



CS  
DATE 16/10/23  
NAME M. A. N. G.  
SEDIBENG DM

Sedibeng District Municipality  
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## Facilities Management Directorate

Sedibeng District Municipality

## Internal Memo

<b>To:</b>	Mr. G Makhubu <b>Acting Municipal Manager</b>
<b>From:</b>	Mrs. MF Mokgobu <b>Executive Director: Corporate Services</b>
<b>Refer:</b>	Mr. KD Maranda <b>Director: Facilities Management</b>
<b>Date:</b>	16 October 2023
<b>Re:</b>	<b>Request for approval of SLA – Proposal for Refurbishment of Offices at Main Building Fourth Floor – Bid nr 8/2/27-2023 (Re-advert)</b>

### Purpose

The Purpose of this memo is to submit the Service Level Agreement (SLA) to the Accounting Officer for Approval.

### Background

The Municipality Appointed Messrs. Ben Mazinyane Construction and Projects as per Bid Nr 8/2/27-2023. The procurement process was done in line with Supply Chain Management (SCM) procurement policy.


Attached hereto are the following documents:

- Appointment letter to the service provider;
- Two (2) copies of the SLA for your consideration and signature.

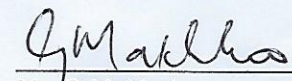
The attached SLA was compiled by the Legal Department of Sedibeng to ensure that the interests of the Municipality are protected during the implementation of the SLA.

### Recommendations

It is hereby recommended that the Accounting Officer considers and signs the attached two (2) copies of the SLA with Messrs. Ben Mazinyane Construction and Projects for the refurbishment of offices at the main building fourth floor, as per Bid number 8/2/27-2023 (Re-advert)

  
\_\_\_\_\_  
Mrs. MF Mokgobu  
**ED: Corporate Services**  
Date: 23/10/23

Approved/Not Approved

  
\_\_\_\_\_  
Mr. G Makhubu  
**Acting Municipal Manager**  
Date: 23/10/2023



**SERVICE LEVEL AGREEMENT ENTERED INTO BETWEEN  
SEDIBENG DISTRICT MUNICIPALITY**

**THE SEDIBENG DISTRICT MUNICIPALITY herein represented by  
MOTSUMI MATHE, in his capacity as the Municipal Manager, duly authorized  
thereto, (hereinafter referred to as “Municipality”);**

**AND**

**BEN MAZINYANE CONSTRUCTION AND PROJECTS with Registration no: 2010/006168/23  
herein represented by  
ROBERT HLEZA, ID No; 640404 6749 089 in his capacity as the Managing Director, duly  
authorized thereto,  
(hereinafter referred to as the “Service Provider”).**

**WHEREAS**

1. After due process of supply chain management, the Municipality has appointed the Service Provider for the Refurbishment of offices at Main building fourth floor as per bid number 8/2/2/7-2023 (Re-advert) “the Project”;
2. The Service Provider has accepted and agreed to such appointment under certain terms and conditions;
3. The terms and conditions are acceptable to the Service Provider which are recorded below.

**NOW THEREFORE THE PARTIES AGREED AS FOLLOWS:**

**1. SERVICE FEE**

The Service fee for this project will be paid by Municipality to the Service provider the total amount of R 165 090.00 (One hundred and sixty-five thousand and ninety rands only) as stipulated in the appointment letter attached to this Agreement and marked Annexure "A".

Payment will be made directly into the bank account of the Service Provider which has the following Particulars:

Bank Name : Standard Bank  
Account Holder : Ben Mazinyane Construction and Projects  
Account Number : 001148273  
Branch Code : 051001  
Branch Name : Carlton Centre  
Type : Current Account

**2. EFFECTIVE DATE**

This agreement shall irrespective of the date of signing thereof endure for a period of twenty-seven days (27) days commencing on the 16 October 2023 and ending on the 11 November 2023.

**3. OBLIGATIONS OF THE MUNICIPALITY**

The Municipality hereby undertakes to do the following in order to give effect to this agreement:

- 3.1 To appoint an official of the Municipality as the Project Manager who shall be the responsible person for the project and to monitor the Service Provider.
- 3.2 The Project Manager for the Municipality will be the Director: Facilities Management or his delegate.
- 3.3 The Project Manager will make suitable arrangements for the Service Provider and its sub-contractor (s) to gain access to the renovated offices.
  - 3.3.1 The Project Manager and the Municipality's Safety Officer will ensure and enforce compliance with site safety standards in line with the Occupational Health and Safety Act 85 of 1993.

