shall decide the matters submitted to him according to what he considers just and equitable in the circumstances; and therefore the strict rules of law need not be observed or be taken into account by him in arriving at this decision. The arbitrator's decision shall be presented in a written document and he shall state the reasons for his decision therein.



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- 13.3 The parties irrevocably agree that the decision of the arbitrator made at such arbitration proceedings;
- 13.3.1 Shall be binding on each of them; and
- 13.3.2 Shall be carried into effect immediately; and
- 13.3.3 The costs of the Arbitrator shall be borne by both parties in equal shares.

14. CO-OPERATION AND GOOD FAITH

The parties undertake to exercise good faith towards one another in their dealings with each other as from the date of signature hereof.

15. DOMICILIUM NOTICES

- 15.1 The parties choose domicilium citandi et executandi ("domicilium") for the purposes of giving any notice, the payment of any sum, the service of any process and for any other purpose arising from this agreement as follows: -

15.1.1 PIXLEY KA SEME DISTRICT MUNICIPALITY:

Physical address: Culvert Road
De Aar
7000

Postal address: Private Bag X1012
De Aar
7000

15.1.2. UMSOBOMVU LOCAL MUNICIPALITY:

Physical address: Kerk Street 21
COLESBERG
9795

Postal address: Private Bag X6
COLESBERG
9795

- 15.2 The parties shall be entitled from time to time by written notice to the others to vary their domicilium to any other address within South Africa, which is not a post office box or poste restante.

- 15.3 Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if in writing.

- 15.4 Any notice given and any payment made by one party to the other which: -

- 15.4.1 Is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, until the contrary is proved, to have been received by the addressee at the time of delivery;

- 15.4.2 Is posted by prepaid registered post from an address within South Africa to the addressee at the addressee's domicilium for the time being, shall be presumed, until

the contrary is proved, to have been received by the addressee on the 7th (seventh) day after the date of posting;

15.4.3 Is transmitted by telefax shall be deemed (in the absence of proof to the contrary) to have been received within 1 (one) hour of transmission where it is transmitted during normal business hours of the receiving instrument and within 2 (two) hours of the commencement of the following business day where it is transmitted outside those business hours.

16. GENERAL

- 16.1 This document constitutes the sole record of the agreement between the parties.
- 16.2 No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.
- 16.3 No addition, variation or agreed cancellation of this agreement shall be of any force and effect unless in writing and signed by or on behalf of the parties.
- 16.4 No extension of time or indulgence which any party ("the grantor") may grant to the other ("the grantee") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or which may arise in the future.
- 16.5 By signing the agreement, each signatory expressly admits that he/she has read the agreement that the content has been explained to him/her and that he/she fully understands and agrees with the content of this agreement.
- 16.6 This Agreement replaces any other Agreement entered into between the parties prior to the signature date hereof.

17. COSTS

The Attorney's costs incidental to preparing, negotiating, re-drafting and execution of this agreement shall be borne by Pixley ka Seme District Municipality.

SIGNED at DE AAR on this 17 day of OCTOBER 2012

AS WITNESSES:

- 1. Rutgers
- 2. [Signature]

[Signature]
ON BEHALF OF PIXLEY KA SEME DISTRICT MUNICIPALITY

[Signature]

SIGNED at Polokwane on this 18th day of October 2012

AS WITNESSES:

1. _____

3. _____

ON BEHALF OF UMSOBOMVU LOCAL MUNICIPALITY