#### **4. OBLIGATIONS OF THE SERVICE PROVIDER**

The Service Provider hereby undertakes to do the following in order to give effect to this agreement:

- 4.1 To be on site on 16 October 2023 for site establishment and to commence with the work on 16 October 2023 and to complete the same on 11 November 2023. The details of the work to be carried out are captured in the Service Provider's proposal/ project plan which is attached to this agreement and marked Annexures "B" The Service Provider and the Project Manager shall agree on any deviation hereof.
- 4.2 To complete the work on time as referred to in 4.1 above and agree that the request for the extension of time to complete the work shall be granted only on reasonable grounds provided and accepted by the authorized official of the Municipality;
- 4.3 To carry out the work in strict accordance with the proposal submitted to the Municipality;
- 4.4 To present a professional image in the performance of the service;
- 4.5 To be honest in dealing with the Municipality in terms of this agreement;
- 4.6 To attend the meetings that shall have been convened by the Municipality in order to discuss certain issues relating to this agreement;
- 4.7 To comply with the provisions of the Occupational Health Safety Act 85 of 1993 and its regulations;
- 4.8 To leave the site in a better and/or same condition it was found before commencing with the project/work by removing all the building rubble/material within three (3) days of completion of the project;
- 4.9 The Service Provider shall be held responsible for any damages/breakages to the Municipality structure and undertake to repair any damages/breakages that will occur;
- 4.10 To submit an invoice to the Project Manager within one week after completion of the work;
- 4.11 To guarantee that the work done will be of high standard and also undertakes to repair any fault that will arise within the first six (6) months after completion of the work at no expense to the Municipality. Furthermore, the Service Provider guarantees the items supplied will be covered for a period of twenty-four (24) months.
- 4.12 Should the Service Provider fail to remedy the fault as mentioned in 4.12 above within 30 days of the occurrence thereof, the Municipality will proceed to take all the necessary steps to address the problem and shall be entitled to recover all the cost of doing so from the Service Provider. The Service Provider may also be blacklisted from providing any kind of future services to the Municipality.

#### **5. PERFORMANCE STANDARDS AND MONITORING**

- 5.1 The Service Provider shall execute its duties in terms of this agreement professionally and with the highest degree of care and skill.
- 5.2 In the event that the SDM is of the view that the quality of work produced by the Service provider falls short of the expected standard, the SDM shall first engage with the Service with the view to address the situation.
- 5.3 Should the quality of the work produced remain unchanged, the SDM shall give notice to the Service Provider to rectify the position within a period of three (3) days.
- 5.3 In the event that the Service Provider fails to act as requested within the given period of three days, the SDM shall be entitled to review the scope of work with Supply Chain Management and Legal representative to ascertain the quality of the work produced.
- 5.4 The Service Provider shall keep the SDM apprised of progress and of all developments relating to the project.

## **6. CESSION**

The Service Provider shall not be entitled to cede, or transfer or in other way whatsoever assign its rights under this agreement without prior written consent of the Municipality.

## **7. INDEMNITY**

The Service Provider indemnifies, absolves and holds the Municipality innocent of any damages, injuries or death that may arise during the execution of the project/work.

## **8. CANCELLATION**

- 8.1 The Municipality reserves the right to cancel this agreement at any time from the date of signing thereof provided that Municipality gives the Service Provider seven days (7) notice and good reasons of its intention to do so.
- 8.2 The Service Provider agrees to give the Municipality seven days (7) notice and good reasons to cancel this agreement.
- 8.3 Should the Service Provider fail to comply with any terms and conditions of this agreement, then in that event the Municipality shall deliver a written notice to the Service Provider calling upon the Service Provider to rectify such default within seven (7) days of such notice.
- 8.3 Should the Service Provider still remain in default after expiry of such notice then the Municipality shall be entitled but obliged to cancel this agreement without prejudice to the Municipality's other rights.

## **9. BREACH**

If the Service Provider breaches any terms in this agreement, the Municipality shall be entitled to terminate this contract immediately and have a right to institute civil action against the Service Provider.

## **10. DISPUTE RESOLUTION**

In the event of disagreement, both parties have a duty, to resolve matters without immediately resorting to the intervention of a mediator and/or third party or to institute arbitration arrangements.

Where relevant, the following steps should be taken to ensure compliance:

- (a) The authorised persons must meet to try to resolve the issue(s). There must be a written record of this meeting, which must be jointly agreed to and approved.
- (b) If after a sincere commitment to try to resolve the issue(s) the parties still cannot agree, then the parties shall appoint, in writing and by Agreement between the parties, a mediator and/or third party (from a list agreed by both parties). The third party shall act as mediator, and not as arbitrator, to mediate the resolution of the dispute. Should the parties not be able to agree on the mediator, then the mediator shall be selected by the chairperson of the Arbitration Foundation of Southern Africa (AFSA). The costs of the mediator shall be borne by the parties to the dispute in equal shares.
- (c) Both authorized parties, must submit a joint statement to the mediator and/or third party.
- (d) In the event that one of the parties is in breach of contract, and failure to address the points raised under (a), (b) and (c), the other party should take the issue to arbitration or to court to resolve the matter, the decision of which shall be binding.
- (e) Should the mediator referred to in (b), and (c) fails to resolve the dispute within 7 (seven) days of his or her appointment, then either party shall have the right to require that the dispute be referred to arbitration, in which event it shall be submitted to and determined by arbitration in accordance with the Rules of Arbitration Foundation of Southern Africa, by an arbitrator appointed by Arbitration Foundation of Southern Africa, provided that the arbitration shall be held in a summary manner with a view to it being completed as soon as possible. The costs of arbitration shall be borne by the parties to the dispute in equal shares.
- (f) The parties specifically agree that, in the event of a dispute between them arising out of this Agreement, neither party shall interrupt or suspend the performance of its obligations under this Agreement pending resolution of the dispute.

## **11. CONFIDENTIALITY**

11.1 The Service Provider shall not divulge any information obtained in the execution of any of the

terms and conditions of this Agreement to any third parties under any circumstances except with the express written consent of the Municipality.

- 11.1.1 The prohibition from disclosing confidential information shall not apply where a disclosure is made:
- 11.1.2 Under compulsion of the law;
- 11.1.3 In compliance with a court order granting the disclosure;
- 11.1.4 To further the necessary and legitimate interest of the party making the disclosure, provided that prior to such disclosure the other party is so advised in writing; or
- 11.2.3 The confidential information was in the public domain prior to being disclosed by the Service Provider or has come into the public domain other than as a result of being divulged by the Service Provider.
- 11.2.4 The provisions of this clause are severable from the rest of this agreement and shall survive its termination and continue to be of full force.

## **12. FORCE MAJEURE**

- 12.1 A party shall not be liable for a failure to perform any of its obligations in terms of this Agreement if it establishes to the satisfaction of the other party that:
  - 12.1.1 The failure was due to an event which was beyond its control;
  - 12.1.2 It could not reasonably have been expected, at the time of conclusion of this Agreement, to have taken into account the event and its effects on the party's ability to perform; and
  - 12.1.3 It could not reasonably have overcome the event or the effects of the event.
- 12.2 The events contemplated in above include, but are not limited to:
  - 12.2.1 War, civil war, armed conflict or terrorism;
  - 12.2.2 Natural disasters such as violent storms, floods, earthquakes, destruction by lightning;
  - 12.2.3 Explosions and fires;
  - 12.2.4 Official or unofficial boycotts, strikes, lockouts and go-slows; and
  - 12.2.5 Acts of authority, whether lawful or unlawful, apart from acts for which the party seeking relief has assumed the risk in terms of this Agreement or in the normal course of business.

## **13. NON - VARIATION**

No amendment, alteration, variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by all parties.

**14. EXCLUSION OF OTHER AGREEMENTS AND UNDERSTANDINGS**

This agreement supersedes, cancels and annuls all prior agreement between the parties and it constitutes the whole and only agreement between the parties. Any agreement, understandings, representations, or other contractual arrangements between the parties not set out herein are of no force or effect or consequence.

**15. LITIGATION**

For purpose of litigation, both parties agree to submit to the jurisdiction of the Magistrate Court of Vereeniging.

**16. DOMICILIUM AND NOTICES**

Each of the parties hereto chose *domicilium citandi et executandi* at the addresses below mentioned:

16.1 Sedibeng District Municipality: Cnr Leslie & Beaconsfield Avenue  
Vereeniging  
1939

16.2 The Service Provider: 605 Ellour Court  
Cnr Twist and Smith Street  
Joubert Park  
2001

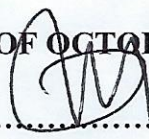
THUS DATED AND SIGNED AT VEREENIGING ON THIS THE 24 DAY OCTOBER 2023

  
MOTSUMI MATHE

AS WITNESSES: 1.....  
2.....

THUS DATED AND SIGNED AT ~~Vereeniging~~ ON THIS THE 16 DAY OF OCTOBER 2023

  
ROBERT HLEZA

AS WITNESSES: 1. .....  
2.....